



Work Choices: Its Impact within Australian Workplaces

Survey Findings - 23 August 2007



Research Project Steering Committee

- Mr Peter Wilson AM, National President and Chairman, Australian Human Resources Institute
- Ms Helen McKenzie, Partner and Head of Practice in Employment Law, Blake Dawson Waldron
- Professor Philip Clarke, Dean, Faculty of Business and Law, Deakin University

Project Coordination

- Mr Paul Begley, National Manager, Government and Media Relations, Australian Human Resources Institute
- Associate Professor Di Waddell, Bowater School of Marketing and Management, Deakin University

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The design and collation of raw data was managed by Deakin Computer Assisted Research Facility under the supervision of Dr Betsy Blunsdon and Dr Ken Reed. Research Assistant, Ms Alaia Devey, prepared the initial literature review and transcribed the data.

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Who is Represented in this Survey?

The demographic

On 21 June 2007 AHRI National President, Peter Wilson, invited members of the Institute to respond to the online survey questionnaire which is the subject of this report. The questionnaire was included in his email as a link to the research base at Deakin University. By 3 July, when responses closed, 1008 respondents had anonymously submitted the questionnaire to Deakin. Of those, Deakin determined that 1001 responses were validly submitted and processed them in accordance with the University's research methodology.

The questionnaire was designed to distinguish between members whose work directly involved working with the Workplace Relations Amendment (Work Choices) Act 2005, those whose work less directly touched on implementing the Act, and those whose work did not bring them into direct contact with the provisions of the Work Choices Act at all. At the time of the survey, approximately 5600 AHRI members were identified as a relevant target group for the research, making a response rate of 18.9%.

Thus respondents who replied with a negative answer to Question 11 ("Does your organisation fall within the jurisdiction of the Work Choices Act?") were not shown any other questions in that section, and so did not provide answers to those questions. Similar filtering mechanisms were used throughout the questionnaire to ensure that responses to certain questions were offered only to respondents with the capacity to provide answers based on first-hand workplace experience of the legislation.

The demographic breakdown of the respondents in Question 2 was also a guide to the capacity of respondents to provide reliable answers. A total of 49.9% of respondents were from private sector organisations. In addition 17.2% were from listed companies, 4.2% from federal public service departments and 3.2% from other commercial respondents, making a total of at least 74.5% of respondents covered by the legislation.

The remainder of respondents who declared themselves to be from state public service departments, statutory authorities or other non-commercial enterprises would have been limited in the questions applicable to them and the survey would accordingly have displayed a limited range of questions to them for answer, if indeed they opted to attempt the survey. Many did not attempt the survey for that reason and wrote to Peter Wilson accordingly, declining his invitation.

Answers to Question 9 on respondents' positions in the organisation also provided a guide as to capacity to provide reliable responses. With a demographic response rate of 30.8% from executive level HR practitioners, 25% from middle level HR practitioners, 13.4% from operational level HR practitioners, 10% from HR consultants and 4.4% from industrial relations specialists, that outcome is assured.

The questions

The online survey questionnaire, titled "Work Choices: Its Impact within Australian Workplaces", contained 65 questions under five sections:

1. Your organisation and its workforce
2. Work Choices and your role as a HRM professional
3. Work Choices and your organisation
4. Work Choices and employment contracts
5. Your say on Work Choices.

The summaries of each section that follow in this report, together with the accompanying graphic depiction of responses, speak for themselves and there little to gain in summarising them further. This report is an edited version of the results supplied by Deakin University in early August, an unedited copy of which is available to AHRI members on the Institute website.

Background to the Research

Why the research was commissioned

Late in 2006, the Australian Human Resources Institute (AHRI) commissioned a longitudinal research study into the introduction of the Workplace Relations Amendment (Work Choices) Act 2005.

The purpose of the research was to determine how the AHRI membership of approximately 11,000 HR professionals were travelling with the legislation in their daily work. As professionals who have day-to-day direct and indirect responsibilities with respect to the implementation of the legislation in Australian workplaces, AHRI members as HR managers and practitioners are singularly positioned to provide a first-hand perspective on the operational impact of the new workplace laws.

The intention of this first survey is to contribute towards an understanding of the extent to which the legislation was being taken up in workplaces, the extent to which its take-up was contributing to positive business outcomes, and whether it was achieving the workplace benefits intended by the Australian Government.

AHRI decided that a properly constructed research study over a two-year timeframe could enable the Institute to ascertain from its members the immediate impacts the legislation was having on both employers and employees, and how that impact might change over time.

Other organisations such as the Business Council of Australia, the Australian Chamber of Commerce and Industry, the Australian Industry Group and the Australian Council of Trade Unions are well placed to provide perspectives on the legislation that come from their respective constituent bodies. Unlike those organisations, AHRI members are individuals who can provide direct data from the coal-face of business, with perspectives that are independent and do not represent a single position.

To achieve its objectives, AHRI undertook to publish reports on the research results progressively for the benefit of Australian business, employees and their representative organisations, the media and the community in general. In addition, AHRI believes the research will inform policymakers and their advisers within the federal parliament and government.

Research partners

Two partners joined AHRI in the undertaking of this research: in addition to commissioning academics from the Bowater School of Management in the Faculty of Business and Law at Deakin University to conduct the research, AHRI approached, law firm Blake Dawson Waldron to bring its legal expertise to the project. The law firm brought a real-world knowledge of the legislation as it was being presented by the firm's clients, the university brought content expertise and expertise in research methodology and, while preserving member anonymity, AHRI put its 11,000 strong database at the disposal of the project.

