CHAPTER 14

Key influences on human resource management

OVERVIEW

14.1 Stakeholders in the human resource management process
14.2 Legal influences — the current legal framework
14.3 Economic influences
14.4 Technological influences
14.5 Social influences
14.6 Ethics and corporate social responsibility

14.1 Stakeholders in the human resource management process

BizWORD

Stakeholders *are any individual or group that has a common interest in or is affected by the actions of an organisation.*

Stakeholders are any individual or group that has a common interest in or is affected by the actions of an organisation.

Stakeholders have a common interest in the survival and success of the business. However, not all their interests are shared — conflict can arise due to differences and competing interests (see figure 14.1).

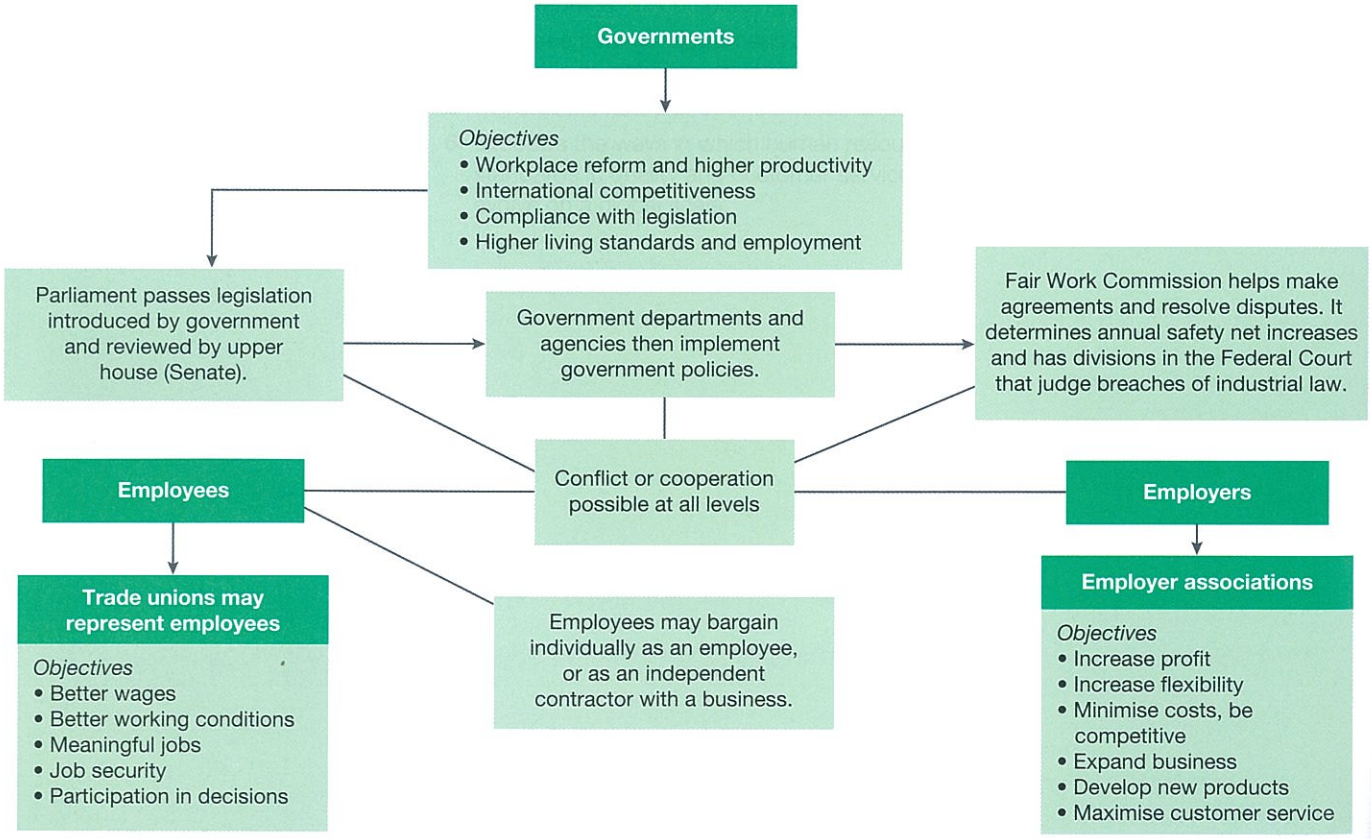


FIGURE 14.1 Stakeholders in the human resource process and their interests

14.1.1 Employers

Employers, for legal purposes, are those who exercise control over employees, have responsibility for the payment of wages and/or salaries and have the power to dismiss employees. They handle human resource management issues on a daily basis. Some spend over half their work day on matters related to this area, including involvement in developing programs that focus on improving business performance. Employers' responsibilities are increasing, as recent legislation today encourages them to negotiate agreements and resolve disputes at the individual workplace. However, employers have been widely criticised in many management surveys for failing to tackle issues in managing employees effectively. A recent survey of more than 7600 people found 'people management' to be the most serious failing of business leaders in Australia, and was cited 2.5 times more frequently than any other management failing. Improving management training in Australia is therefore important in improving human resource management.

BizWORD

Employers *are those who exercise control over employees, have responsibility for the payment of wages and/or salaries and have the power to dismiss employees.*

14.1.2 Employees

Employees are workers under the control of an employer. This control includes the workplace location, the way that the work is to be performed and the extent to which supervision will be exercised. Employees today are, on average, more highly educated than in the past. They become bored very quickly and demand more challenging, interesting work, involvement in decision-making processes and autonomy at their workplace. Many feel driven to build their career through a succession of jobs in a range of different organisations.

Following periods of extensive downsizing in recent years, employees no longer trust one business to look after their needs. As a result, the practice of 'churning' — moving frequently from one job to another in different organisations — is increasing, particularly in service industries. Businesses hoping to retain and motivate skilled staff need to put extra effort into developing their career and training plans, rewards and opportunities for greater employee involvement. Around one-third of employees are also keen to get more work–life balance, including to spend more time with their families.

The structure of work has changed over the last decade and affects employees' access to work. For example, many older workers, women and younger inexperienced people struggle to obtain full-time jobs, particularly in the knowledge-based service sector. These people have become our 'flexible', casual workforce. Australia has experienced close to full employment for a long time, despite a global economic downturn.

BizWORD

Employees *are workers under the control of an employer. This control includes the workplace location, the way that the work is to be performed and the extent to which supervision will be exercised.*

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Syllabus area 4
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Concept 1

Stakeholders: employees and employers
Summary screen and practice questions



FIGURE 14.2 The increased mobility of workers means that businesses have to develop strategies to retain them.

BizFACT

In the May 2009 Federal Budget, the Australian Labor government announced the Age Pension age would increase to 67 years from 2023, remaining at 65 for anyone born before July 1952. In the May 2014 Federal Budget, the Australian Coalition government announced that from 1 July 2025, the Age Pension age would continue to rise by six months every two years to gradually reach a qualifying age of 70 years by 1 July 2035.

BizWORD

Employer associations *are organisations that represent and assist employer groups. They are usually respondents to the awards covering the employees of their members, and covering employers in the same or related industry.*

A **log of claims** *is a list of demands made by workers (often through their union) against their employers. These demands cover specific wages and conditions. Employers may also serve a counter-log of claims on the union.*

The number of Australians aged 65 years and over is projected to double by 2055 and their participation rates will increase from 5 per cent to 17 per cent. Women will also have a more substantial role to play in the workforce and it is expected that their participation rates will grow by 4 per cent in the next 20 years.

Many unions have responded to worker fears and have made some employment issues — such as job security and limitations on the use of casuals — a priority in negotiating agreements. A significant number of employees do, nevertheless, enjoy the flexibility of job sharing, and part-time and casual work to manage family commitments.

14.1.3 Employer associations

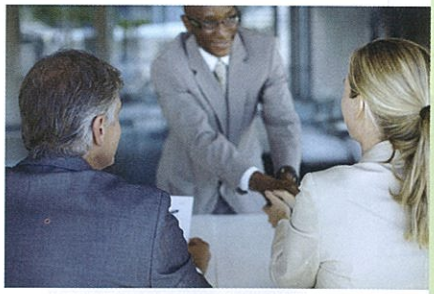
Employer associations were originally created by employers as a counter-party to unions, to represent employers in the making of awards through the conciliation and arbitration system established in 1904. They assisted employers in formulating policies and processed **logs of claims** served on their members by unions. Their main role today is to act on behalf of employers (especially small businesses) in collective bargaining sessions and before industrial tribunals, courts, commissions and committees. They:

- provide advice (especially to small businesses) on such matters as awards, unfair dismissals and discrimination issues
- make submissions to safety net wage cases
- negotiate agreements
- lobby governments and other organisations with the views and interests of employers, industries and trade.

Unlike unions, employer associations represent employers on a broader range of issues beyond human resource and industrial relations matters.

Employer associations may function as professional bodies, such as the Australian Medical Association, or as marketing bodies, for example, dairy cooperatives and Meat and Livestock Australia. Others are associations with an industrial relations function within their services, such as the Australian Chamber of Commerce and Industry (ACCI), and the Australian Industry Group (Ai Group) representing the Australian Chamber of Manufactures and the Metal Trades Industry Association (see the following Snapshot).

SNAPSHOT



"The focus of the Ai Group is to ensure that business views are represented to all levels of government."

The Australian Industry Group (Ai Group) — representing business

The Australian Industry Group (Ai Group) is Australia's peak industry association and represents more than 60 000 businesses. It encompasses a number of different industry sectors including manufacturing, engineering, transport, IT, telecommunications and construction.

The focus of the Ai Group is to ensure that business views are represented to all levels of government. This includes matters relating to work health and safety, workplace relations, human resource management and workers' compensation.

The Ai Group identifies the following services as being integral to what it offers to members:

- how to deal with employees making a bullying complaint
- the introduction of new laws relating to payments to unions and their representatives
- access to online webinars regarding recent industrial relations matters before the Fair Work Commission
- state-specific industrial information
- current economic data relevant to Australian businesses
- case studies of real industrial issues.

SNAPSHOT QUESTIONS

1. **Describe** the role of the Ai Group.
2. **Examine** the current focus areas of the Ai Group.
3. **Justify** the importance of employer associations for society.

14.1.4 Trade unions

Trade unions are organisations formed by employees in an industry, trade or occupation to represent them in efforts to improve wages and the working conditions of their members. The key factors and stages in their development in Australia are summarised in figure 14.3.

The system for resolving industrial disputes, established in 1904 in Australia, gave unions a powerful role in human resources. It provided unions with an official bargaining position in the making of industrial agreements. Through test cases, unions won major improvements in terms and conditions of employment. These established key principles that flowed on to other workers.

The concept of unions was brought from Great Britain during the 1800s.

Gold rushes create a time of prosperity, which leads to formation of unions and demands for shorter hours. Stonemasons win first 8-hour day in 1856. Other unions call for 8-hour day.

Late 1800s — unions organise on broader scale, on waterfront, in mining, manufacturing and shearing. They form a framework in Trades and Labor Councils from 1871.

Recession develops and major strikes break out in 1890s. Unions defeated by combined power of colonial governments, employers, the military, police and non-union workers (referred to by unionists as 'scabs').

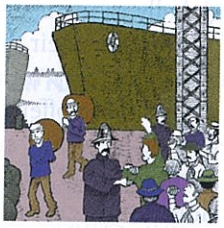
Unions decide to take a political vote to survive, and form Labor Party in 1891. Labor Party comes to power in 1901, after Federation.

Constitution is established. *Conciliation and Arbitration Act 1904* enshrines power of unions and employer associations.

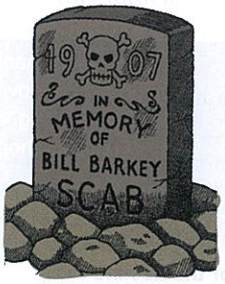


1907 — famous Harvester case establishes principle of basic wage for a family. This leads to other awards, establishing principle of comparative wage justice (where wage gains are spread across the wage system to other workers).

By 1926, 55 per cent of the workforce was unionised and, in 1927, ACTU was established. Further test cases establish principles including sick leave, long service leave, 40-hour week and, in 1969, equal pay for equal work.



White collar unions boom in the 1970s, fostered by 'closed shop' arrangements (compulsory union membership imposed by certain unions in particular industries). These are now some of the largest unions in Australia.



Unions use power to lobby on political, social and environmental issues.

Union membership falls rapidly from the 1990s — a global pattern in high-income countries.

FIGURE 14.3 The development of trade unions in Australia since 1800

Union membership peaked at 51 per cent in 1976, falling to 46 per cent of all employees in 1986. It has fallen dramatically since, as seen in figure 14.4, reaching the current level of 15 per cent of the workforce, where it has remained steady for the last few years. In addition:

- 16 per cent of full-time and 12 per cent of part-time employees belong to a trade union

BizWORD

Trade unions *are organisations formed by employees in an industry, trade or occupation to represent them in efforts to improve wages and working conditions of their members.*

BizFACT

The peak trade union body is the Australian Council of Trade Unions (ACTU). Some of the larger unions include the following.

- *Australian Services Union (ASU)*
- *Australian Workers' Union (AWU)*
- *Australian Manufacturing Workers' Union (AMWU)*
- *Construction, Forestry, Mining and Energy Union (CFMEU)*
- *Finance Sector Union (FSU)*
- *Maritime Union of Australia (MUA)*
- *Transport Workers' Union of Australia (TWU)*
- *Textile, Clothing and Footwear Union of Australia (TCFUA)*

- 38 per cent of government workers compared with 9 per cent of private industry workers are trade union members
- the highest levels of trade union membership are in education and training (37 per cent) and the industries with the lowest levels of union membership are real estate services and professional, scientific and technical services with 3 per cent
- 68 per cent of workers have never belonged to a trade union.

