

**Fair Work (Registered Organisations) Act 2009**

The Fair Work Bill has now passed through all of the required processes to become law and will be operational from 1 July 2009. This Bill will replace the existing Workplace Relations Act which has been used in various forms since 1996. The new Act contains significant changes

including a greater capacity for unions to become more involved in agreement making and operational decisions taken by the business.

New Institutions

Fair Work Australia (FWA) described as a 'one stop shop', will take over from the Australian Industrial Relations Commission (AIRC) with all current Commissioners being transferred. The Workplace Authority and the Australian Fair Pay Commission will also sit under this new body. The Fair Work Ombudsman will replace the Workplace Ombudsman and the Australian Building Code Commission is scheduled to transfer to Fair Work Australia from 1 February 2010.

Modern Awards

Part of the changed legislation required that existing Federal and State Awards would be combined to create key industry "Modern Awards" throughout Australia. This process is currently underway and Modern Awards will commence operating from 1 January 2010. A modern award does not apply to high income earners (ie. earning more than \$106,000, this amount will be indexed annually).

After application by the CFMEU, AiGroup and CICA, the *Mobile Crane Hiring Award 2010* will remain as a stand-alone award.

AWAs and ITEAs

An employer who was using AWAs as at 1 December 2007 may continue to offer ITEAs until 31 December 2009 - but only for new employees and existing employees on AWAs. An AWA or ITEA can be terminated on 90 days notice after its nominal expiry date. This is different to the current position with pre-WorkChoices AWAs (made before 27 March 2006) which require an application to the AIRC in order to terminate.

Agreement Making:

There will be a clean break under the new Act. If parties are bargaining up to 30 June 2009 and have not reached agreement, then on 1 July all notices will need to be served under the new Act. In particular employees/unions will need to apply for new secret ballots to authorise industrial action.

There will no longer be any distinction between union or employee collective agreements. Employers and employees will continue to be entitled to use bargaining representatives in negotiations. Employees may elect a union to be their representative. However, if a union, has at least 1 member in the business, the union is automatically deemed to be a bargaining representative unless an individual employee signs a direction otherwise. There may be more than 1 bargaining representative and the