It is expected that this initial national survey will result in:

- an instrument enabling further research
- initial data sets that highlight key issues
- a data set that can be utilised by researchers and practitioners.

Methodology

Under a research commission provided by the Australian Human Resources Institute, academics from Deakin University's Bowater School of Management and Marketing undertook the design of a set of questions and a survey tool. Constructive feedback on preliminary drafts was provided from the Project Steering Committee with support from a broadly based informal advisory panel. No member of the advisory panel was responsible for any questions that appeared in the final survey questionnaire which was the sole responsibility of the Project Steering Committee.

The survey was distributed online by AHRI during June and July 2007. A covering letter advised AHRI members, to whom it was sent, that the survey had been formally approved by Deakin University's Research Ethics Committee.

By the cut-off date, there were 1,008 monitored responses of which 1,001 were regarded by Deakin University as validly completed questionnaires. The responses were entered and analysed via SPSS for Windows. For reporting purposes, all percentages are based on the number of respondents for each question and rounded to one decimal point.

Your organisation and its workforce

Of the replies to this section, approximately half (49.9%) were from respondents in private sector organisations, with an additional 20.4% of respondents from publicly listed companies and other commercial enterprises. Almost two of every three respondents worked for organisations with head office based in NSW (28.7%) or Victoria (29.4%), with Queensland head offices accounting for 13.2% of respondent organisations.

The spread in industry sectors was broad with Professional, Scientific and Technical Services (13.1%), Education and Training (11.7%), and Manufacturing (10.1%) being the most strongly represented.

Thirty-one per cent of respondents are employed by large organisations of more than 1,000 employees, while 27.7% are from medium sized enterprises of between 100 and 499 employees.

Only 6% of respondent organisations have total workforce union representation while exactly one third (33.3%) have no union coverage.

1. Industry sector (Total Number of Responses: n = 993):

	Percentage
Agriculture, Forestry and Fishing	1.0
Mining	4.6
Manufacturing	10.1
Electricity, Gas, Water and Waste Services	2.3
Construction	4.1
Wholesale Trade	2.4
Retail Trade	3.5
Accommodation and Food Services	2.1
Transport, Postal and Warehousing	3.0
Information Media and Telecommunications	4.0
Financial and Insurance Services	7.5
Rental, Hiring and Real Estate Services	0.4
Professional, Scientific and Technical Services	13.1
Administrative and Support Services	2.9
Public Administration and Safety	6.5
Education and Training	11.7
Health Care and Social Assistance	8.4
Arts and Recreation Services	1.3
Other Services	11.1

2. Status of organisation (n = 991):

	Percentage
Private sector organisation	49.9
Publicly listed company	17.2
Government business enterprise/commercial statutory authority	9.1
Non-commercial statutory authority	2.6
Federal public service department	4.3
State public service department	5.7
Other non-commercial	8.1
Other commercial	3.2

3. State in which Head Office is registered (n = 992):

	Percentage
New South Wales	28.7
Victoria	29.4
Queensland	13.2
South Australia	5.3
Western Australia	7.2
Tasmania	3.6
Australian Capital Territory	6.9
Northern Territory	1.4
Another country	3.9
Other (Answers listed below as Q4)	0.3

4. Other registered sites for Head office (n = 3):

- China
- Papua New Guinea
- Australia Wide – Branches in every State

5. Number of employees (n = 995):

	Percentage
Less than 20 employees	10.1
Between 20 and 49 employees	7.2
Between 50 and 99 employees	9.4
Between 100 and 499 employees	27.7
Between 500 and 1,000 employees	14.4
Over 1,000 employees	31.3

Questions 6 and 7 sought data on women and employees from non-English speaking backgrounds respectively as a percentage of the respondents' workforce.

8. Percentage of workforce covered by a union(s) (n = 943):

	Percentage
Zero	33.3
More than 0% but less than 10%	15.3
Between 10-19%	8.1
Between 20-29%	7.6
Between 30-39%	6.4
Between 40-49%	4.1
Between 50-59%	5.8
Between 60-69%	5.1
Between 70-79%	5.3
Between 80-89%	3.0
Between 90-100%	6.0

Work Choices and your role as a HRM professional

This section provides a number of important insights into the way in which the Work Choices reforms have impacted on the role of human resource management professionals within Australian workplaces. While half of respondents (49.9%) reported that the legislation had not impacted on the ease or difficulty of their job, one in three (33.6%) thought it had made their job more difficult. Only 3% responded that it had made their job easier.

A significant proportion of respondents (40.2%) thought the new laws had added to the complexity of employment arrangements, with a larger proportion (55.5%) claiming the laws had increased their need for legal advice. The survey provided little evidence of the legislative impact on the management of workplace disputes. Despite the diminished role of arbitration under the new legislation, the survey reported very little increase (5.7%) in the use of private mediators to settle workplace disputes.

Though clearly a minority view, one in four respondents (25.8%) thought there has been some increase in the standing of HR professionals as a result of Work Choices. One in three reported an increased demand for the services provided by employer associations (32.7%) and to a lesser extent for the services provided by AHRI (15%).