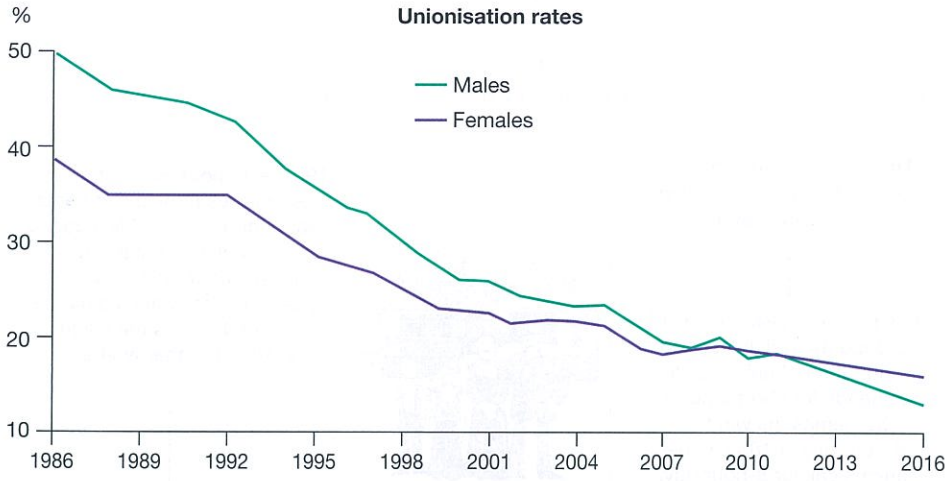


FIGURE 14.4 Trade union membership in Australia has fallen dramatically.

Having contributed so much to winning employee rights over the last decades, unions are now under pressure globally as membership declines to historically low levels. In response, unions are expanding their range of services and becoming more active in recruiting to regain membership numbers. As well as providing representation in disputes, the range of services offered by a union to members might now include free or discounted legal services, superannuation schemes, cheap home loans, training programs through TAFE, insurance, cheap holiday units to rent, income protection against illness or accident, work health and safety (WHS) advice, and many more.

The major reasons for the decline in union membership are shown in figure 14.5.

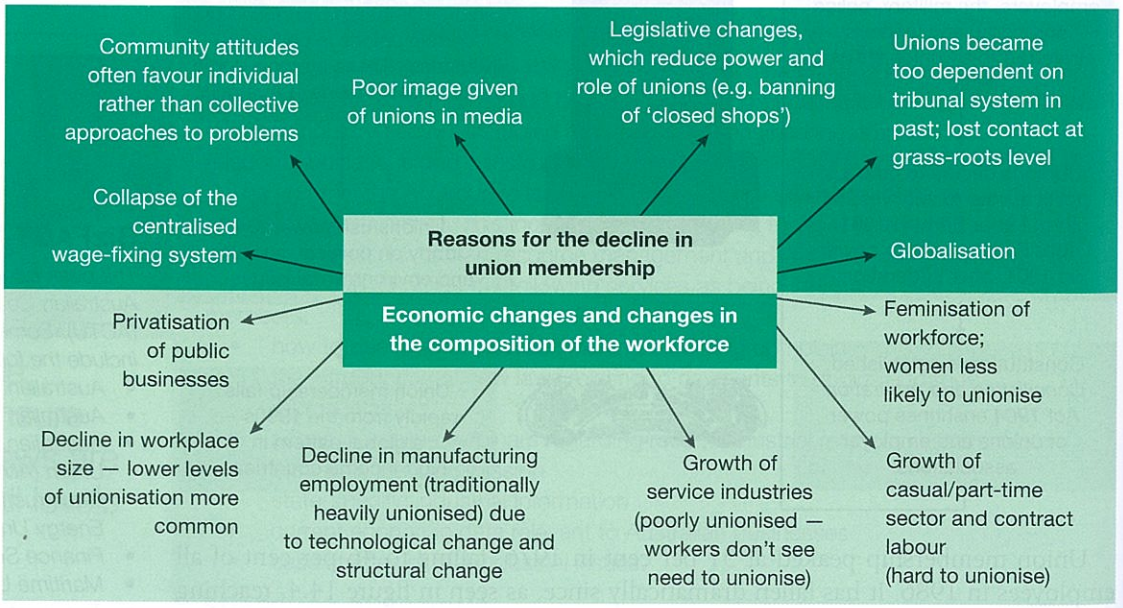


FIGURE 14.5 Reasons for the decline in union membership

Case study: Finance Sector Union (FSU) Australia

The FSU has existed for almost 100 years and is a not-for-profit organisation for members. Its role involves:

- industry negotiations with employers and/or employer groups
- representation in Fair Work Commission/state industrial tribunal matters
- presence when dealing with workplace issues
- providing information regarding workplace rights and obligations
- lobbying state and federal governments
- promoting issues of concern to relevant organisational bodies
- conducting workplace research
- offering a range of services to assist members and their families, for example, insurance, retail benefits and superannuation.

Most recently it was successful when it achieved a judgement that ensured its members who had been underpaid $16.7 million in superannuation and other entitlements by a major bank were compensated. The FSU has also indicated that it would support any move to undertake a Royal Commission into misconduct in the banking industry.

SNAPSHOT QUESTIONS

1. **Outline** the role of the FSU.
2. **Explain** how the FSU represents the views of its members.
3. **Evaluate** how effective the FSU has been in its most recent case against a major bank.
4. Do unions such as the FSU have a role in today's workplace? **Discuss**.

SNAPSHOT



'The FSU has been in operation for over 100 years.'

14.1.5 Governments and government organisations

Governments are important stakeholders in the human resource management process. Over time, they have significantly affected the industrial relations system as a result of their key roles, as follows.

- *Legislator.* Our elected representatives pass laws in parliaments (state and federal), which provide the legal framework for industrial relations. Legislation has also led to the growth of the judicial system, and the institutions and processes used by employers and employees to conduct bargaining and resolve disputes.
- *Employer.* Federal and state governments employ almost one-third of Australian workers, as teachers, nurses, clerks, police officers, postal workers, transport workers and in other roles. They are often regarded as pacesetters in terms of responsible industrial relations policies, having introduced practices such as maternity leave, flexitime and affirmative action for women that were eventually adopted in the private sector.
- *Responsible economic manager.* Governments operating at the macro level are keen to ensure non-inflationary, stable economic growth and a high standard of living for all Australians. At times there may be conflict between governments' economic goals, which impact on industrial relations. For example, a decision to cut spending through reductions in the size of the public service in order to reduce a budget deficit may conflict with its desire to maintain employment.
- *Administrator of government policies on industrial relations.* Through the departments and agencies established, governments are able to implement the legislation they enact. This is achieved through publishing information and guidelines providing advice to the government and the public and investigating breaches of legislation.

BizFACT

A global union grouping brings together three global trade unions representing 55 million workers in over 100 countries.

The key areas of action for these international unions include developing trade union networks in multinational companies, climate change and sustainable development, and building stronger unions in developing countries.

BizFACT

The Australian Government department responsible for industrial relations matters is the Department of Jobs and Small Business. This department is responsible for national policies and programs that assist people locate and maintain employment as well as work in safe, fair and productive workplaces.

- *Representative of Australia in the international arena, in foreign affairs, trade and international labour matters.* Australia is a foundation member of the International Labour Organization and has been represented on its governing body. As a result of its membership of such organisations, the government generally implements legislation based on the treaties and conventions it signs with international organisations. Social justice legislation passed in relation to discrimination, and human rights originated in these treaties and conventions.



FIGURE 14.6 Governments (both state and federal) perform many roles that have an impact on the human resources process; for example, the roles of legislator, employer, economic manager, policy administrator and representative of Australia on the international stage.

Governments have attempted to increase their power to regulate the industrial relations system through use of the External Affairs and Corporations powers (among others) given under the Constitution of Australia. Recent government policy has focused on reducing the powers of industrial tribunals and encouraging decentralised bargaining in the workplace (enterprise).

Since and the introduction of the Fair Work Australia Act, all the states, except Western Australia, referred their industrial relations powers to the Commonwealth. The aim of the federal government was to create a national system, which would simplify industrial relations so that employers were not forced to negotiate under multiple jurisdictions and to stop employees and unions from 'shopping around for the best deal'. These arrangements were intended to reduce business costs through creating greater certainty and efficiency in dealing with industrial matters.

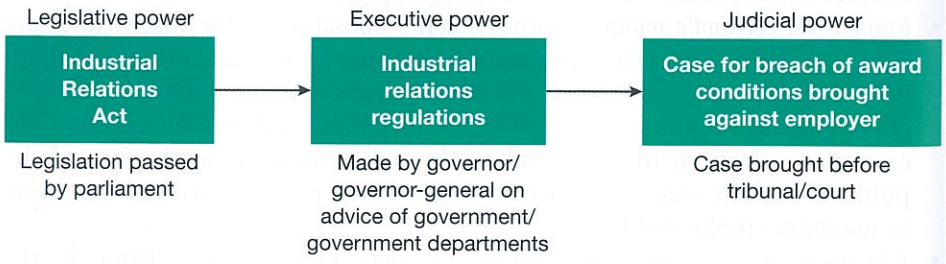


FIGURE 14.7 The functions of government (state or federal) in workplace relations

BizWORD

Statutes *are laws made by federal and state parliaments; for example, laws relating to employment conditions.*

Statutes

Statutes are laws made by federal and state parliaments; for example, laws relating to employment conditions (see table 14.1). Until recently, Australia has operated a dual system of industrial relations since federation. This has arisen as the Constitution awards the Commonwealth Government limited powers to make laws

about industrial issues and allows the states to make laws about matters not covered under the Constitution, known as residual powers.

These statutes provide the framework for awards and agreements and the resolution of disputes, and require employers to:

- meet WHS requirements
- maintain workers' compensation insurance
- provide all employees with superannuation, annual leave and long-service leave
- ensure employment practices in the workplace are free from discrimination on the basis of age, sex, physical or mental disability, marital status, family responsibility, pregnancy, union membership, political opinion, race or social origin
- give each new employee, covered by the national industrial relations system, a Fair Work Information Statement. This statement provides basic information about employee rights.

TABLE 14.1 Federal legislation

Law or test case	Date	Features
Conciliation and Arbitration Act	1904	Gave the Conciliation and Arbitration Commission power to prevent and settle industrial disputes extending beyond the limits of the state.
Harvester case	1907	Established the basic wage for full-time male worker with wife and two children.
Equal Pay case	1969	Principle of equal pay for equal work established for women.
Trade Practices Act	1974	Secondary boycotts (provisions) made illegal. Jurisdiction for this later moved to Australian Industrial Relations Commission, as ILO (International Labour Organization) report suggested it interfered with the right to strike.
Racial Discrimination Act	1975	Discrimination in employment on the basis of race, colour, national or ethnic origin prohibited.
Maternity Leave case	1979	Test case on maternity leave won by ACTU.
Sex Discrimination Act	1984	Prohibited sexual harassment and discrimination on basis of sex, marital status and pregnancy.
Affirmative Action (Equal Opportunity for Women) Act	1986	Required all private sector employers and all higher education institutions to implement affirmative action programs for the employment of women and to submit annual reports on their progress.
Industrial Relations Act	1988	Award restructuring introduced under the structural efficiency principle (SEP).
Parental Leave test case	1990	Federally covered male employees given opportunity to take leave to mind newborn children, etc.
Industrial Relations Reform Act	1993	Improved safety net provisions for employees, through the award system and minimum entitlements. Improved arrangements for direct bargaining through both certified enterprise agreements (between employers and unions) and enterprise flexibility agreements (non-union individual agreements). Protection against unfair dismissal.
Workplace Relations Act	1996	Revised framework for enterprise bargaining, allowing for collective and individual agreements, with or without union involvement. Tighter restrictions on industrial action. Limited arbitration role for AIRC.
Fair Work Act	2009	National framework for industrial relations implemented. Covers most private employees. All states refer powers with exception of WA. Ten National Employment Standards set. Collective bargaining emphasised.

BizFACT

Section 51 (xxxv), the most important section of the Constitution for industrial relations, gave the federal government the power to: '. . . make laws for the peace, order and good government of the Commonwealth with respect to: . . . (xxxv) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State'. The effect of this Section was that:

- *a dispute (actual or pending) must exist before the tribunal could intervene*
- *the dispute must be an 'industrial matter'*
- *the dispute must extend beyond one state.*

Australia has a dual industrial relations framework whereby all private sector employees are covered by a federal industrial relations system and public sector workers in several states, including New South Wales, remain in state-based system.

This system, implemented under the *Fair Work Act 2009*, is administered by the federal government. It covers all employees of **constitutional corporations** in all states and most private employees formerly covered under state awards and enterprise agreements. The system gives employers and employees the same workplace rights and obligations, regardless of the state they work in.

Key elements of the framework include:

- a national framework for industrial relations covering most private employees of all states except Western Australia
- ten National Employment Standards (NES) developed to provide basic protections to employees
- collective bargaining and good faith bargaining required by all parties
- modern awards for specific industries and occupations
- enterprise bargaining continued
- annual National Wage Case sets minimum wage
- protection from unfair dismissal
- Fair Work Commission administers the *Fair Work Act 2009* and the Fair Work Ombudsman is responsible for promoting unified, supportive and productive workplace relations that comply with the Fair Work laws.

The 122 **modern awards** cover most employees in a wide range of industries, and replace thousands of previous state and federal awards. Together with the NES and the national minimum wage order, they make up a safety net for employees covered by the national workplace relations system. They do not replace enterprise awards, which are made with a specific enterprise.

BizWORD

A **constitutional corporation** *is one that falls under section 51(xx) of the Constitution of Australia — identified as foreign corporations and trading or financial corporations formed within the limits of the Commonwealth.*

BizWORD

A **modern award** *is an industry or occupation-based award that covers all private sector employers and employees who perform work that falls within their scope. They replace all existing national system awards (except those applying to a single enterprise). They do not cover employees earning higher incomes.*

Industrial tribunals and courts

Industrial tribunals exist at the federal and state levels to enforce laws established by governments. The Fair Work Commission today plays a role in ensuring that the bargaining process and any associated industrial action occur according to law.

