

# Article

## EMPLOYMENT LAW

# ALP Proposes Worker Friendly Changes to its Fair Work Regime

By Ben Duggan

In Australia, since John Hewson's *Fightback!* package was released in 1991, the major political parties have, in opposition, been cautious about committing to significant 'courageous' reforms in the lead up to a Federal election.

The Labor opposition under Bill Shorten has defied this caution in releasing a detailed reform agenda which includes significant proposed reforms in the area of workplace relations.

At Labor's campaign launch in Queensland, Shorten announced a key priority, if elected, is the introduction of a 'living wage', and the reversal of recent penalty rate cuts to workers.

At the launch, Shorten made clear other key priorities were:

'A new push for equal pay for women. A better deal for casuals. Cracking down on the abuse of 457 visas. Cleaning up labour hire.'

Labor's reform agenda involves a range of changes to the workplace laws known as 'Fair Work' introduced by the previous Rudd/Gillard Labor Government including:

- the introduction of 10 days of paid domestic violence leave into the National Employment Standards;
- the inclusion of a national long

service leave scheme in the National Employment Standards;

- the introduction of provisions that extend the reach of the minimum terms of the National Employment Standards and the Modern Award system to all workers, including those engaged under independent contractor work arrangements, in the 'gig' economy;
- the introduction of provisions that facilitate multi-employer and industry-wide bargaining for enterprise agreements;
- the removal of the option for the Fair Work Commission to terminate enterprise agreements after they reached their nominal expiry date in the absence of majority employee support and the employees covered by the agreement being no worse off by its termination;
- the increase in penalties for independent contractor work arrangements that are 'sham contracts'; and
- the increase in penalties for non-compliance with the payment of minimum wages under a Modern Award by an employer.

The reform agenda also includes the introduction of the concept of a

'living wage' to replace the current minimum wage which is reviewed on an annual basis by the Fair Work Commission. A precise mechanism for the determination of a 'living wage' is not addressed in detail in Labor's reform agenda. The rhetoric from Shorten at Labor's campaign launch does make clear that the aim of the mechanism will be to substantially increase the amount of minimum wages in Australia:

'If we win this election (Labor's) priority is not making the very rich even richer it is getting wages moving for working people...(which have been stagnant under the Coalition Government)...'

Other significant aspects of Labor's reform agenda include the active discouragement of the use of 'insecure' employment, the restoration of penalty rates for Sunday work and public holidays and the abolition of the Australian Building and Construction Commission.

Our list of Labor's top 10 proposed changes as part of its reform agenda for workplace relations is contained overleaf.

We would be happy to discuss strategic issues and appropriate responses for your business if Shorten Labor wins the upcoming Federal election on Saturday 18 May 2019.

continued overleaf...

## Labor's Top 10 Proposed Changes for Workplace Relations

### Labour Regulation (casual employment)

Labor aims to reduce the incidence of 'insecure work' including casual employment.

An objective test will be introduced into the Fair Work laws to determine when a worker is a casual employee.

### Labour Regulation (worker flexibility)

Labor aims to support work arrangements that are consistent with workers preferences.

Labor will strengthen the ability of employees to request flexible work arrangements and rights to challenge decisions of an employer not to agree to a request from a worker.

### Labour Regulation (Labour hire)

Labor will establish a national labour hire licencing scheme to regulate the industry.

Labor will also legislate to guarantee that labour hire workers receive the same pay and conditions as directly employed workers doing the same work.

### National Employment Standards (long service leave)

A National minimum standard for long service leave, which shall form part of the national employment standards.

### National Employment Standards (domestic violence leave)

Labor will introduce 10 days paid domestic violence leave as a workplace right in the National employment standards.

### Minimum Wage (generally)

A minimum wage that provides a 'living wage' and will maintain or improve the relative living standards of low paid workers.

### Minimum Wage (penalty rates)

Labor will reverse the reductions to penalty rates for work on Sundays and public holiday brought about by the recent Penalty Rates Decision of the Fair Work Commission.

### Minimum Wage (pay equity)

Labor will make gender pay equity an object of the Fair Work laws.

A new pay equity panel will be established within the commission that will provide expert research support during equal remuneration matters.

### Enterprise agreement (generally)

Labour will ensure that enterprise agreements are genuinely agreed to by a representative cohort of the workers to which they apply.

### Enterprise agreement (termination)

A mechanism to enable for the termination of all remaining enterprise agreements made under the WorkChoices laws.

Labor will also prevent the unilateral termination of Enterprise agreements where this would reduce entitlements for workers.



[MORE INFO](#)

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