9. Respondents' current position in organisation (n = 996):

	Percentage
HR Practitioner at operational level	13.4
Middle level HR Practitioner	25.0
Executive level HR Practitioner	30.8
HR Consultant	10.5
Academic	1.7
Student	1.7
IR Practitioner	2.7
IR Consultant	1.7
Other	13.0

10. Principal source of legal advice in role as HRM professional (n = 979):

	Percentage
External legal advisors	33.2
Internal legal advisors	13.6
Both internal and external legal advisors	20.7
Employer association	17.7
Self-reliant	8.5
Not applicable to your organisation	1.0
Not applicable to your role	4.8
Other	0.5

11. Organisation within the jurisdiction of the Work Choices Act (n = 984):

	Percentage
Yes	76.7
No	14.3
Don't know	8.9

12. Work Choices Act impact on job (n = 724):

	Percentage
It has made it easier	13.0
No change	49.9
It has made it more difficult	33.6
Don't know	3.6

13. Impact of Work Choices on time spent formulating employment contracts/legal instruments (n = 733):

	Percentage
It takes less time	4.8
No change	47.8
It takes more time	37.1
Not applicable to your role	10.4

14. Impact of Work Choices Act on time spent bargaining over employment contracts/legal instruments (n = 714):

	Percentage
It takes less time	7.8
No change	52.5
It takes more time	25.8
Not applicable to your role	13.9

15. Impact of Work Choices on time spent managing employment contracts/legal instruments (n = 724):

	Percentage
It takes less time	6.8
No change	52.4
It takes more time	31.2
Not applicable to your role	9.7

16. Impact of Work Choices on the complexity of employment arrangements (n = 727):

	Percentage
It has made it more complex	40.2
No change	39.2
It has made it less complex	15.5
Not applicable to your role	5.1

17. Impact of Work Choices on the need for legal advice (n = 739):

	Percentage
It has increased the need	55.5
No change	33.8
It has decreased the need	5.4
Not applicable to your role	5.3

18. Impact of Work Choices on the negotiation and agreement of employment contracts/legal instruments (n = 722):

	Percentage
It has made it easier	13.9
No change	53.7
It has made it more difficult	24.1
Not applicable to your role	8.3

19. Impact of Work Choices on how content of employment contracts/legal instruments is determined (n = 722):

	Percentage
It has made it easier	19.0
No change	40.7
It has made it more difficult	32.3
Not applicable to your role	8.0

20. Impact of Work Choices on how workplace disputes are managed (n = 728):

	Percentage
It has made it easier	18.7
No change	63.9
It has made it more difficult	11.1
Not applicable to your role	6.3

21. Impact of Work Choices on the importance of managing union relations (n = 709):

	Percentage
It is more important	10.4
No change	61.9
It is less important	9.7
Not applicable to your role	17.9

22. Impact of Work Choices Act on the use of private mediators to settle workplace disputes (n = 705):

	Percentage
It has increased their use	5.7
No change	74.6
It has decreased their use	3.4
Not applicable to your role	16.3

23. Impact of Work Choices on the status of HRM professionals within the organisation (n = 730):

	Percentage
It has increased	25.8
No change	67.4
It has decreased	2.1
Don't know	4.1

24. Impact of Work Choices on the use of the services provided by an employer association (n = 727):

	Percentage
It has increased	32.7
No change	52.3
It has decreased	3.7
Not applicable to your role	11.3

25. Impact of Work Choices on the use of Australian Human Resources Institute (AHRI) services (n = 727):

	Percentage
It has increased	15.0
No change	80.6
It has decreased	0.8
Not applicable to your role	3.6

Work Choices and your organisation

This section of the survey explores the views of respondents about the impact of Work Choices on various aspects of their organisation.

- **Impact of the *Work Choices Act* on 31 organisational and labour management indicators (Question 26)**

The data on the whole suggests that change as a 'direct consequence' of the Act has been far from pervasive, with most respondents offering the view that 'no change' had occurred across the listed indicators.

Where change was noted, the most significant increases were in the following areas: level of record keeping (54.5%), number of personal carer days allowed (38.7%), number of sick days allowed' (26.7%), direct communication with employees (26.3%), direct negotiations on pay and conditions with individual employees (25.3%), cashing out of annual leave (22.9%), financial flexibility (22%), functional flexibility (21.2%), overall remuneration (20.2%). Also recorded was a 15% increase in direct negotiations on pay and conditions with groups of employees.

The most significant decreases were recorded in the number of industrial disputes (11.4%), level of union involvement in bargaining (11.4%), level of union involvement in settling employee grievances (12%), number of union visits to work-sites (11.8%), level of union involvement in dispute resolution (11.8%) and state of workforce morale (17.2%).

- **Formal consultative committees involving employees in organisational decision-making and/or managing on-going industrial relations matters (Questions 27-32)**

A sizable minority recorded that their organisations operate committees of this type (36.9%), while most indicated that the Act had caused 'no change' in its use (74.8%). The dominant frequency of committee meetings is monthly, which is the case both before (48.7%) and after (45.2%) the introduction of the Act, with a slight increase in the number of fortnightly and weekly meetings occurring across the two periods. The scope of authority over issues covered by the committees has also changed very little, with minimal increases (3% to 5%) recorded in areas related to the 'allocation of work', 'pay and conditions', 'EEO or AA matters' and 'work/life balance'. The decrease recorded in authority over 'Occupational Health and Safety' was less than 1%.

- **The adoption and application of the Alternative Dispute Resolution Process (ADRP) (Questions 33-38)**

Here the data suggests that a minority of organisations (18.2%) have adopted the Process. The main reasons given for adoption were as follows: 'necessary to certify a new employment contract' (31.2%), the result of a 'management initiative' (25.4%) or the result of an 'agreement between management and unions' (23%). If a dispute could not be resolved in the workplace, almost half of respondents (48.8%) indicated they would use the services of the Australian Industrial Relations Commission (AIRC), with a significant minority (38.2%) suggesting they would refer the matter to a 'private provider'. Under the ADRP, the preferred role of the AIRC was 'mediation' (76.9%), followed by 'conciliation' (61.5%). The least preferred role of the AIRC among survey respondents was 'arbitration' (42.7%).