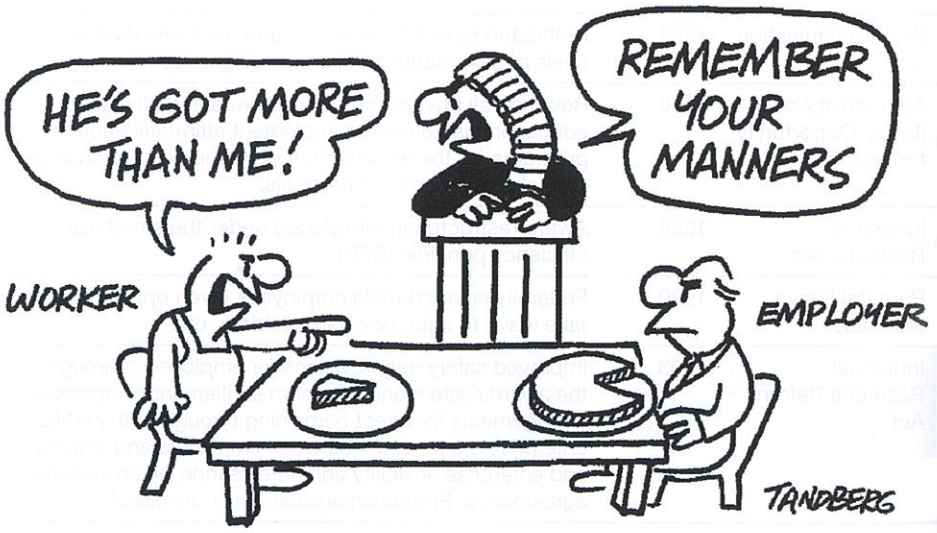


FIGURE 14.8 A cartoonist's interpretation of the role of tribunals

The Fair Work Commission follows in the footsteps of the longstanding Australian Industrial Relations Commission (AIRC), formerly the Australian Conciliation and Arbitration Commission. Its primary functions include settling disputes through conciliation, supervising the making of agreements or **awards** and **award simplification**, hearing appeals and handling unfair dismissal cases. The Fair Work Commission assists in resolving disputes involving employers, employees,

BizWORD

An **award** *refers to the legally enforceable minimum terms and conditions that apply to a business or industry.*

Award simplification *is the process of reducing the number of matters in each award and eliminating inefficient work practices.*

unions and employer associations who are covered by the national workplace relations system. Through these functions and specific cases, the Fair Work Commission determines questions about future rights of employees and employers.

Much of the Fair Work Commission's work is conducted by individual members or groups of members who are responsible for specific industries or disputes, and are skilled in mediation, conciliation and arbitration. The Fair Work Commission members come from a diverse range of employment backgrounds and must have knowledge or experience in one or more of the fields of workplace relations, economics, social policy, business, industry or commerce.

A panel of seven senior members, the Fair Work Commission's Expert Panel, is responsible for hearing annual wage cases and setting minimum wages for employees in the national workplace relations system.

Breaches of the Fair Work Commission's orders can lead to fines of up to $12 600 for individual workers or $63 000 for a corporate entity.

Federal Court

The Federal Court of Australia is a judicial court. Under the Constitution, only courts have the **judicial power** to determine disputes about existing rights and to make decisions about these matters. The Federal Court has a division that enforces industrial relations legislation by administering court actions that arise under Australian industrial laws. It handles cases relating to industrial action and breaches of industrial laws, interprets industrial legislation, and is able to impose penalties for the breach of an award or order, and discrimination or victimisation under industrial and human rights legislation. It also has the power to approve the disamalgamation (splitting up) of unions, declare unauthorised action taken during a dispute and hear cases under the *Corporations Act 2001*.

Other government agencies

A number of other federal and state government agencies are also stakeholders in the human resources process. For example, the roles of the Australian Human Rights Commission (HREOC), the Workplace Gender Equality Agency (WGEA) and state organisations such as the Anti-Discrimination Board are to implement particular areas of government legislation.

In the area of WHS the federal *National Occupational Health and Safety Commission Act 1985* established the National Occupational Health and Safety Commission, now Safe Work Australia. Safe Work Australia began operating as an independent statutory agency in 2009. Its primary responsibility is to improve WHS and workers' compensation arrangements across Australia.

Recognising the need to standardise and harmonise WHS systems around Australia, the federal government developed, in collaboration with each state government through the Australian Chamber of Commerce and Industry (ACCI) and the Australian Council of Trade Unions (ACTU), a new framework for a national occupational and WHS system.

14.1.6 Society

In 1948, the General Assembly of the United Nations, consisting then of 56 countries, passed the Universal Declaration of Human Rights, recognising the importance of work to people's lives, and the need for fair and just conditions and rights for those at work (see figure 14.9).

One of the most significant issues for any voter is their job. If there are threats to employment or conditions at work, whether as a result of planned legislation, economic conditions, pressure arising from global competition or adverse social impacts, voters make their views clearly known. The relationship between

BizFACT

A full panel (bench) of at least three Fair Work members, including a Deputy President, is needed to:

- *hear matters of significant national interest such as test cases on matters, concerning family leave, superannuation and public holidays, and establish principles for making and varying awards*
- *certify multiple business agreements*
- *hear appeals against orders, or cancel and suspend awards and orders*
- *arbitrate after a bargaining period is terminated.*

BizWORD

Judicial power *refers to the power of courts to interpret and apply laws.*

employers and employees has often been a battleground, as reflected in frequent disputes and changes in legislation in Australia over the last decades.

There are two key articles in the UN Declaration of Human Rights that deal with work — **Article 23** and **Article 24**.
Key points include:

- The right to work
- The right to freely choose your employment
- Fair conditions of work
- Equal pay for equal work.
- Just and favourable (i.e. fair) remuneration
- The right to form and join a trade union
- The right to leisure and rest i.e. limits on working hours and some holidays.

FIGURE 14.9 Key points from Articles 23 and 24 from the Universal Declaration of Human Rights

As global competition increases the pressure on businesses to become leaner, the need for more efficient operations, global business consolidation and rationalisation of production has increased. Multinational corporations increasingly use contractors to supply or manufacture key components or services, creating opportunities globally for suppliers with the most cost effective operations. Often the process of relocating production offshore, or shifting production regularly to lower cost locations, leads to dislocation and structural unemployment in the communities left behind. For other communities, there is constant pressure to 'do more with less', to work longer hours and to accept hard working conditions to retain jobs.

Community demands for safety and wellbeing at work have increased over recent decades, as has the pressure to eliminate discrimination against female, indigenous and disabled members of the working community.

For businesses, it means an ongoing battle between the need for the business to find ways to reduce its biggest cost — labour — as pressure increases from global competition, and the needs of employees, particularly those with dependent families.

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Syllabus area 4
Topic 2
Concept 2

Stakeholders: unions, government and society
Summary screen and practice questions

SUMMARY

- The major stakeholders in the human resources process are employers, employees, employer associations, trade unions, government and government agencies, and industrial tribunals and courts.
- Each stakeholder has perspectives that may conflict or be shared with those of other stakeholders, leading to conflict or cooperation.
- Stakeholders are increasingly operating at a variety of scales and developing global networks in response to the globalisation of business.
- Membership of trade unions has declined dramatically over the last decades at a global level in response to many factors, including the shift to less hazardous work in the increasingly dominant service sector.
- To simplify industrial relations and improve efficiency, a national system of industrial relations has been created.
- Government statutes provide the framework for employment conditions.
- Since January 2010, Australia has shifted to a dual industrial relations framework with most workers covered by a federal award and some workers, mostly public servants, teachers and essential service employees such as police and nurses continuing with state-based awards.
- The system is implemented under the *Fair Work Act 2009*.

- Industrial tribunals and courts enforce the employment laws.
- The Fair Work Commission is the national industrial tribunal that replaced the Australian Industrial Relations Commission. Its powers have been expanded to allow it to hear and settle disputes, supervise agreement making and award simplification.
- Other government agencies are also stakeholders in the human resources process including the Australian Human Rights Commission (HREOC).
- Society has a number of expectations regarding employment conditions.

EXERCISE 14.1 REVISION

1 **Identify** the major stakeholders in the human resource management process.
2 **What** are the major objectives of employers and trade unions in the human resource management process?
3 In small groups, use the brainstorm technique to **identify** the advantages and disadvantages of employers being given greater power to make agreements for a specific individual, workplace or enterprise.
4 **Summarise** the major factors changing the nature of work today.
5 With employees being more educated today, **evaluate** the need for unions.
6 **Summarise** the aim of the federal government in introducing the *Fair Work Act 2009*.
7 'Since January 2010, Australia has shifted to a dual federal and state industrial relations system.' **Explain**.
8 **State** the main elements of the *Fair Work Act 2009*.
9 **Describe** the role of the Fair Work Commission.
10 **Explain** the impact of increased global competition on (a) employers and (b) employers.

EXERCISE 14.1 EXTENSION

1 **Evaluate** the potential success of global links developed by unions.
2 Visit the **Fair Work Ombudsman** website and **assess** the value of this website in providing information about workplace rights and rules.
3 After researching online, **explain** the issue of shifting to a national system of work health and safety.

on Resources

Weblink: Fair Work Ombudsman

14.2 Legal influences — the current legal framework

The employment contract creates obligations for both employer and employee, and all businesses operate within a legal framework of common law and statute law — that is, law passed by federal and state parliaments in Acts.

Legislation covers the nature of employment contracts and agreements; dispute-settling methods (as a result of our international agreements); protection of human rights in employment; and employer responsibilities for tax payments on behalf of employees. Employee welfare is provided for through WHS legislation and specific legislation such as the Superannuation Guarantee, under which all employers are obliged (either under awards or the legislation) to pay superannuation contributions for employees, whether or not they are on awards.

Changing community and worker expectations on **social justice** (equal employment opportunity, anti-discrimination), safety and environmental issues are increasingly reflected in legislation and work practices.

Following the election of the Rudd Labor government in 2007, a new legislative framework for industrial relations was enacted through the *Fair Work Act 2009*.

BizWORD

Social justice *in the workplace involves businesses being responsible or behaving in a fair and ethical manner towards their employees, customers and the broader community.*

Unregistered individual common law contracts of employment, casual work and independent contracting remain common options for individual employment arrangements, with many employees indicating they are offered employment under these conditions on a 'take it or leave it' arrangement. These arrangements shift the responsibility of organising employment conditions, such as sick and carers leave, onto the employee. This has led to community concerns about the 'financialisation' and 'privatisation of risk' occurring, as responsibility for support is shifted from governments and employers to employees. 'Flexibility' works for employers, but less so for employees.

We have, nevertheless, shifted from a strongly **centralised industrial relations system** in the 1980s to a **decentralised** and more fragmented system today, based increasingly on bargaining at the workplace (enterprise) level.

Successive Australian federal governments since the 1980s have supported a decentralised view of industrial relations. The Fair Work legislation referred to above was aimed at ensuring that the government's role in determining the details of employment contracts would be limited to creating the legal framework that facilitated the negotiation of enterprise agreements, the National Employment Standards, minimum wage hearings and awards.

BizWORD

A **centralised industrial relations system** *is a collectivist approach in which disputes are referred to industrial tribunals, such as the Fair Work Commission, for conciliation and arbitration.*

In a **decentralised industrial relations system**, *employers and employees negotiate wages and working conditions in the individual workplace, through collective or individual bargaining and without the involvement of tribunals.*

The influence of government on the process of determining employment contracts

The Department of Jobs and Small Business is the federal government's official industrial relations watchdog. Its role is to ensure that national policies and programs are operational, maintain and find employment for Australians and ensure safe, fair and productive workplaces.

At the state level the task falls to the NSW Industrial Relations (NSW IR) whose responsibility it is to monitor wages, employment rights, obligations and employment conditions for its public servants and other workers such as teachers, police officers, nurses and essential service workers. It actively participates as a partner in the Commonwealth's national workplace relation's framework.

The workplace relations system is essentially independent, although there are a number of organisations that fall under the responsibility of the Department of Jobs and Small Business. These are:

- Fair Work Commission
- Fair Work Ombudsman
- Safe Work Australia
- Comcare
- Asbestos Safety and Eradication Agency
- Workplace Gender Equality Agency
- Fair Work Building and Construction.

The main aim of the department is to act as a support that ensures employers and employees operate in a flexible and modern workplace within a national workplace relations system that ensures the maintenance of clear and enforceable minimum national employment standards.

To this end the current workplace relations system maintains that employment contracts between employees and employers cannot provide for less than the legal minimum set out in the National Employment Standards (NES), awards or enterprise agreements. All employees are covered by the NES whether they have signed a contract or not — the contract cannot leave them worse off than their minimum legal entitlements.

More recently, successive Australian federal governments (and to some extent most state governments) have sought to decentralise the industrial relations system. The most recent change, in the form of the *Fair Work Act 2009* ensured that the government's role in determining the details of employment contracts would be indirect and limited to ensuring that it maintains the above organisations.

This process seeks to guarantee that employees and employers, whether through a written or verbal contract, can be assured there are procedures in place to rectify concerns that their arrangements do not accord with the existing framework.

14.2.1 The employment contract

The most basic relationship in employment and the workplace is between employer and employee. An **employment contract** is a legally binding, formal agreement between employer and employee. Every employee has a contract with an employer. A written contract gives more protection to both parties than a verbal contract, as disputes often occur over contracts if working arrangements are not clear and it is one person's word against another. Usually employment contracts will be of two forms: contracts of indefinite duration and contracts of a fixed term.

BizWORD

An **employment contract** *is a legally binding, formal agreement between employer and employee.*

Contracts of an indefinite duration are the most common type of employment contract and allow for the employee to remain employed by the business until either the employee or the employer gives notice that they wish to terminate the employment. The relevant laws or the contract itself determines the period of notice.

Contracts of a fixed term are ones that expressly define a date or upon completion of a specific task; for example, the employee is engaged for a period of 12 months and the contract does not exist beyond that period, or the employee's period of work will cease to exist at the completion of a project and the relationship comes to an end.

A written contract encourages the parties to clarify the key duties and responsibilities of a job (see figure 14.10).

Dear Blake

This letter confirms your appointment to the Overboard Surf Store as its new Manager. Your employment commences on 25 July 2018 under the following conditions:

1. Your conditions of employment as full-time Manager are established in the Overboard Enterprise Agreement.
2. You will carry out all duties as a manager (as attached) within the store, together with any other duties as may reasonably be directed and requested by the employer.
3. Your wages will be subject to review by the company on the basis of individual performance assessment undertaken on a six monthly basis. Your annual salary will commence at $80 000 per annum.
4. During the first month of probationary employment, your employment may be terminated by either party giving immediate notice.
5. You will be given half a day's paid absence per week for six weeks to complete our management course.

Please complete the acceptance of this offer on the attached form.
Our store's policies and Enterprise Agreement are attached for your information. Please note the termination provisions.
We look forward to a rewarding relationship in the future and welcome you to our organisation.

Yours faithfully,
I Tuncay
Irem Tuncay
General Manager
Overboard Surf Company

FIGURE 14.10 An example of an employment contract

The contract does not need to be written, but it is valid and legally enforceable when:

- the parties involved intend to create a legal relationship
- one party offers and the other accepts the offer

BizFACT

Independent contractors are typically self-employed and have a contract for services (between a principal and a contractor) as opposed to the contract of service that employers have with employees on individual contracts of employment. Independent contractors do not have the same rights as employees, have control over their work, are responsible for their own tax payments and may work for a number of businesses. By using independent contractors, firms bypass many of the requirements of a contract of employment, such as sick leave entitlements and maternity leave provisions.