- **Those directly involved since the introduction of Work Choices in negotiating employment contracts/legal instruments, the incidence of industrial action and the conduct of secret ballots held during negotiation processes (Questions 40-44)**

Near two of every three (58.9) of those responding to these questions had negotiated an employment contract/legal instrument since the Act became operable. On the management side, 'HRM staff' have been strongly represented in such negotiations (85.6%), followed by 'managers from relevant sections' (61.3%) and 'higher level managers' (48.9%). On the employee side, such negotiations have predominantly involved 'individual employees' (41%), followed by 'union delegates' (39.9%) and 'full-time union officials' (26.8%). (Note: the selection of more than one option was allowed on questions seeking to ascertain who was involved in negotiations). The data reveals that very little 'industrial action' took place over the course of negotiations (2.1%), very few 'secret ballots' were conducted (n = 6), and those that were conducted were viewed as either having 'no impact' (33.3%) or having 'retarded the negotiation process' (66.7%).

- **The new unfair dismissal laws (Questions 45-49)**

The majority of those responding to these questions employed a workforce of over 100 employees (76.8%). Of these, a substantial majority regarded the laws as having caused 'no change' in the number of unfair dismissal claims (82.9%), with a small minority (5.2%) stating a 'diminished number' of such claims. A substantial majority (87.3%) regarded the laws as having caused 'no change' in the provision of employment, with a small minority (4.5%) saying they had 'encouraged the employment of more people'. A substantial majority (78.7%) also regarded the laws as having caused 'no change' in the ease or difficulty of 'making jobs redundant' with a small minority (10.5%) stating they had made the task 'easier'.

- **Miscellaneous issues (Questions 50-51)**

The data from these questions reveal that three quarters of survey respondents (75.2%) work in organisations that have 'provided information to managers and employees on their changed rights and responsibilities under the Act'. The data also suggests a variety reasons exist as to why some 'organisations have not changed their employment practices since the introduction of the Act'. The most dominant reason was that there is 'no need for change' (42.1%), followed by a view that changes arising out of the Act were 'not applicable' (29.6%), followed by organisations simply 'waiting for the next round of bargaining negotiations' (17.6%).

26. Impact of Work Choices on the following aspects of industrial relations within the organisation:

i. 'averaging out' of employee hours (n = 676):

	Percentage
Increased	17.2
Decreased	2.5
No change	75.7
Don't Know	4.6

ii. 'cashing out' of annual leave (n = 686):

	Percentage
Increased	22.9
Decreased	2.0
No change	70.0
Don't Know	5.1

iii. average hours worked by employees (n = 703):

	Percentage
Increased	11.1
Decreased	4.7
No change	81.9
Don't Know	2.3

iv. employment numbers (n = 704):

	Percentage
Increased	13.1
Decreased	3.8
No change	81.5
Don't Know	1.6

v. labour costs (n = 707):

	Percentage
Increased	15.8
Decreased	6.2
No change	72.8
Don't Know	5.1

vi. labour flexibility - financial (i.e. flexibility to determine rates of pay) (n = 706):

	Percentage
Increased	22.0
Decreased	3.8
No change	71.7
Don't Know	2.6

vii. labour flexibility - functional (i.e. flexibility to determine the allocation of labour) (n = 702):

	Percentage
Increased	21.2
Decreased	2.4
No change	73.1
Don't Know	3.3

viii. labour flexibility - numerical (i.e. flexibility to determine employment numbers) (n = 697):

	Percentage
Increased	16.8
Decreased	3.0
No change	77.3
Don't Know	2.9

ix. labour turnover (n = 705):

	Percentage
Increased	11.1
Decreased	4.3
No change	82.1
Don't Know	2.6

x. level of absenteeism (n = 704):

	Percentage
Increased	8.2
Decreased	5.0
No change	83.5
Don't Know	3.3

xi. level of annual leave loading (n = 685):

	Percentage
Increased	1.9
Decreased	8.9
No change	85.7
Don't Know	3.5

xii. level of direct communication and consultation between management and employees (n = 706):

	Percentage
Increased	26.2
Decreased	3.4
No change	68.7
Don't Know	1.7

xiii. level of direct negotiation over pay and conditions between management and (groups of) employees (n = 694):

	Percentage
Increased	15.0
Decreased	4.9
No change	77.4
Don't Know	2.7

xiv. level of direct negotiation over pay and conditions between management and (individual) employees (n = 692):

	Percentage
Increased	25.3
Decreased	2.3
No change	69.7
Don't Know	2.8

xv. level of industrial disputes (n = 687):

	Percentage
Increased	5.2
Decreased	11.4
No change	81.5
Don't Know	1.9

xvi. level of record keeping (n = 712):

	Percentage
Increased	54.5
Decreased	2.5
No change	39.9
Don't Know	3.1

xvii. level of union involvement in bargaining (n = 658):

	Percentage
Increased	6.4
Decreased	11.4
No change	79.5
Don't Know	2.7

xviii. level of union involvement in dispute resolution (n = 654):

	Percentage
Increased	4.7
Decreased	11.8
No change	81.2
Don't Know	2.3

xix. level of union involvement in settling employee grievances (n = 656):

	Percentage
Increased	5.2
Decreased	12.0
No change	80.8
Don't Know	2.4

xx. level of workforce morale (n = 702):

	Percentage
Increased	9.3
Decreased	17.2
No change	70.7
Don't Know	2.9

xxi. level of overtime (n = 693):

	Percentage
Increased	8.2
Decreased	5.2
No change	84.3
Don't Know	2.3

xxii. number of annual leave days allowed per annum (n = 700):

	Percentage
Increased	4.1
Decreased	2.6
No change	92.0
Don't Know	1.3

xxiii. number of dismissals (n = 701):

	Percentage
Increased	9.1
Decreased	2.6
No change	86.0
Don't Know	2.3

xxiv. number of new appointments (n = 698):

	Percentage
Increased	18.5
Decreased	1.6
No change	78.2
Don't Know	1.7

xxv. number of parental leave days allowed per annum (n = 696):

	Percentage
Increased	17.0
Decreased	1.2
No change	79.6
Don't Know	2.3

xxvi. number of personal carers' days allowed per annum (n = 708):

	Percentage
Increased	38.7
Decreased	2.3
No change	56.8
Don't Know	2.3

xxvii. number of sick days allowed per annum (n = 711):

	Percentage
Increased	26.7
Decreased	3.8
No change	67.9
Don't Know	1.6

xxviii. number of union visits to work-sites (n = 664):

	Percentage
Increased	6.0
Decreased	11.8
No change	78.0
Don't Know	4.2

xxix. overall remuneration (n = 703):

	Percentage
Increased	20.2
Decreased	3.3
No change	74.7
Don't Know	1.9

xxx. penalty rates for overtime (n = 683):

	Percentage
Increased	3.1
Decreased	7.6
No change	87.1
Don't Know	2.2

xxxi. productivity (n = 698):

	Percentage
Increased	12.0
Decreased	4.9
No change	78.4
Don't Know	4.7

27. Existence of a formal consultative committee involving employees in organisational decision- making and/or managing on-going industrial relations matters (n = 724):

	Percentage
Yes	36.9
No	60.2
Don't know	2.9

28. Work Choices impact on the use of this committee (n = 266):

	Percentage
It is being used more	14.3
No change	74.8
It is being used less	4.5
Don't know	6.4

29. Frequency of committee meetings prior to Work Choices (n = 259):

	Percentage
Daily	0.4
Weekly	2.7
Fortnightly	3.1
Monthly	48.7
Six monthly	11.2
Annually	1.2
Irregular/when required	24.7
Don't know	8.1

30. Frequency of committee meetings since Work Choices (n = 261):

	Percentage
Daily	0.0
Weekly	5.4
Fortnightly	6.1
Monthly	45.2
Six monthly	12.6
Annually	1.2
Irregular/when required	22.6
Don't know	6.9

31. Scope of committee authority prior to Work Choices (More than one option was allowed) (n = 260):

	Percentage
Financial and investment matters	7.7
Introduction of new technology	31.9
Introduction of a new products or services	20.4
Organisation of work	43.1
Allocation of work	21.9
Pay and conditions	42.7
Discipline of employees	23.9
Hours of work	29.2
Individual grievances	28.9
EEO or AA matters	26.9
Work/life balance matters	40.0
Occupational Health and Safety	50.0
Don't know	11.2
Other	20.4

32. Scope of committee authority since Work Choices (More than one option was allowed) (n = 251):

	Percentage
Financial and investment matters	9.2
Introduction of new technology	32.7
Introduction of a new products or services	22.3
Organisation of work	43.0
Allocation of work	26.3
Pay and conditions	46.2
Discipline of employees	24.7
Hours of work	31.9
Individual grievances	29.1
EEO or AA matters	30.7
Work/life balance matters	43.0
Occupational Health and Safety	49.4
Don't know	12.8
Other	19.5

33. Organisational adoption of the Work Choices 'Alternative Dispute Resolution Process' (n = 686):

	Percentage
Yes	18.2
No	66.6
Don't know	15.2

34. Principal reason for the adoption of the Alternative Dispute Resolution Process (n = 122):

	Percentage
Part of an agreement reached between management and unions	23.0
The result of a management initiative	25.4
The result of a union initiative	0.0
The result of award/certified agreement rationalisation and simplification process	15.6
A requirement for certifying a new employment contract	31.2
Other (Answers listed below as Q35)	4.9

35. Other principal reasons for the adoption of the Alternative Dispute Resolution Process (n = 6):

- Process already utilised in existing EBA (no changes required)
- Dispute Settling Procedures made null and void i.e. prohibited content in Preserved State Agreement. Have always had alternative dispute resolution/mediation
- ADRP better suits small businesses
- Federal department
- To prevent employees taking legal action until after alternative dispute resolution has taken place.

36. Alternative institutions to which the organisation (would) turn under the Alternative Dispute Resolution Process, if a dispute cannot (or could not) be resolved at the level of the workplace (n = 123):

	Percentage
Australian Industrial Relations Commission	48.8
Private Alternative Dispute Resolution Provider	38.2
Don't know	8.9
Other (Answers listed below as Q37)	4.1

37. Other alternative institutions to which the organisation (would) turn under the Alternative Dispute Resolution Process, if a dispute cannot (or could not) be resolved at the level of the workplace (n = 5):

- Internal
- Internal mediator
- Depends on the problem - Merit Protection Commission, HREOC
- Australian Public Service Commissioner
- QIRC

38. Strategies utilised as part of applying the Alternative Dispute Resolution Process (More than one option was allowed) (n = 117):