In the event of a dispute between a business and a contractor, a 'control test' is used by the courts in cases where the extent of the employer/employee relationship is unclear. If an independent contractor is working for a company and the company clearly had the right of continuous, dominant and detailed control over the contractor, the company could be seen as acting as an employer. Further evidence of the employer–employee relationship can be found in regular payments of salary or wages, regular and specific hours of work, and deduction of PAYG tax.

- both parties obtain a benefit
- both parties have the capacity to contract; for example, they are old enough to make the contract
- consent is genuine and not pressured
- the offer does not contravene any public interest.

Employment contracts need not be overly complex, but a correctly drafted employment contract will be of benefit to both parties in the long term. Attention to detail at the outset ensures that expensive litigation and negative public relations is avoided. A well-written employment contract ensures that the employment relationship commences on the right footing and should contain the essential terms shown in figure 14.11. Independent contractors also have an employment contract, although it is a little different from the conventional employer-employee contact (see the BizFACT on independent contractors).

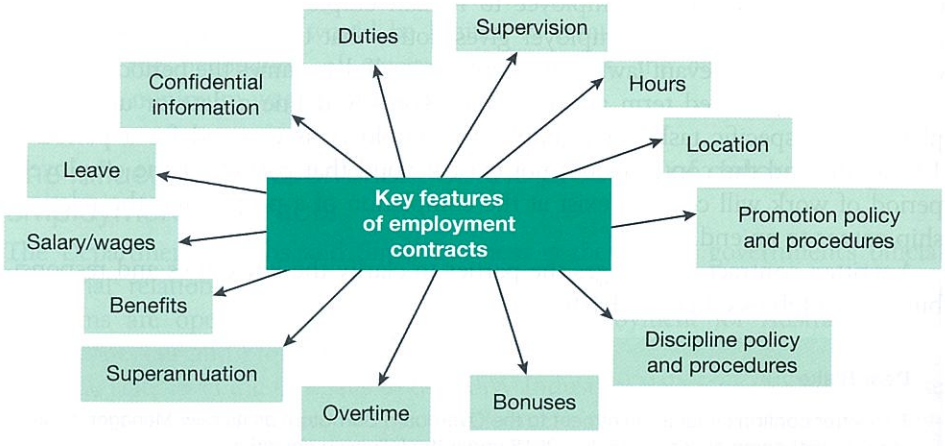


FIGURE 14.11 Key features of employment contracts

Apart from statutes, the employment contract and other aspects of human resources are governed by common law, awards and agreements.

SNAPSHOT



Case study: Avalon Airport — contract dispute

When George Haros accepted an offer from Linfox to be its Business Manager at Avalon Airport, leaving a secure and long-term relationship elsewhere, he contended that a range of representations had been made to him with respect to the security of the role (at least three years), the longevity of the role (as long as the current GM/MD remained in post) and the exclusivity of the role (only he and the GM/MD would discharge the business management/commercial function). He argued in the Federal Court that all of these representations were misleading and deceptive and contrary to what was then the provisions of the *Trade Practices Act 1974* (now replaced by the *Competition and Consumer Act 2010*). After some four months employment, he was retrenched after his position was determined to be 'redundant'.

His claims were rejected at first instance and on appeal. The Full Bench found on the facts that Haros:

- was himself a qualified lawyer with experience in employment law
- had negotiated the terms of and had signed a written contract which provided for a probation period and termination on three months' notice
- had confirmed that contract to be the 'entire agreement' between the parties, superseding any previous 'negotiations, representations, warranties or Commitments . . .' (*Haros v. Linfox Australia* [2012] FCAFC 42).

On that basis, it was held that:

> Mr Haros did not seek, and was not given, employment for a fixed term; he accepted the position on terms that were negotiated freely; he was under no

disability in negotiation, but was an astute lawyer with relevant experience in employment law; he reviewed the draft contract; he did not demur to any of the terms proposed by Linfox; he proposed additional terms which were accepted; and he signed the contract, thereby representing to Linfox that he approved its content or was willing to take the chance of being bound by those contents . . . He was not misled or deceived, so that he was not induced by any such representations to accept Linfox's offer of employment.

The Court also found that although Linfox had frequently used language such as 'potential' and 'opportunity' in describing the role, these terms did not, in this context, equate to 'a promise of any certainty'.

SNAPSHOT QUESTIONS

1. **Outline** the guarantees that Mr Haros believed were given to him regarding the nature of his employment.
2. **Identify** what law Mr Haros believed the company was breaking.
3. **Explain** how the matter was dealt with by the Federal Court.

Common law

The **common law** is developed by courts and tribunals. Unlike statutes, it is not made by a parliament. Under common law, judges make decisions based on the facts of a case, guided by precedent (decisions made in the past). The body of common law (also known as case law) is therefore developed from decisions made over time by judges.

Under common law, both parties — employers and employees — have basic obligations in any employment relationship, regardless of whether it is in a formal or informal contract. The obligations of each party are reflected in the rights of the other party.

BizWORD

*The **common law** is developed by courts and tribunals.*

Employer obligations and rights

Employer obligations include the following.

- *Providing work.* Employers are not allowed to 'stand down' employees if there is no work. They are not generally required to provide work if there is none; however, they must pay the correct wages.
- *Payment of income and expenses.* Employers are required to pay the income (including wages, commission, fees) stipulated in the award, enterprise agreement or contract, and reimburse employees for expenses legitimately incurred as a result of performing their work.

Employers also have rights in the workplace. These include:

- Employees working with care and responsibility, especially in respect to WHS
- Employees carrying out their work according to their agreement/award, including good customer relations and accountability for money or property
- Being notified according to agreement/award of an employee's intention to take their leave entitlements
- Receiving formal advice of a workers intention to leave the business in accord with the award/agreement
- Meeting requirements of industrial relations legislation. This includes
  - providing a workplace and work practices, such as **equity** policies and promotion that are free from discrimination, as required by the sex discrimination, anti-discrimination and equal employment opportunity legislation of the federal and state governments
  - ensuring that workers are protected against unfair dismissal, where this legislation applies. Employers only have the right to dismiss employees who do not obey lawful instructions (insubordination); neglect their duties; are guilty of theft or dishonesty; exhibit wilful or serious misconduct; fail to meet the conditions of the employment contract; and fail to perform satisfactorily over time

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Syllabus area 4
Topic 2
Concept 3

Legal: employment contracts, common law, FWC
Summary screen and practice questions

BizWORD

Equity in the workplace *is the provision of equal opportunities for all employees to gain access to jobs, training and career paths.*

- Duty of care. Employers are legally bound under the federal and state Work Health and Safety Acts to provide reasonable care for the safety of the employees by:
  - providing a safe system of work, without risks to health
  - providing and maintaining premises that do not unreasonably expose an employee to risk of injury
  - providing resources, information, training and supervision necessary to ensure the health and safety of workers
  - protecting workers against risks arising out of their work activities.

BizFACT

Before you start work you should find out as a minimum:

- *what your duties and conditions are*
- *whether your job is full-time, part-time or casual*
- *what your wages and allowances are*
- *your job classification/title*
- *whether there is a probationary period.*

You should not generally be required to work for a trial period if you will not be paid for that period, unless it is part of an approved training course.

Employee obligations and rights

All employees are obliged to observe the following:

- Carry out duties in a way that is beneficial to the business.
- Ensure that they maintain confidentiality and not use information such as sales figures in a way that is detrimental to the operation of the business.
- Account for all money that comes into the business.
- Take reasonable care and act safely in the workplace.
- Follow written and verbal procedures and policies.
- Be honest, fair and work with integrity in all dealings with both colleagues and customers.
- Obey lawful commands that are considered reasonable even if they may not be part of their primary responsibilities.
- Complete forms related to taxation and its deduction from income.
- Give appropriate notice of termination of employment in accordance with the relevant award.



FIGURE 14.12 Employers and employees have common law duties for WHS.

Employees also have certain rights when carrying out their work. These include:

- being paid for all the time they work, including overtime where applicable
- receiving the minimum set out in the award or enterprise agreement
- having all pay recorded by the employer (some awards/agreements state that employees must receive a pay slip)
- receiving extra pay such as loading for casuals and penalty rates for work outside of usual hours
- receiving allowances for tools and uniforms if applicable
- having access to paid and unpaid leave entitlements.

Minimum employment standards

Ten National Employment Standards have been developed in consultation with business, unions and the community. They must be provided by employers and state minimum conditions for employees. They have been planned to provide a greater safety net for employees, particularly for the most vulnerable and low-paid employees in the workforce. They provide the basis from which modern awards and enterprise agreements are constructed.

National Employment Standards

1. **Maximum weekly hours of work** — 38 hours per week, plus reasonable additional hours
2. **Requests for flexible working arrangements** — parents or carers of children under 18 are allowed to request a change in working arrangements to assist with the child's care.
3. **Parental leave and related entitlements** — up to 12 months unpaid leave for every employee, plus a right to request an additional 12 months unpaid leave, and other forms of leave
4. **Annual leave** — four weeks paid leave per year, plus an additional week for certain shift workers
5. **Personal/carer's leave and compassionate leave** — 10 days paid personal/carer's leave, two days unpaid carer's leave as required, and two days compassionate leave (unpaid for casuals) as required.
6. **Community service leave** — unpaid leave for voluntary emergency activities and leave for jury service, with an entitlement to be paid for up to 10 days for jury service
7. **Long service leave** — a transitional entitlement for employees who had certain LSL entitlements before 1/1/10 pending the development of a uniform national long service leave standard.
8. **Public holidays** — a paid day off on a public holiday, except where reasonably requested to work
9. **Notice of termination and redundancy pay** — up to four weeks notice of termination (five weeks if the employee is over 45 and has at least two years of continuous service) and up to 16 weeks redundancy pay, both based on length of service
10. **Provision of a Fair Work Information Statement** — employers must provide this statement to all new employees about major employment matters and bodies.

FIGURE 14.13 National Employment Standards

Minimum wage rates

The minimum wage rate in Australia is an employee's base rate of pay for the number of ordinary hours that they have worked and is generally determined by a modern award, enterprise agreement or the national minimum wage. The minimum wage rate is reviewed by a specialist Minimum Wage Panel of the Fair Work Commission each year and will take effect from the first pay period after 1 July of that year. Both employees and employers cannot agree upon a pay rate that is less than the minimum wage.

BizFACT

In July 2017, the Fair Work Commission handed down an increase in the national minimum wage to $694.90 (before tax) for full-time workers or $18.29 per hour plus 25 per cent loading for casuals.

Employees under 21 years of age receive a percentage of this hourly minimum, depending on their age.

Case study: The underpayment of Australia's Workers

The issue of the underpayment of some of Australia's approximately 12 million workers has become so common that in Victoria nearly 80 per cent of hospitality employers did not comply with the federal award system between 2013 and 2016. Further, almost one-third of eligible Australian workers did not receive some or all of their superannuation entitlements.

The concern is that there is a lack of resources to pursue the issue of underpayment of workers and that instead a proposal in a recent Senate enquiry

SNAPSHOT



'. . . in Victoria nearly 80 per cent of hospitality employers did not comply with the federal award system between 2013 and 2016.'

recommended a certification scheme that rewards employers that have committed to complying with employment regulations. This could be used by compliant businesses as a marketing strategy to show that their business meets legal requirements and remove some of the demands on finding non-compliant employers.

The range of businesses identified as underpaying workers includes Myer, Woolworths, Coles, Aldi — all through their supply chains — and franchises 7-Eleven, Caltex and Domino's Pizza.

Evidence suggests those businesses that operate in very competitive industries such as hospitality and retail are most likely to engage in 'wage theft', which is especially rife where supply chains contract out work (that is often further sub-contracted) and makes good governance more difficult.

In order for the businesses to survive in these minimum-cost environments, conditions often result in workplaces that exploit employees. This is especially apparent in actions that seek to cut wage costs through manipulating timesheets, ignoring penalty rate entitlements or, in some cases, forcing employees to pay back part of their wages in cash.

In a recent case a restaurant owner in Perth employed a worker from Bangladesh who was sponsored by the owner's company to work as a cook on an employment visa. The cook was contracted to a salary of $54 000 in return for a 6- or 7-day work week that often meant more than 50 hours. After his $1634 pay per fortnight the worker was then required to withdraw cash and pay back $434 of his wages to his sponsor/employer. The worker was also refused work after he tried to return after an injury sustained in the restaurant. The injured worker provided a workers' compensation claim for his injury and was duly sacked.

After seeking assistance from the Fair Work Ombudsman it was discovered that the worker was in fact short-changed $38 822 over the course of his employment with the restaurant. The owner of the restaurant now faces penalties of tens of thousands of dollars.

This is one example of the Fair Work Ombudsman's pursuit of companies involved in labour exploitation. It also sought payment of outstanding wages and penalties to the tune of $27 million in 2016. Although significant, it is felt that this represents only a portion of the wage theft from that many victims, often because vulnerable workers are fearful to come forward.

One industry not prepared to see workers exploited is the cleaning industry. Stakeholders have developed the Cleaning Accountability Framework. The industry had discovered that 21 per cent of its businesses were engaging in worker exploitation through misuse of contracts and underpayment of workers. The new program ensures that cleaning business standards are verified in respect to wages and entitlements, work health and safety and general working conditions. The appropriate standard is then verified by an independent auditor and certification awarded. For those not meeting the standard, pursuit of contracts will be more difficult as well as potential brand damage.

Source: Adapted from Sarah Kaine, Emmanuel Josserand, Martijn Boersma, 'How to stop businesses stealing from their employees', *The Conversation*, 7 September 2017

SNAPSHOT QUESTIONS

1. **What** are the main issues outlined in the article?
2. **Identify** the proposed scheme to address the issues.
3. **List** the businesses identified as under paying workers. Why does it occur?
4. **Analyse** the case of the Bangladeshi restaurant worker subject to workplace exploitation.
5. **How** did the Fair Work Ombudsman assist the Bangladeshi restaurant worker?
6. **Evaluate** the proposed Cleaning Accountability Framework as a strategy to address workers exploited in that industry.

Awards

An award is a determination that explains the legally enforceable minimum terms and conditions that apply to a business or industry. 'Modern awards' are a key feature of the current industrial relations system that sought to simplify some

2400 older existing awards into industry or occupation-based categories. This was undertaken to reduce the confusion surrounding proper minimum employment entitlements. Examples of awards include the Fast Food Industry Award 2010 and the Hair and Beauty Industry Award 2010.