	Percentage
Conferencing (i.e. AIRC organises meetings so the parties can discuss the issues in dispute)	56.4
Mediation (i.e. AIRC helps to identify the issues in dispute and develops options without making suggestions or recommendations)	76.9
Assisted negotiation (i.e. AIRC member assists in negotiating a resolution without making suggestions or recommendations)	44.4
Neutral evaluation (i.e. AIRC member hears arguments and makes a determination on the key issues and the most effective means of resolving the dispute)	30.8
Case appraisal (i.e. AIRC member investigates the dispute and provides advice on desirable outcomes and how they might best be achieved)	28.2
Conciliation (i.e. AIRC member advises on the process of conciliation, suggests solutions, gives expert advice and actively encourages agreement)	61.5
Arbitration (i.e. AIRC, with the agreement of the parties and after hearing their arguments, determines rights and obligations)	42.7

39. The course of action the organisation would take to resolve a dispute if the Alternative Dispute Resolution process fails to produce a resolution (n = 79):

Respondents were invited to provide a response in their own words. The majority of this relatively small sample (n = 34) stated they would rely on the AIRC, with 11 being inclined to seek an informal third party intervention. Nine were prepared to pursue a legal recourse and four were prepared to terminate employment. The remaining responses were uncertain as to what they could do except for one respondent who claimed to be prepared to close up shop and move overseas.

40. Involvement in negotiating an employment contract/legal instrument since introduction of Work Choices (n = 729):

	Percentage
Yes	58.9
No	35.8
Don't know	5.4

41. Personnel involved in these negotiations (More than one option was allowed) (n = 444):

	Percentage
HRM staff	85.6
Managers from the relevant division (subject to coverage of agreement)	61.3
Managers from a higher level in the organisation	48.9
Union delegates	39.9
Employees acting collectively without union involvement	20.1
A consultative committee	22.3
A consultative committee at a higher level in the organisation	1.8
Consultants	10.8
Lawyers	25.9
Employer association officials	11.5
Full-time union officials	26.8
Individual employees	41.0
Don't know	0.2
Other	2.0

42. Occurrence of industrial action by employees during the negotiation process (n = 421):

	Percentage
Yes	2.1
No	95.7
Don't know	2.1

43. Authorised secret ballot in that industrial action (n = 9):

	Percentage
Yes	66.7
No	33.3
Don't know	0.0

44. Impact of ballot result on the negotiation process (n = 6):

	Percentage
It facilitated the negotiation process	0.0
It had no impact	33.3
It retarded the negotiation process	66.7
Don't know	0.0
Other	0.0

45. Workforce over 100 employees (n = 741):

	Percentage
Yes	76.8
No	23.1
Don't know	0.1

47. Impact of new unfair dismissal threshold on unfair dismissal claims (n = 561):

	Percentage
It has diminished the number of unfair dismissal claims	5.2
No change	82.9
It has increased the number of unfair dismissal claims	2.1
Not applicable	4.1
Don't know	5.7

48. Impact of new unfair dismissal threshold on providing employment (n = 552):

	Percentage
It has encouraged the employment of more people	4.5
No change	87.3
It has discouraged the employment of more people	1.1
Not applicable	2.7
Don't know	4.4

49. Impact of new unfair dismissal threshold on making jobs redundant (n = 553):

	Percentage
It has made it easier to make jobs redundant	10.5
No change	78.7
It has made it harder to make jobs redundant	0.5
Not applicable	4.5
Don't know	5.8

50. Information provided to managers and employees on the changed rights and responsibilities arising from Work Choices (n = 723):

	Percentage
Yes	75.2
No	22.0
Don't know	2.8

51. Reasons for the organisation not changing employee management practices since the introduction of Work Choices (More than one option was allowed) (n = 682):

	Percentage
Clauses in existing employment contracts limit changes that would otherwise be made	11.9
Waiting until after the next Federal election is settled	9.1
Waiting until the next round of bargaining negotiations	17.6
No need for change	42.1
Fearful of employee reaction	3.8
Work Choices is too complex	6.7
Not applicable	29.6
Other	4.0

Work Choices and employment contracts

This section of the survey refers to the provision contained in employment contracts/legal instruments. More than half of respondents (57.2%) stated they were 'directly involved' in the negotiation and settlement of employment contracts/legal instruments. The data from this source suggest that a large majority of organisations (84.1%) still operate under the same 'primary' employment contracts that they negotiated prior to the Act becoming law. Relatively few respondents (15.9%) reported new primary employment contracts/legal instruments have been negotiated since that time.

The main ('primary') employment contracts/legal instruments reported operating in organisations *prior* to the Act and still operating at the time of the survey (Question 56, n=453) were 'common law contracts' (37.3%), followed by 'union certified agreements' (25.6%) and 'Australian workplace agreements' (11.7%). The main ('primary') employment contracts/legal instruments concluded *after* the Act and still operating at the time of the survey (Question 58, n=87) were 'union collective agreements' (27.6%), followed by 'employee collective agreements' (20.7%), followed by 'Australian workplace agreements' (19.5%) and 'common law contracts' (17.2%).

Of particular note is the substantial rise in the proportion of non-union collective agreements from 6.8%, which were operating *prior* to the Act and were still operating at the time of the survey, to 20.7% of such agreements concluded after the Act.

Comparing respondents answers relating to provisions contained in employment contracts/legal instruments operating prior to the Act (n = 556), with their counterparts operating at the time of the survey (n = 501), the data indicates that there has been a general retrenchment in almost all the provisions listed.

Exceptions showing a rise in the number of provisions in contracts/instruments across the two periods are in the areas of 'incentive-based payments' (+1.8%), 'notice periods' (+0.8%) and 'piece rates' (+0.1%).