Currently 122 modern awards apply to all employees covered by the national workplace relations system, except for some managers or higher income earners that are not covered by a modern award. The contents of modern awards are as follows:

- base pay rates
- conditions and requirements for different types of employment (for example, full-time, part-time or casual)
- overtime and penalty rates
- allowances (such as travel allowances)
- leave and leave loading
- hours of work (for example, rosters, making changes to working hours)
- requirements for annual wage or salary arrangements
- superannuation entitlement
- conditions and procedures for consultation, representation and settling disputes
- outworkers
- redundancy conditions.

The conditions in the modern award apply on top of the minimum conditions in the National Employment Standards (NES). Awards are used as the basis for the negotiation of enterprise bargaining.

Modern awards also have a 'flexibility term' that allows employers and employees to negotiate changes to some of the conditions in the modern award. These are called **Individual Flexibility Agreements (IFA)**. They allow an employer and an employee to come to an agreement that varies the modern award or enterprise agreement in order to address individual circumstances. The arrangement must not undermine minimum employee entitlements and must leave the employee better off (usually assessed financially) on the IFA compared to the award or enterprise agreement.

The IFA can only address the following areas:

- arrangements for when work is performed, such as working hours
- overtime rates
- penalty rates
- allowances, and
- leave loading.

BizWORD

Individual Flexibility Agreements (IFA) *allow an employer and an employee to come to an agreement that varies the modern award or enterprise agreement to address their individual circumstances.*



FIGURE 14.14 Award coverage is high in hospitality, retail and community services.

For example, Chicka works at Famous Johnny's Fishing and Tackle on the mid-north coast, NSW. His son Sal is a keen fisherman who sometimes takes a few risks when he goes rock fishing and Chicka thinks it's a good idea for him to accompany Sal when he goes. Chicka asks his supervisor Zoe if it would be possible for him to leave an hour early so that he can escort Sal every Tuesday afternoon on his fishing jaunts.

Chicka knows he would be finishing ahead of his regular finishing time, but indicates that he's happy to stay back another afternoon to make up the time. Zoe explains to Chicka that his enterprise agreement contains an IFA that allows for him to finish early one day and then make up the time later in the week. Chicka is happy with such a flexible arrangement and his employer does not lose out as he still works the same hours.

SNAPSHOT



'The extra pay was seen as recognition . . . that workers sacrificed the benefits of time spent with family and friends . . .'

Modern awards — changes to penalty rates

The four-yearly review of modern awards was handed down by the Fair Work Commission (FWC) in early 2017. The focus of its decision was the need to modify weekend and public holiday penalty rates. There was much discussion about the merits or otherwise of changing entitlements for those (often younger) workers toiling away outside more traditional work hours.

Many casual staff had become accustomed to the additional rates of pay that had been a feature of Australia's workplaces for more than 100 years. The extra pay was seen as recognition that many social events (including religious services) are organised for Sundays and public holidays and that workers sacrificed the benefits of time spent with family and friends if they worked to provide services for others on those days.

The FWC received thousands of submissions from both industry and union groups as well as individuals regarding the proposed changes to penalty rates. Ultimately its decision was to:

- reduce Sunday penalty rates for those covered by the fast-food, hospitality, retail and pharmacy awards
- phase in changes over a number of years; to be finalised by 1919 or 2020
- cut penalty rates for full-time and part-time workers in retail and pharmacy from 200 per cent to 150 per cent of current rates and for casuals from 225 per cent to 175 per cent
- change penalty rates for full-time or part-time workers in the fast-food industry from their current Sunday rate of 150 per cent to 125 per cent and for casuals from 175 per cent to 150 per cent
- decrease penalty rates for hospitality workers so that Sunday pay rates will fall from 175 per cent to 150 per cent.

While the transitional nature of many of these reductions will be gradual, changes for public holidays would begin immediately. The changes across the aforementioned industries mostly resulted in a reduction in penalty rates from 250 per cent to 225 per cent for full-time and part-time workers and from 275 per cent to 250 per cent for casuals.

The FWC decision affects approximately 4 per cent of Australia's workforce and is aimed at assisting the small business sector (including franchisees) in particular, which had indicated that existing penalty rates were a financial burden that made opening on weekends and public holidays costly.

Those against the cut including major unions suggested that those workers affected by the changes to penalty rates would now need to work extra hours to make up for the loss.

Source: Adapted from Michelle Grattan, 'Sunday penalty rates to be phased down', *The Conversation* 5 June 2017; Shirley Jackson, 'Cutting Sunday penalty rates will hurt young people most', *The Conversation*, 23 February 2017

SNAPSHOT QUESTIONS

1. **What** was the decision made by the FWC?
2. **Why** were penalty rates originally introduced?
3. **Summarise** the changes to the industries affected by the FWC decision.
4. **List** the advantages and disadvantages of the changes to penalty rates for the industries identified above.

Enterprise agreements

Enterprise agreements are **collective agreements** made at a workplace (enterprise) level between an employer and a group of employees about terms and conditions of employment. They offer broader terms and conditions than a modern award, and are an alternative to a modern award.

Under the *Fair Work Act 2009*, there are three types of enterprise agreements.

- *Single-enterprise agreements* — made between a single employer and a group of employees. They can involve more than one employer in limited cases (e.g. where two or more employers are engaged in a joint venture).
- *Multi-enterprise agreements* — made between two or more employers and groups of their employees. This may occur if they share common funding, operate collaboratively and have a common regulatory system, such as a group of hospitals.
- *Greenfields agreements* — single-enterprise and multi-enterprise agreements relating to a genuine new enterprise of the employer(s) that are made before any employees to be covered by the agreement are employed. Greenfields agreements are made with one or more relevant unions.

The key features of enterprise agreements are:

- They may cover rates of pay, penalty rates and overtime, allowances, hours of work, personal and annual leave, any matters related to the relationship between the employer and the employees, plus their representative organisations involved, and how the agreement will operate, including a nominal expiry date.
- They must be approved by the Fair Work Commission, who must be satisfied that the agreement
  - has been made with the genuine agreement of those involved
  - passes a **'better off overall test' (BOOT)** compared to the modern award
  - does not include any unlawful terms or designated outworker terms
  - covers a representative group of employees
  - covers matters that may be included in an enterprise agreement
  - has a specified nominal expiry date (within four years of the Fair Work Commission's approval)
  - includes a dispute settlement procedure, including an option for disputes to be brought before an independent person, such as the Fair Work Commission, for arbitration if the parties agree to it
  - includes a flexibility clause and a consultation clause, allowing for variations if required
  - provides opportunities for employees to be represented by a bargaining representative and to bargain in good faith during the negotiation of an agreement.

To ensure that the parties bargain in good faith, there are strict rules relating to the enterprise bargaining process. They must make a serious attempt to negotiate the issues in a timely and fair manner, and genuinely make an effort to consider all proposals tabled.

BizWORD

Enterprise agreements *are collective agreements made at a workplace level between an employer and a group of employees about terms and conditions of employment.*

Collective agreements *are made between a group of employees (or one or more unions representing employees) and an employer or group of employers.*

BizFACT

The most common method of setting pay for full-time employees is by collective agreement, such as an award or enterprise agreement.

BizWORD

The **better off overall test (BOOT)** *requires that each of the employees to be covered by the agreement is better off overall than under the relevant modern award.*

Other employment contracts

As the nature of work changes, greater variety is occurring in the types and features of employment contracts available.

Individual common law employment contracts

These **individual contracts** of service cover employees not on federal agreements or specific state agreements, particularly for those earning higher incomes.

Individual contracts are more common in the private sector, particularly in non-union enterprises, in partly or wholly owned foreign firms, in the wholesale trade, and in property and business services. They are also more common at the

BizWORD

Individual contracts *exist when an employer and an individual employee negotiate a contract covering pay and conditions.*

professional and managerial level and for workers currently earning more than $142 000 per year. This figure changes annually.

Such contracts may be written or verbal. Many are informal and offer much less protection than other agreements. Although around half vary significantly from their related awards, they are generally required to provide conditions that equate with minimum provisions of related awards; if they do not, they are in breach of the law.

Comparing the process of negotiating enterprise/collective agreements with the negotiation of individual contracts

Enterprise agreements between one or more federal system employers and employees are negotiated by the parties through the collective bargaining process and for the most part at the enterprise (any kind of business, activity, project or undertaking) level.

According to the Fair Work Act an enterprise agreement should include:

- terms about the relationship between the parties to the agreement
- deductions from wages for any purpose authorised by the employee
- how the agreement will operate, a nominal expiry date that is no longer than four years from Fair Work Commission approval
- dispute settlement procedure about matters relating to the modern award or National Employment Standards
- reference to Individual Flexibility Agreements (IFA)
- consultation terms in the event of any major changes likely to affect employees significantly.

Enterprise agreements are an example of a registered agreement that can apply to one business or a group of businesses. Although no longer possible, Australian Workplace Agreements (AWAs) could previously be made with individual employees. In the event that there is an agreement it must be formally approved and registered by the Fair Work Commission.

The process of making an enterprise agreement is summarised in figure 14.15 and complies with the framework identified under the Fair Work Act, which assists employers and employees in this process.

BizFACT

The Fair Work Commission permits an official to:

- *investigate suspected breaches of the* Fair Work Act 2009 *and other workplace laws*
- *investigate breaches relating to textile, clothing and footwear industry outworkers*
- *hold a meeting with employees*
- *exercise rights under work health and safety laws.*

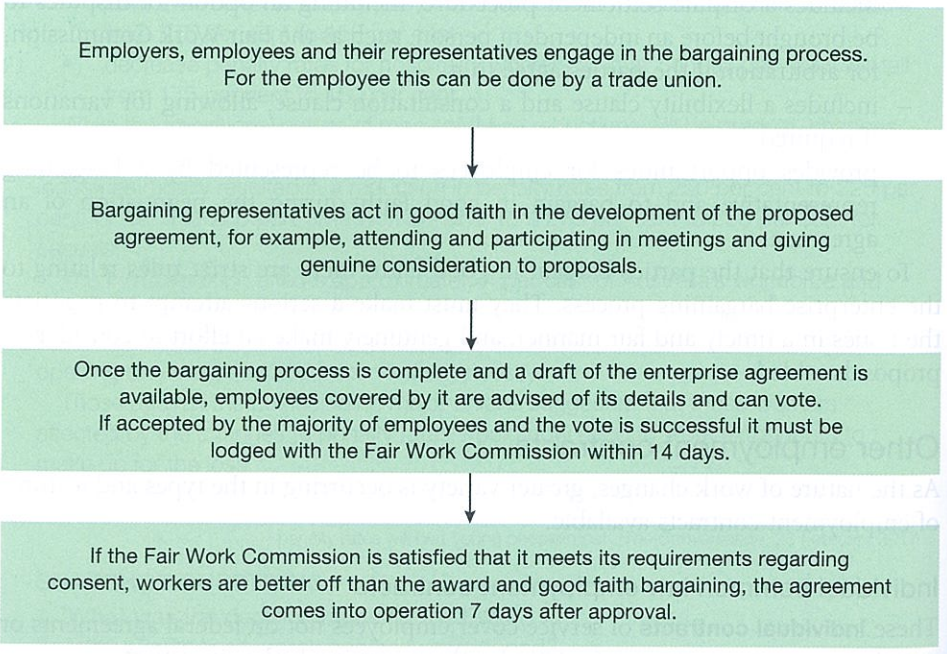


FIGURE 14.15 The process of making an enterprise agreement

For most workers the process outlined in figure 14.15 applies. However, all employees do have an individual contract with their employers and this

determines the rights and obligations of both parties. This contract must meet the minimum requirements under the Fair Work Act, which includes the conditions identified in the National Employment Standards (NES) and the national minimum wage.

While many employees will be protected by an award or enterprise agreement, there is provision for those not covered and who do not fit the usual enterprise agreement mould.

These employees are considered to be award and agreement free. In the event that this occurs, an employment contract will apply to them. This contract must include remuneration, hours of work, breaks and overtime, public holidays, leave and termination of employment and must not leave them worse off than the minimum entitlements.

For example, Simon is a senior manager of a group of hotels in the inner west of Sydney. His salary is $150 000 per year. While there is provision for some management to be covered in the relevant hospitality award this does not apply to Simon because he is considered a senior manager. As such Simon had to establish his entitlements when he commenced work with the hotel group through his employment contract and the Fair Work Act. While not covered by the award his contract must still meet minimum requirements of the NES even if he agreed to less. For example, his contract states that he is entitled to five days of sick leave per year, however, he would be still entitled to 10 days paid leave, which includes personal/carer's leave as per the NES.

Awards have not usually covered managers like Simon and other professionals such as accountants, IT specialists and those in the human resources field. They often earn high incomes and more traditional awards do not apply to them. Currently the measure of the high-income threshold is $142 000, but changes annually. The employee must have accepted a guarantee of such earnings, which can include a cash and non-monetary benefit upon commencement.

Independent contractors

Independent contractors, often known as consultants or freelancers, undertake work for others; however, they do not have the same legal status as an employee. This is a growing area of employment comprising 9 per cent of the workforce.

Independent contractors generally undertake a contract, service or project for another business, and work for multiple clients. Contractors tend to have a set term or specific project for their contract, control their own work and may delegate some of their work to others. They generally submit an invoice on completion of a task, stage or project.

The Fair Work Commission provides a clear set of criteria, developed through past test cases, to determine whether someone is a contractor or employee. A contractor carries most of the risk on a job undertaken, including covering their own superannuation, tax, insurances and leave. This is why many employers prefer to rely on independent contractors as it allows employment risks such as sickness to be shifted to the person undertaking the work.

Contracts for casual work

Since 1990, casual employment has increased from 16 per cent of the workforce to 35 per cent in 2017. **Casual employees** have contracts with employers for short-term, irregular or seasonal work. Their work period may vary, they are paid on an hourly or daily basis, and are not entitled to paid leave. Most casuals are female or young people, and often students. Many employers prefer casual staff as it reduces costs for recruitment and dismissals and other **on-costs**. They often receive a 20–25 per cent loading (extra pay) to compensate them for their lack of entitlements and job security. If they are employed regularly, or for a long

BizWORD

Independent contractors, *often known as consultants or freelancers, undertake work for others; however, they do not have the same legal status as an employee.*

BizFACT

Independent contractors are most commonly found in the construction industry, where 41 per cent of male workers are contractors. Contractors also work as consultants in professional, scientific and technical services; and in transport and storage, often as owner–drivers in road transport. Thirty-two per cent of female contractors are professionals.