The provisions retrenched least across pre- and post-Act contracts/instruments are 'personal/carer's leave' (-0.3%), 'superannuation' (-0.9%), 'pay and conditions for outworkers' (-1.2%), 'cultural leave' (-1.2%), 'paid parental leave' (-2%), 'annual leave' (-2.3%), and 'hours of work' (-0.5%).

The provisions retrenched most across pre- and post-Act contracts/instruments are 'allowances for travel' (-12.4%), 'payment of wages or salary' (-10.7%), 'allowances for meals' (-9.8%), 'loadings for shift work' (-9.3%), 'allowances for higher duties or similar' (-9.3%), 'loadings for casual work' (-9.1%), 'loadings for overtime' (-9.1%), 'annual leave loadings' (-9.1%), 'anti-discrimination' (-9%), 'payment for public holidays' (-8.8%), and 'classification of employee occupations' (-8.8%).

52. Respondents directly involved in the negotiation and settlement of employment contracts/legal instruments (n = 985):

	Percentage
Yes	57.2
No	35.3
Not applicable	7.5

53. Type of employment contract/legal instrument was primarily used immediately prior to Work Choices becoming operable (More than one option was allowed) (n = 568):

	Percentage
Industry award	18.0
State award	23.1
State agreement	4.2
Union negotiated certified agreement	38.2
Non-union negotiated certified agreement	8.1
Union negotiated greenfields agreement	0.5
Non-union negotiated greenfields agreement	0.2
Multi-employer agreement	1.6
Australian workplace agreement	14.8
Common law contract	59.0
Other	2.8

**54. Provisions contained in the above employment contract(s)/legal instrument(s)
(More than one option was allowed) (n = 556):**

	Percentage
Adoption leave	57.2
Allowances for travel	59.9
Allowances for tools	31.3
Allowances for meals	54.9
Allowances for higher duties (or similar)	50.00
Allowances for uniform	31.7
Annual leave	97.3
Annual leave loadings	68.5
Anti-discrimination	72.5
Bereavement leave	82.9
Bonuses	41.6
Classification of employee occupations	70.9
Classification of skill-based career paths	28.4
Commitment to bargain with a union	31.1
Compassionate leave	79.7
Cultural leave (or similar)	18.0
Dispute settlement procedures	74.3
Family leave	66.6
Guaranteed union rights of entry	27.7
Hours of work	95.3
Incentive-based payments	30.6
Jury service	59.9
Loadings for overtime	59.4
Loadings for casual work	59.4
Loadings for shift work	50.0
Long service leave	81.1
Mandatory union involvement in dispute resolution	20.0
Maternity leave.	79.0
'Ordinary time' hours of work	84.7
Occupational health and safety	72.1
Paid parental leave	49.1
Paid trade union training leave	27.3
Paid union meetings	13.9
Paid union picnic holiday	16.1
Pay and conditions for outworkers	5.8
Payment for public holidays	78.2
Payment of wages or salary	90.3
Payroll deduction for union dues	23.9
Personal/carer's leave	79.3
Penalty rates for shift work	52.0
Penalty rates for weekend work	53.4
Penalty rates for overtime	59.2
Piece rates	2.5
Notice periods.	82.0
Notice of termination	90.1
Rostered days off (or similar)	47.1
Rates of pay generally	69.6
Rates of pay for juniors	40.3

Rates of pay for trainees or apprentices	39.2
Rates of pay for employees under a supported wage system	22.7
Redundancy pay	68.4
Rest breaks	56.5
Restrictions on the use of AWAs	10.6
Restrictions on the use of independent contractors	9.5
Restrictions on the use of labour-hire employees	9.5
Right of remedy for unfair dismissal	24.3
Sick leave	91.2
Stand-down provisions	30.6
Superannuation	84.9
Type of employment (e.g. full-time, casual, part-time)	93.2
Variations to working hours	61.9
Other	27.2

55. Same primary employment contract/legal instrument still operating (n = 554):

	Percentage
Yes	84.1
No	15.9

56. Type of employment contract/legal instrument now used primarily within the organisation, concluded prior to Work Choices becoming law (n = 453):

	Percentage
('pre-reform') Industry award	4.4
('transitional') Industry award	2.2
('notional') State award	8.4
Union negotiated certified agreement	25.6
Non-union negotiated certified agreement	6.8
Union negotiated greenfields agreement	0.2
Non union negotiated greenfields agreement	0.2
Multi-employer agreement	1.3
Australian workplace agreement	11.7
Common law contract	37.3
Other (Answers listed below as Q57)	1.8

57. Other types of employment contract/legal instrument now used primarily within the organisation, concluded prior to Work Choices becoming law (n = 7):

- Pre-reform industry award, common law contracts, federal award
- Contract under State Service Act or contract with Minister or Governor
- NSW State Award – we are still within its jurisdiction
- Preserved pre reform federal agreements
- Pre-Reform State Agreement
- EBA
- State Enterprise Agreement

58. Type of employment contract/legal instrument now used primarily within the organisation, concluded after Work Choices became law and presumably still operating (n = 87):

	Percentage
('transitional') Industry award	3.5
('notional') State agreement	5.8
Employee collective agreement	20.7
Union collective agreement	27.6
Union greenfields agreement	1.2
Employer greenfields agreement	1.2
Multi-business agreement	0.0
Australian workplace agreement	19.5
Common law contract	17.2
Other (Answers listed below as Q59)	3.5

59. Other types of employment contract/legal instrument now used primarily within the organisation, concluded after Work Choices became law and presumably still operating (n = 3):

- Mix of older staff on collective and new staff on AWA
- Various of the above - depends upon project
- Common Law Contract supported by NAPSA