BizWORD

Casual employees *are in employment that is short term, irregular and uncertain; they are not entitled to paid holiday or sick leave.*

On-costs *are additional costs involved in hiring an employee, above the cost of their wages. These costs traditionally add around 25 per cent of the cost of the wage and include sick leave, holiday leave, leave loading, superannuation, retirement and redundancy payments, and other costs.*

period of time, they may be eligible for some benefits such as superannuation and long-service leave.



FIGURE 14.16 A high proportion of casual employees are young people.

Many casual employees find they miss out on training and promotion, experience fluctuating income, and have difficulty obtaining credit. They are also more likely to experience workplace accidents and are less committed to the organisations that employ them.

Part-time contracts

The trend towards part-time work is increasing in Australia, with 29 per cent of all employees now employed on a part-time basis. During the global financial crisis employers reduced work hours for some employees in response to the downturn. This trend has continued and with the rise of two income households and the desire for a greater work–life balance, part-time contracts will continue to grow. Around 25 per cent of part-time employees are underemployed and would like more work. Forty-three per cent of women work part-time compared to 13 per cent of men.

Part-time employees have a continuing employment contract and work less than 38 hours per week. Unlike casual employees, they do have access to the employment entitlements offered to full-time employees, but on a pro rata basis (in proportion to the percentage of time they work compared to a full-time employee).

SNAPSHOT



Employment contracts — a mixed bag

Fifi, Moshe and Ozkan, old high school mates, are having a coffee in a local shopping centre, while discussing issues related to their jobs. Moshe works as a casual employee for a clothing store and is studying full time at university. Fifi is a supervisor at the local bank and Ozkan runs the local pet shop and boarding kennels.

Ozkan: All this legal stuff is giving me a headache!

Fifi: What legal stuff?

Ozkan: I have to make sure all my staff are being treated as it says in the award or we will be fined again.

Fifi: Why is it such a problem?

Ozkan: Have you seen an award? It goes on for pages, with lots of details about hours, rates for juniors, leave arrangements, shift length (which got us into trouble last

time), consultation procedures and arrangements for managing change (which I must admit I ignored last time). I've also got to worry about work health and safety all the time, like slips and trips. What kind of work arrangements have you got?

Fifi: I'm on an enterprise agreement. I'm a bit luckier than the others though because my boss pays me a little more than the award. I'm prepared to work long hours and the customers like my style, apparently.

Ozkan: How much did you pay the customers to tell the bank that?

Moshe: What do the other supervisors think?

Fifi: Well, they don't really know I'm paid more. Some of them seem to think I do earn a bit more, but I haven't told them how much I'm getting.

Ozkan: I bet the others would love to know that. They must be so cooperative with you at work.

Fifi: Well, they gossip a bit, but I just get on with my work. I don't care about the others that much; they're not that friendly and they don't talk to me much.

Ozkan: (rolls eyes) I wonder why. Do you think any others get paid more?

Fifi: No, someone in management told me I'm the highest paid.

Ozkan: Do you think any deserve more?

Fifi: There is one guy who does a great job, but his English is not quite where it needs to be, so he is not paid the extra amount.

Moshe: That sounds like a bit of discrimination to me. I bet if he were a union member the union would sort that out.

Fifi: Oh, unions just make trouble.

Moshe: Mate, the reason your safety and leave conditions are so good is due to all the groundwork unions did in the past! There was a time when you could have been sent to jail for going on strike. You just take it all for granted!

Fifi: Yes, we needed unions then. But I don't see the need for them now in this sort of job. It would be different if I were a miner. How does it all work in your job?

Moshe: Well, I'm in the union just in case I need help one day, even though I'm a casual. How are you going to cope if you have a problem? You haven't got much bargaining power. What if you and Eren have kids? How will your letter help you then? I'm on a casual rate, which is okay as I get 25 per cent more per hour than full-timers to make up for all the benefits I miss out on, such as sick and long service leave. There is no way I would stay a casual in the long term because you can't get credit easily, so there goes the car or home loan.

Ozkan: You don't get training or career development either. We've found that if you have too many casuals coming and going, no one knows what's going on, mistakes happen and can't be followed up.

Moshe: Yeah. It's hard to survive on a yo-yo income too. If your employers don't need you, they don't call you. If they don't want you anymore, they just reduce your hours and you can't do anything about it. And, of course, if you get sick, bad luck!

Ozkan: Well, maybe awards and agreements aren't so bad after all. At least all my staff get on well, their hours are regular and they get minimum wage increases regularly.

Fifi: Yeah, but you know workers on awards are the lowest paid workers of all! Lots of them are women too — women often seem to work in award-based, poorly paid occupations.

Ozkan: Yeah, but you have hardly any protection if you have a problem at work with your deal. At least they have their rights down on paper. The owner is talking to the union about developing an enterprise agreement for all the staff so we can add more incentives, such as more flexible working hours for staff who are parents or carers. I must admit, they try to be helpful. Sarita is allowed time off when her dad needs to be taken to the hospital and I'm sure Jenna uses most of her sick days to look after her kids. It's tough at times because the animals bark and howl if we don't feed them on time!

Fifi: Yeah, yeah — a likely story!

'I have to make sure all my staff are being treated as its says in the award . . .'

'The reason your safety and leave conditions are so good is due to all the groundwork unions did . . .'

SNAPSHOT QUESTION

Use the internet and **examine** the information given in the Snapshot to complete the following table.

Agreement	Main features	Advantages	Disadvantages
Collective agreement	Legally binding document stating minimum terms and conditions of employment		
Enterprise agreement		Can be tailored to fit needs of employee(s) and employer	
Contract for employment	Independent contractors		
Casual employment	25 per cent loading		

studyon

Syllabus area 4

Topic 2

Concept 4

Legal: minimum standards and wages, awards, enterprise agreements

Summary screen and practice questions

SUMMARY

- From 2007, under the Labor government, most Australian states and territories formed a national system for industrial relations to improve efficiency through more uniform laws and regulations.
- Australia had a centralised system of industrial relations until 1991 when enterprise bargaining was introduced.
- All employees are covered by an employment contract, even if it is not written.
- A written contract provides more comprehensive protection than a verbal contract.
- Independent contractors are self-employed and do not have the same rights as employees.
- Workplace relations are governed by common law, statutes made by parliament through legislation, and awards and agreements supervised by industrial tribunals.
- All employees and employers have legal rights and responsibilities.
- Employers must pay income and work expenses, comply with industrial laws, and provide a safe workplace for employees.
- Employees must obey lawful and reasonable demands made by the employer, use care and skill in their work, and act in good faith and in the interests of the employer.
- Under the national system, from 2010, ten minimum employment standards were established to provide a safety net for employees, particularly the low paid.
- Replacing many functions formerly conducted by the Australian Industrial Relations Commission, the Fair Work Commission was set up to manage awards and agreements, hear and help resolve industrial disputes, determine annual minimum wage cases, and supervise award restructuring.
- Employee wages and conditions are primarily determined by awards, enterprise agreements and minimum employment standards.
- From 2010, minimum wage rates for ordinary hours worked have been determined by:
  - award or agreement that covers the employee
  - the national wage minimum for employees not covered by awards or agreements and reviewed annually by the Fair Work Commission.
- Awards are legally binding documents containing the minimum terms and conditions of employment.
- Enterprise agreements are collective agreements made at the workplace (enterprise) level between an employer and a group of employees about terms and conditions of employment.

- Individual contracts of service exist when an employer and an individual employee negotiate a contract covering pay and conditions.
- Independent contractors, often known as consultants or freelancers, undertake work for others but do not have the same legal status as an employee.
- The government, both federal and at state level, has the role of ensuring that Australia has a flexible, modern workplace that supports a national industrial relations framework with clear and enforceable minimum national employment standards.

EXERCISE 14.2 REVISION

1 **Distinguish** between a centralised and a decentralised industrial relations system.
2 **Define** the term 'employment contract'.
3 **State** the conditions that need to exist for an employment contract to be valid and legally enforceable.
4 **How** is common law is used to determine employment conditions?
5 Complete the table below to **summarise** the obligations of employers and employees in an employment relationship. The first one has been started for you.

Obligations in an employment contract under common law	
Employers	Employees
• Provide work: cannot 'stand down' employees if there is no work	

6 **Justify** the requirement to 'act in good faith' as an employee.
7 **Why** are the National Employment Standards necessary?
8 Select what you consider to be the two most important National Employment Standards. **Account** for why you think they were included.
9 **Outline** how minimum wage rates are determined.
10 **Examine** the current minimum wage rates, which can be found on the **Fair Work Commission** website. In July 2011, the national minimum wage was $589.30 per week (before tax), or $15.50 per hour. **Compare** this with the current rate and account for the difference.
11 Apart from wage rates, **identify** seven factors contained in an award.
12 **Describe** the process that occurs if an employee reports a breach of an award.
13 (a) **Define** the term 'enterprise agreement'.
(b) **Why** are they sometimes referred to as collective agreements?
14 **Create** a PowerPoint presentation that compares the major types of agreements. Write a profile for each type of agreement, illustrating the typical type of person who would use each agreement.
15 'Employee wages and conditions are primarily determined by awards, agreements and minimum national standards.' **Explain**.
16 **What** are the features of the 'other employment contracts'?

EXERCISE 14.2 EXTENSION

1 More than half of all newly hired employees do not discuss their conditions of employment with their employer before starting work. Many of these are young or less educated people.
(a) **Create** a short script with your classmates to help a young person ask a prospective employer about their conditions of employment.
(b) **Identify** the major items that should be in an employment contract. Next to each, **explain** why these are necessary.
(c) Use information from the **Fair Work Commission** website to **investigate** pay and conditions.
(d) **Analyse** the risks of failing to discuss conditions of work with a new employer.
(e) **Explain** how membership of a trade union may help you avoid these risks.

on Resources

Weblink: Fair Work Commission

on Resources

Weblink: Department of Jobs and Small Business

BizFACT

On 1 June 2011 the New South Wales government passed the Work Health and Safety (WHS) Act 2011. *Many aspects of the original OHS legislation have been carried over to the new WHS Act. WHS has as its core the safety and protection of employees.*

BizFACT

In 2017 there were 178 worker deaths in Australia compared to 195 in 2015. Agriculture, forestry, fishing, transport, postal and warehousing represent the industries with the highest worker fatalities.

2 Using information from the **Department of Jobs and Small Business** and **Fair Work Commission** websites, answer the following questions.
(a) **Identify** the key features provided on each website.
(b) **Evaluate** each website from the perspective of an employee or an employer.

14.2.2 Work health and safety (WHS)

Growing community and worker awareness of safety and environmental issues, along with ballooning compensation costs in recent decades, have prompted both federal and state governments to improve work health and safety (WHS). In 1985, the Commonwealth Government, concerned at the high levels of injury, accidents and disease in the workplace, introduced the *National Occupational Health and Safety Commission Act 1985*.

Safe Work Australia, formerly WorkSafe, was established to conduct research and develop national standards, codes of practice and common approaches to WHS legislation, which are endorsed by state governments. However, due to constitutional limitations, the ability to enact and enforce WHS legislation has always been passed to the states. Common law supports legislation developed by the states, by requiring that employers provide competent staff and a reasonably safe system of work. Since then, Safe Work Australia has worked with state governments to harmonise WHS laws. This is intended to lead to a national system of WHS and workers' compensation, which will improve productivity by reducing the compliance costs of businesses and improve the quality of WHS conditions for all Australians.



FIGURE 14.17 Workplace accidents resulting in death are most common in transport, postal and warehousing industries.

Legislation on WHS covers employees, employers and the self-employed. In New South Wales, under the *Work Health and Safety (WHS) Act 2011*, the following are required:

- Employers must ensure the health, safety and welfare at work of all employees by providing a safe system of work; ensuring that plant and substances are used, handled, stored and transported safely; giving employees the necessary information

about the plant and substances, and training and supervision in their work; maintaining the site in a safe condition; and ensuring that the goods they design, make, supply, install or repair will not injure or damage the health of others.

- All employers must take out workers' compensation insurance, or face imprisonment or a substantial monetary fine. The compensation scheme generates its funds via the premiums paid by employers, and provides medical and financial support to injured workers. The premium paid will depend on the industry that the business is in, the amount of wages paid to workers, the costs of any claims made by injured workers and the dust diseases levy.
- Employers must take steps to ensure that people on-site who are not employees are not exposed to risks arising from work being undertaken.
- Employees are required to take reasonable care for the health and safety of others, to cooperate with employers and comply with WHS requirements.
- Employees who engage in bullying, skylarking or interfering with machinery or any other behaviour that puts other employees at risk are breaching their duties and could be fined.
- Health and safety committees must be established at workplaces with more than 20 employees if requested by a majority of employees or if directed by SafeWork NSW.
- SafeWork NSW inspectors may inspect the workplace, collect information, and issue improvement and prohibition notices under the *Factories, Shops and Industries Act 1962 (NSW)*. This may, in some cases, mean that work ceases.
- SafeWork NSW must be notified of any deaths or serious injuries in the workplace, and any plans to carry out dangerous work.
- Corporations may be fined up to $3 million and individuals $300 000 and/or 5 years' prison sentence for serious breaches, which is where the duty holder exposes a person to the risk of death or serious injury.

SafeWork NSW recommends employers use a six-step approach to WHS to prevent accidents, disease, injuries and work-related ill health (see figure 14.18).

BizFACT

Q: Who is responsible for work health and safety?

- *Employers*
- *Manufacturers*
- *Designers and suppliers*
- *People in control of workplaces*
- *People who erect and install plant and equipment*
- *Employees*

A: Everyone!

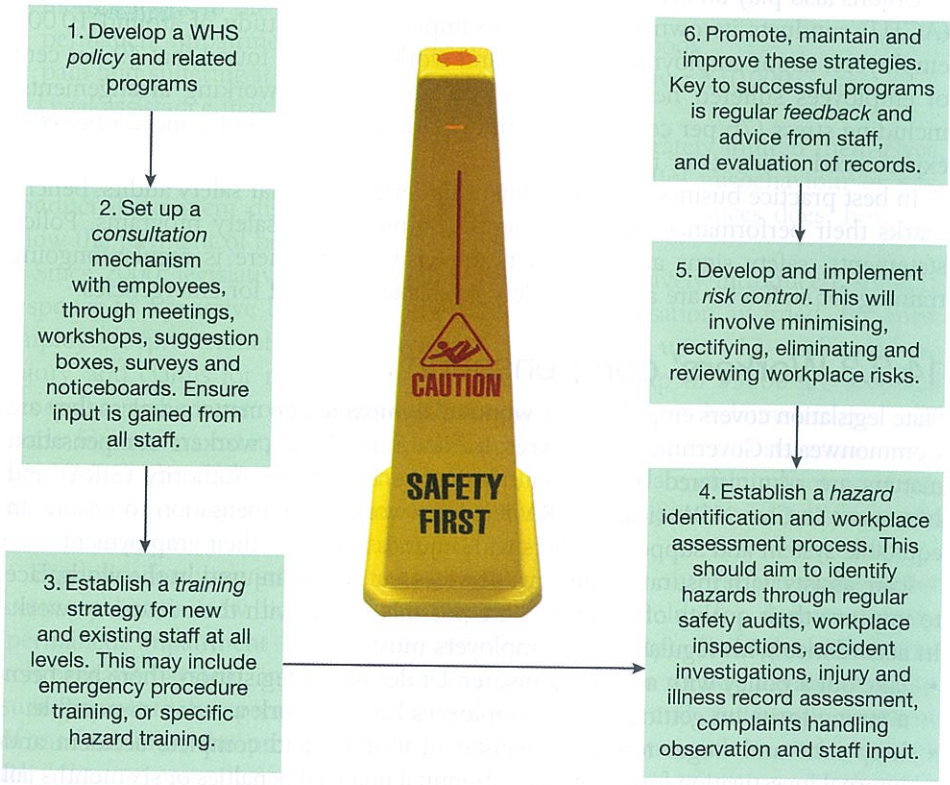


FIGURE 14.18 A six-step approach to WHS

SNAPSHOT

'Destination Zero is a core focus . . . to ensure there is no harm to its people, environment or the communities it serves.'

Case study: Woolworths and health and safety

Organisational management at businesses such as the Woolworths Group and its range of companies is expected to consider work health and safety in its corporate responsibility report, which is often a component of annual reporting requirements. To this end it constantly assesses how to ensure safety for both workers and customers. Its current initiative Destination Zero is a core focus that considers ways to ensure there is no harm to its people, environment or the communities it serves. Its aim is embodied in the philosophy, 'No task is so urgent and no service so important that we cannot take time to do it safely'. This commitment is reflected in:

- continued reductions in 'lost time' (time lost through workplace injury)
- National Safety Council of Australia highly commended award for introducing safer loading docks for the delivery of groceries
- reduced manual handling injuries through more ergonomic technology when workers engage in heavy lifting
- improved safety in its band saws that cease operating when it comes into contact with a special glove used by the operator
- use of an external contractor to conduct an independent risk analysis of stores
- improved employee nutrition and health through staff Lunch and Learn sessions that were also uploaded to the wellbeing website for staff unable to attend
- Employee Assistance Program that offers confidential counselling in partnership with external specialists.

SNAPSHOT QUESTIONS

1. **Where** does Woolworths refer to its policy on worker health and safety?
2. **Outline** the concept of 'Destination Zero'.
3. **What** are some examples of 'safety first' approach at Woolworths.
4. **Research** Woolworths' recent performance in respect to lost time through workplace injury and report on it.

BizFACT

It is an offence to dismiss an employee or alter an employee's job to his or her detriment because the employee has pursued a WHS matter. Managers must visibly and actively support supervisors in solving WHS issues.

Unions also play an active role in WHS. The Australian Council of Trade Unions (ACTU) conducts its own surveys; for example, a recent study of around 10 000 employees, about employment security and working hours, found that 49 per cent of employees suffered health problems because of their working arrangements, including stress (76 per cent) and continual fatigue (72 per cent), and 25 per cent experienced accidents or near misses.

In best practice businesses, management undertakes regular safety audits, benchmarks their performance and implements comprehensive safety programs. Policy statements, safety signs and reminders are visible, and there is regular ongoing training for staff who are aware of safety rules and prepared for emergencies.

14.2.3 Workers' compensation

BizWORD

Workers' compensation *provides a range of benefits to an employee suffering from an injury or disease related to their work. It is also provided to families of injured employees when the injury/disease was caused by, or related to, their work.*

State legislation covers employees for **workers' compensation** matters, unless they are Commonwealth Government employees. In New South Wales, workers' compensation matters are administered by the State Insurance Regulatory Authority (SIRA) and Insurance & Care NSW (icare). SIRA regulates workers compensation to ensure an equitable system and support workers with injuries related to their employment.

icare assists with insurance and care services for people injured in the workplace to improve their quality of life and where possible assists with their return to work. In accordance with regulations all employers must:

- take out a policy with a licensed insurer. Under recent legislation, there has been a strong focus on getting injured employees back to work as soon as possible.
- keep time and wages records, a register of injuries, and complete accident and internal investigation forms, or face substantial financial penalties or six months jail

- notify insurers of significant injuries within 48 hours
- establish, in consultation with the insurer and the employee's doctor, an injury management plan and a return-to-work plan for all injured workers, when fit for 'suitable duties'. Failure to display and comply with the plan (which may include employing a rehabilitation coordinator) may result in increased premiums for the employer, or loss of benefits for the employee (if they don't comply).
- pass on compensation monies to the person entitled as soon as possible. Premiums are closely linked to the number, frequency and size of claims, so it is in the employer's interest to focus on achieving high standards for WHS.

Employees must notify their employer as soon as possible of an injury or work-related illness. Compensation (financial benefit) is provided to employees (and/or their dependants) suffering injuries or illnesses (including psychological illnesses) substantially developed from their work.

The workers' compensation system supports injured workers through providing the benefits and assistance needed to recover and return to safe, ongoing work, if that is possible.

Benefits are payable if employees experience total or partial incapacity to perform work; there is a need for medical, hospital or rehabilitation treatment; or if there is permanent or partial loss of use of parts of the body. This includes facial disfigurement and damage to body organs, including bowel injuries. A lump sum payment and weekly payment to dependants are payable if a worker dies as a result of the injury. If an employee on a journey to or from work substantially increases the risk by deviating from or interrupting the journey, benefits may not be payable.

An injured employee may claim compensation, a lump sum payment or sue for common law damages for negligence. Compensation today is subject to thresholds and caps on claims. It is paid for:

- loss of wages for time off work
- medical and rehabilitation expenses, and the cost of associated travel and modifications to the home or vehicle
- permanent impairment or loss of use of a part of the body
- pain and suffering if the damage is assessed as being over $10 000.

Legal assistance may be provided to support a claim.

Benefits may not be payable if employees have deliberately injured themselves, or are solely responsible for the injury through their wilful misbehaviour or misconduct. Permanent disablement or death in these circumstances does, however, allow the payment of benefits.

Since 2000, legislative amendments have been successively introduced, some in response to a massive blow-out in the value of compensation awarded. For most employees, 'provisional liability payments' are made for up to 12 weeks after an injury, and claims for medical expenses compensation up to $5000 are accepted generally on the basis of verbal or written notification. Formal claims are generally made for matters extending beyond this period or for medical costs greater than $5000, and should be made within six months of the date of injury or accident, unless the claim relates to serious or permanent injury, death or disablement. In such cases the time limit is extended.

Eligibility for lump sum payments and the calculation of these payments under statutory law is now based on the principle of thresholds for degree of body 'permanent impairment' (loss of use, rather than disability). Through the workers' compensation system, injured workers may be entitled to weekly payments, lump sum payments for permanent impairment (and pain and suffering), payment of medical bills, the provision of legal support to pursue a claim and intensive rehabilitation assistance.

BizFACT

In New South Wales, an employer may be breaking the law if an injured employee is dismissed within six months of being injured or their position offered to a replacement employee within two years of the date of injury without the employee being first advised that she or he might not be reinstated. Full-time injured employees unfit for work receive their award wage for 26 weeks and then a fixed rate until they are fit for some work.

If a worker suffers an injury in the workplace, the employer, injured worker, insurer and treatment provider each have responsibilities to ensure that the injured worker is provided with benefits and assistance to recover and return to work.

Weekly payments are structured in such a way that they are consistent with the policy of assisting employees back to work. To facilitate this there is a higher payment in the first 13 weeks. Most workers return to work at this time and it also serves to provide workers with an incentive to return to work.

Workers' payments will cease after 2.5 years, unless there is total incapacity for work. Payments will then cease for those with total incapacity after 5 years, unless there is 20 per cent whole person impairment. Previously, payments continued until the person was able to return to work or until their retirement.

Workers will also receive payments from day one (95 per cent), with a further drop to 80 per cent at 14 weeks (although they retain 95 per cent if working at least 15 hours a week). Payments remain at 80 per cent (or 95 per cent) until they cut out altogether.

The maximum penalty for a false claim under the NSW Workers Compensation Act is $5500 or 12 months' imprisonment, and for insurers who delay commencing payments penalties up to $50 000 apply.

Visit the **WorkCover NSW** website for more information.

on Resources

Weblink: WorkCover NSW



FIGURE 14.19 Workers' compensation provides payments for employees that are injured or become ill and are unable perform their duties at work.

BizFACT

The Workers Compensation Commission is a free service and conducts face-to-face conferences or teleconferences to resolve issues between injured workers and employers.

Common law redress

Employees may take action against an employer when the employer or another employee has been negligent or breached their duty, if the employee has a permanent body impairment of more than 15 per cent and if the injury occurred at least six months prior to the claim. Common law action has been taken for serious diseases such as those caused by asbestos (see the following Snapshot). Such claims are heard in the district or supreme courts (depending on the size of the claim), and once an employee has successfully achieved a settlement, there are no further payments. If employees are unsuccessful in their actions,

they will continue to receive workers' compensation as required under statutory law.

Legal advice must be considered before seeking damages obtained under common law redress. Employees injured may not claim both damages at common law and lump sum compensation for permanent impairment under statutory law.

Case study: James Hardie Industries — compensation for asbestos victims

The James Hardie Industries asbestos case has been called Australia's largest corporate scandal.

Hardie has been Australia's largest asbestos manufacturer. Asbestos is a building material present in one-third of homes and buildings built before 1970. Asbestos-related diseases such as mesothelioma and other asbestos-related lung diseases are expected to affect 30 000 Australians in the future. Seven thousand, five hundred Australians have already died from mesothelioma.

The James Hardie asbestos compensation issue has been controversial.

Two members of Hardie's senior management resigned in 2004, including its CEO, under pressure from a commission of inquiry, which found it had not fully told the truth to the New South Wales Supreme Court, and its management had been less than honest with the Australian Securities Exchange and the community on the issue of asbestos. It had not put enough money into a compensation fund to compensate future claims, and its chief financial officer was prepared to be deceitful where asbestos was concerned. Claims alleged that Hardie management had deliberately restructured operations to a Netherlands base to avoid their obligations for compensation of victims of asbestos. The two members of senior management who resigned are alleged to have received executive payouts totalling $10 million.

Under pressure from victims' lawyers, the ACTU and other groups, James Hardie signed a landmark agreement in December 2004, providing asbestos sufferers with compensation valued at over $4 billion, over a 40-year period.

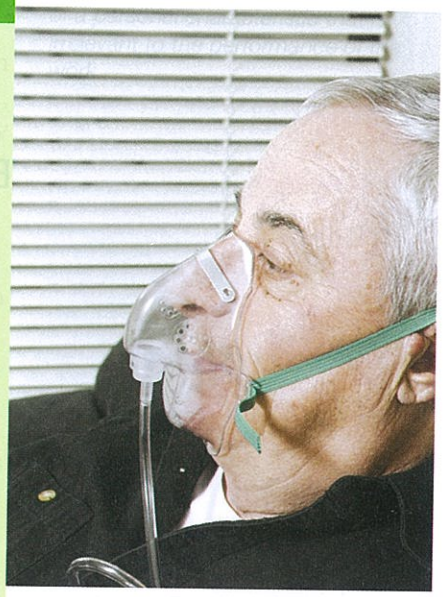
James Hardie's then CEO, Meredith Hellicar, hailed the agreement as a 'compassionate' outcome, which is 'fair and equitable for all parties' and she hoped it 'convinces the Australian community that we are seriously committed to that responsibility'. The company placed payments into a special purpose fund for current and future victims, at 35 per cent of its free cash flow. A key feature of the agreement is recognition by all parties that ongoing James Hardie viability is essential to long-term benefits for its victims.

When this agreement was later shown to leave the victims underfunded by around $1 billion, further action was taken against the non-executive directors by ASIC. The action failed in the NSW Court of Appeal in December 2010.

SNAPSHOT QUESTIONS

1. **Why** did management behave in such an unethical manner for so long?
2. Do you think the Hardie executives who resigned as a result of the commission of inquiry into their management practices should have been paid $10 million? **Justify** your response.
3. **What** are the reasons for the capping of annual payments at 35 per cent of the company's free cash flow?

SNAPSHOT



'The James Hardie asbestos compensation issue has been controversial.'

SUMMARY

- Work health and safety (WHS) legislation is in the process of being made uniform around Australia to improve business productivity.
- The relevant act in New South Wales is the *Work Health and Safety Act 2011*.

- Employers must provide a safe system of work, and ensure employees are trained and supervised in their work.
- All employers must take out workers' compensation insurance.
- Employees are also responsible for taking reasonable care for the health and safety of others.
- In New South Wales three organisations — SafeWork NSW, the State Insurance Regulatory Authority (SIRA) and Insurance and Care NSW (icare) — are the organisations responsible for WHS, workers compensation, and insurance and care services for injured workers respectively.
- Common law redress can be sought where the employer or another employee has been negligent or breached their duty, leading to serious injury or death.

EXERCISE 14.3 REVISION

1 Look at figure 14.17 and **identify** some safety concerns associated with the workplace.

2 **What** are the WHS risks faced by people in the following jobs: auto mechanic, teacher, ship refueller, scientist, process worker in a textile factory, hairdresser, miner, bank officer, police officer, truck driver, airline pilot?

3 **Investigate** and **discuss** the most common factors contributing to accidents at work.

4 **Construct** a table listing employer and employee responsibilities for workplace safety.

5 Management may use a range of strategies to evaluate the effectiveness of WHS programs; for example, safety tours of a plant, reviewing specific aspects on a random basis, risk assessments for changes in the workplace and specific job safety analysis. **Propose** some additional strategies that you would use.