60. Provisions contained in the above employment contract/legal instrument (More than one option was allowed) (n = 501):

	Percentage
Adoption leave	51.9
Allowances for travel	47.5
Allowances for tools	25.6
Allowances for meals	45.1
Allowances for higher duties (or similar)	40.7
Allowances for uniform	26.0
Annual leave	95.0
Annual leave loadings	59.5
Anti-discrimination	63.5
Bereavement leave	77.3
Bonuses	37.9
Classification of employee occupations	62.1
Classification of skill-based career paths	23.8
Compassionate leave	72.5
Cultural leave (or similar)	16.8
Dispute settlement procedures	65.9
Family leave	63.3
Hours of work	92.8
Incentive-based payments	32.3
Jury service	54.1
Loadings for overtime	50.3
Loadings for casual work	50.3
Loadings for shift work	40.5
Long service leave	75.1
Maternity leave.	75.1
'Ordinary time' hours of work	81.2
Occupational health and safety	67.9
Paid parental leave	47.1

Pay and conditions for outworkers	4.6
Payment for public holidays	69.5
Payment of wages or salary	79.6
Personal/carer's leave	79.0
Penalty rates for shift work	45.7
Penalty rates for weekend work	48.3
Penalty rates for overtime	51.9
Piece rates	2.6
Notice periods.	82.8
Notice of termination	86.6
Rostered days off (or similar)	41.3
Rates of pay generally	65.9
Rates of pay for juniors	32.3
Rates of pay for trainees or apprentices	33.1
Rates of pay for employees under a supported wage system	18.4
Redundancy pay	63.9
Rest breaks	50.9
Sick leave	85.2
Stand-down provisions	27.7
Superannuation	84.0
Type of employment (e.g. full-time, casual, part-time)	86.8
Variations to working hours	56.1
Other	27.4

Your say on Work Choices

The Federal Government's Work Choices legislation was presented to Australian employers and employees as a national workplace relations system that would offer greater flexibility and 'choice' for both parties to the employment relationship, resulting in increased productivity, job creation and work-life balance. The perceived impact of the Work Choices laws has yet to be examined in detail.

Respondents to this survey were asked a series of questions pertaining to the impact of the Work Choices laws on employment management practices and the workplace, and their expectations with respect to the likelihood of the legislation achieving its aims of improving productivity, job creation and work-family balance. While nearly half of the respondents had not made up their minds whether there was likely to be improvement or not in these areas, more saw Work Choices as being unlikely than likely to improve productivity (31.5%), job creation (31.2%) or work-family balance (36.5%) within their organisation over the next three years.

61. The most significant changes believed to have occurred in the employment management practices of the organisation as a direct result of the Work Choices Act (n = 713):

Many survey respondents' reported that the Work Choices legislation had not produced any significant changes in the employment management practices of their organisation to date. Some said they were 'waiting until after the federal election' to introduce any change, while others had no need to, or were still covered by pre-Work Choices agreements.

Other significant changes to which respondents referred in the employment management practices of their organisations included:

- Increased flexibility in employment management practices, including negotiation of terms and conditions of employment and termination practices
- A growing capacity to develop a more direct employer-employee relationship, with restriction of union intervention and access to the workplace under the Work Choices legislation
- An increase in complexity, confusion, legal costs and in the administrative burden on human resource staff
- The creation of an environment in which employees fear and mistrust the motives and actions of their employers.

62. 'Operating under Work Choices will improve work-family balance within the organisation over the next three years' (n = 934):

	Percentage
Strongly agree	5.3
Agree	13.9
Neither agree nor disagree	44.4
Disagree	23.6
Strongly disagree	12.9

63. 'Operating under Work Choices will improve productivity within the organisation over the next three years' (n = 928):

	Percentage
Strongly agree	6.5
Agree	18.5
Neither agree nor disagree	43.4
Disagree	21.4
Strongly disagree	10.1

64. 'Operating under Work Choices will increase the organisation's willingness to hire employees over the next three years' (n = 928):

	Percentage
Strongly agree	6.5
Agree	13.9
Neither agree nor disagree	48.4
Disagree	22.6
Strongly disagree	8.6

65. The effect of recent changes to the Work Choices Act on the workplace (n=680):

Despite this question asking respondents to comment on the effect of recent changes to the Work Choices Act on the workplace, many chose to comment on Work Choices in general and reflected many of the findings of Question 61. This analysis has ignored those responses not directly linked to the question.

Many respondents (n = 226) indicated the recent changes had no effect, with 133 respondents indicating that it had little to minimum effect on their workplace. An additional cohort indicated that they could not comment because they were either waiting until next year following the election or the expiry of current agreements, to implement any changes.

Other respondents comments on the workplace effects of recent changes to the Work Choices Act include:

- Fairness Test

While some respondents commented that the Fairness Test offered employees protection, the majority of comments regarding the Fairness Test indicated frustration due to its complexity which will tend to complicate agreement making and increase administrative costs.

- Rebranding

The decision to rebrand the OEA and OWS drew considerable criticism. The criticism stemmed from the belief that it was a waste of time and increased confusion.

A number of respondents commented on their concern regarding the vulnerability of some cohorts of workers. However, there were approximately 50 respondents who indicated that their organisation valued their workers, treated them with respect and remunerated them accordingly and as such, the changes had little effect on their workplace.

Australian Human Resources Institute Ltd
ABN 44 120 687 149
T (+613) 9918 9200
F (+613) 9918 9201
Level 10, 601 Bourke Street
Melbourne Victoria 3000
www.ahri.com.au