6 The industries in which accidents and injuries are most likely to occur are manufacturing, transport and storage, agriculture, forestry and fishing. **Investigate** safety risks in these industries.

7 Male employees who are either young or aged between 45 and 49 are more likely to experience injuries and accidents at work. **Propose** reasons for the high number of accidents within these two groups.

8 Substance abuse is becoming a problem in many workplaces in which employees experience stress. **Discuss** whether employers have the right to drug test employees.

9 **Identify** the organisation responsible for managing workers' compensation.

10 **Identify** the cost of failing to take out workers' compensation if you are an employer.

11 **Why** were legal limits on compensation introduced from 2000?

12 **Describe** the main ways in which injured employees are assisted today under workers' compensation.

13 **How** can an employee seek common law redress?

EXERCISE 14.3 EXTENSION

1 A high-volume, internet-based financial services business operates 24 hours a day. Some of its 100 staff work a rotating night shift, while others take turns to be 'on call'. The majority of staff operate from 7.30 am to 6–7.00 pm, although official working hours are 9 am to 5 pm.
(a) Using this example, **identify** the factors that could lead to high levels of stress.
(b) **Discuss** how high levels of staff stress could affect the business.

(c) **Explain** why substance abuse could be a problem in this business. **Recommend** to the business some points to deal with substance abuse.

2 Use information from WorkCover NSW to **investigate** recent issues and updates related to workers' compensation matters.

14.2.4 Anti-discrimination

Discrimination occurs when a policy or a practice disadvantages a person or a group because of a personal characteristic that is irrelevant to the performance of the work. It includes harassment (offending behaviour or intimidation) and vilification (a public act which is discriminatory and incites hatred).

Anti-discrimination legislation has been enacted to protect employees from direct and indirect discrimination (see figure 14.20) in recruitment, selection, training, promotion, remuneration, termination and opportunities to access any other employment benefits or practices. To prevent discrimination and to avoid large fines, employers need to:

- comply with legislation
- audit all policies and practices to ensure they do not discriminate.

Employers and managers working in human resources need to be familiar with the following legislation:

- *Human Rights and Equal Opportunity Commission Act 1986* (Cwlth)
- *Affirmative Action (Equal Employment Opportunity for Women) Act 1986* (Cwlth)
- *Sex Discrimination Act 1984 (Cwlth)* and the *Anti-Discrimination Act 1977* (NSW).

The agencies available to support the legislation are the Australian Human Rights Commission, the Workplace Gender Equality Agency and the Anti-Discrimination Board (NSW).

Under discrimination laws it is illegal to take adverse action in employment on the grounds of a person's:

- race, sex, sexual preference, colour or age
- physical or mental disability
- religious faith or political opinion
- social origin or national extraction
- marital status and carer responsibilities
- pregnancy or potential pregnancy.



FIGURE 14.20 Direct and indirect discrimination

Protection has been further enhanced under the Fair Work Act. It allows freedom of association for members or non-members of a union and protection in a wider range of employment aspects. This may include dismissing an employee, damaging their ability to do their job, changing an employee's job to their disadvantage, treating one employee differently to other employees, refusing to employ a

BizWORD

Discrimination *occurs when a policy or a practice disadvantages a person or a group of people because of a personal characteristic that is irrelevant to the performance of the work.*

BizFACT

In 2014, the Fair Work Ombudsman was successful in its first court case relating to discrimination on the basis of age. The case involved a Brisbane restaurant employee who had been dismissed upon turning 65. The employer was fined $20 790.

potential employee, and not offering a potential employee all the terms and conditions normally in a job. People who suffer discrimination may take a range of actions internally, formally or informally (see figure 14.21).

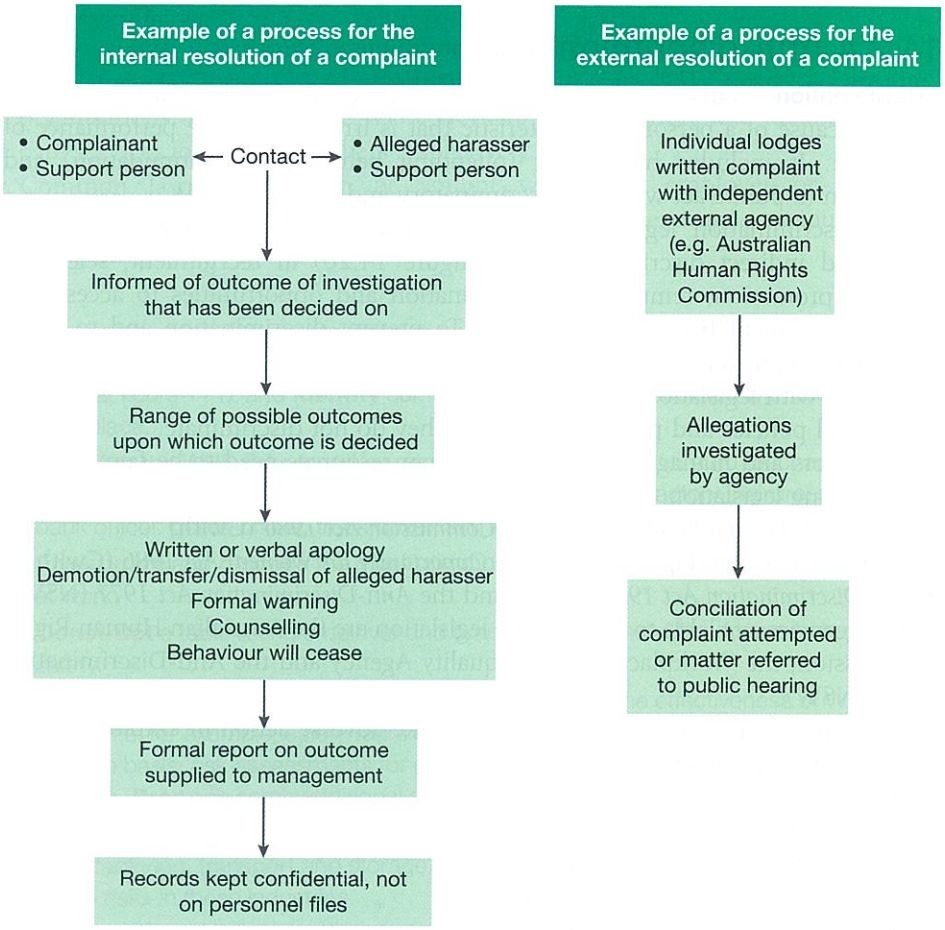


FIGURE 14.21 Options available in resolving a complaint of discrimination

BizFACT

Typical outcomes from a complaint may include:

- *a formal apology*
- *counselling*
- *official warnings*
- *mediation or conciliation*
- *disciplinary action.*

Outcomes will be influenced by the evidence, previous incidents, the wishes of the person experiencing discrimination, and the severity and frequency of the discrimination or harassment.

BizFACT

An employer may be held liable if any of the following discriminates against or harasses an employee: an employee or a group of employees, agents, contract worker, partner, director, supervisor, manager or trade union representative.

Strategies used increasingly by businesses to eliminate discrimination include:

- committing to a workplace free from discrimination
- writing and communicating policies to prevent discrimination and harassment, including a code of conduct
- making sure all policies and procedures are clearly documented and accessible to employees, offer informal and formal options, and guarantee timely responses, confidentiality and objectivity
- training managers and staff in cultural diversity issues and ways to prevent or deal with discrimination and harassment, primarily using face-to-face and interactive training programs
- appointing a grievance officer and specifying grievance procedures involving issues such as sexual/racial harassment
- regularly evaluating record keeping, implementation and effectiveness of policies, workplace culture and action taken to resolve complaints.

All employers are required to take reasonable steps to eliminate discrimination. Whether reasonable steps have been taken is considered on a case-by-case basis, as a large corporation is clearly capable of a different level of action than a small business. Employer associations and anti-discrimination agencies can help businesses develop a strategy that ensures consistency and fairness in handling of complaints.

Age discrimination in the workplace

Almost a third of Australians perceived some form of age-related discrimination while employed or looking for work in the last 12 months — starting as early as 45 years of age, our study finds.

We conducted a national survey of 2,100 men and women aged 45 years and over, and 100 telephone interviews. The most common form of perceived discrimination was negative assumptions about older workers' skills, learning abilities or cognition.

Survey participants also reported limited or no opportunities for promotion or training, working in an organisation that undervalued them and difficulty securing work due to age.

Our findings align with previous research from the Australian Human Rights Commission where 27% of Australians aged 50 years and over had recent experience of age-based discrimination in the workplace. In this survey the most common forms were limited employment, promotion or training opportunities and perceptions that older people have outdated skills or are too slow to learn new things.

Older adults in our study described a subtle pressure from their colleagues and management to stop working in order to "make room for the younger generation". This was regardless of their experience, enduring capabilities or working preferences.

Workers also faced patronising attitudes, where employers or colleagues assumed they would struggle to pick up new technology or work systems quickly, due to their age. Some survey participants felt they were not afforded the same promotional or training opportunities as their younger colleagues.

Experiences differed for men and women in our survey. Men were more likely to suggest discrimination based on assumptions about their physical abilities or working pace, and women reported the organisation they worked for undervaluing older workers as a group.

To avoid discrimination interviewees reported using strategies such as minimising health conditions, concealing their age or maintaining a "youthful" appearance.

Although there has been some research into industry specific experiences of age discrimination, there are limited comparisons in research of prevalence and type of discrimination between industries.

Our data indicates that age related discrimination traverses all industries in worrying proportions. Industries where age discrimination was particularly common included construction, administrative services, education, manufacturing, essential services, information technology and professional service industries.

Hiring and firing of older workers

Over two thirds of retirees in our study, who had experienced age related discrimination, attributed their retirement to involuntary factors such as "having no choice", redundancy or dismissal. Negative experiences at work (with a colleague, management or client) or dissatisfaction with organisational changes were often the trigger events for retirement.

Older job seekers reported being candidly or surreptitiously rejected through recruitment processes on the basis of age alone. Education, training and a steady working history were not guaranteed to help study participants in their search for employment.

Some interviewees had found it necessary to accept work for which they felt overqualified. Job seeker services in particular were considered ill-equipped to assist older, highly experienced and often well-educated adults.

These findings are in line with similar research in which study participants interpreted suggestions from potential employees that they were over qualified or experienced for a role, to mean they were "too old".

Our interviewees believed that younger managers can feel intimidated by older workers. This may be based on concerns regarding an older employee's ability to take instruction from somebody younger, learn new work methods and technologies or readily adopt change.

SNAPSHOT



"The most common form of perceived discrimination was negative assumptions about older workers' skills, learning abilities or cognition."

Why we should fight age discrimination

Beyond the moral and ethical issues of how older adults are treated, the experiences recorded in our study can have tangible implications for individuals and employers.

The government is trying to reduce dependency on the aged care pension by encouraging workers to stay in the workforce longer and accumulate sufficient superannuation (and other assets). Employment in high quality work can support and protect the health of men and women as they age.

But adults who feel devalued in their workplace, or unable to find suitable employment, are more likely to enter retirement earlier than anticipated and less inclined to re-enter the workforce.

Our survey results also suggest that people experiencing work-related ageism tend to report poorer health, lower household incomes and lower total superannuation fund balances, than those who have not had this experience.

Mature aged workers bring with them a range of favourable characteristics such as stability, reliability, loyalty, experience, wisdom and maturity. One way to tackle work related ageism is to firstly address negative perceptions regarding the competency of older workers.

This may be best addressed by employment services and human resource staff who are often on the front line of helping these workers find suitable employment. These workers can be skilled to respond to the needs of mature age job seekers. The introduction or reinforcement of policies supporting diversity in the workplace is another important step to support older worker participation.

Source: Justine Irving 'Age discrimination in the workplace happening to people as young as 45: study', *The Conversation*, 26 April 2017

SNAPSHOT QUESTIONS

1. **What** percentage of Australians have experienced age-related discrimination?
2. **List** the common forms of age-related discrimination experienced by those interviewed.
3. **How** does the age-related discrimination identified in this Snapshot agree with the research carried out by the Australian Human Rights Commission?
4. **Outline** how the experiences of men and women were different in respect to age-related discrimination.
5. **List** the industries where age-related discrimination is of greater concern.
6. **Describe** the link between the retirement and age-related discrimination.
7. **Explain** the costs and benefits to society of having an older workforce.

BizWORD

Equal employment opportunity (EEO) *refers to equitable policies and practices in recruitment, selection, training and promotion.*

Affirmative action *refers to measures taken to eliminate direct and indirect discrimination, and for implementing positive steps to overcome the current and historical causes of lack of equal employment opportunity for women.*

14.2.5 Equal employment opportunity

Equal employment opportunity (EEO) refers to equitable policies and practices in recruitment, selection, training and promotion. EEO ensures that the best person for the job is chosen, the business gains the person with skills and abilities most appropriate to its needs, and a more positive work environment is promoted.

The level of equity in a business is reflected in the extent to which women and minority groups have access to different occupations and positions within the business. It is also reflected in the grievances expressed or legal action undertaken on the grounds of discrimination or sex-based harassment.

Employers with more than 100 employees, and all higher education institutions, are obliged to develop an **affirmative action** program in consultation with employees, and to provide a progress report to the Workplace Gender Equality Agency (WGEA).

The *Equal Opportunity for Women in the Workplace Act 1999* has been replaced by the *Workplace Gender Equality Act 2012* and aims to promote and improve gender equality and outcomes for both women and men in the workplace.

WGEA was created to reflect this new focus and achieves this by:

- advising and assisting employers to promote gender equality in the workplace
- reviewing compliance with the legislation
- providing research findings and educational programs to improve gender equality outcomes
- establishing a workplace profile and analysing the issues in the specific workplace
- reporting on the actions taken by the employer to address priority issues
- describing action plans for the following period and evaluating the strategies used.

Businesses are then assessed as complying or not complying with requirements.

The aim of the program is to remove discriminatory employment barriers and take action to promote equal opportunity for women in the workplace.

Businesses also need to comply with the discrimination provisions in the Fair Work Act, which includes broader provisions relating to most areas of employment. The Fair Work Commission must now take action (including making orders) to ensure that no existing or proposed award or enterprise agreement discriminates on a wide variety of grounds.

WEGA recommends that businesses focus on six areas to improve equity within their business: recruitment, promotion and separation; access to all occupations and areas; equitable total remuneration; training and career development; work and life balance; sexual harassment and working relationships.

The aim of gender equality in the workplace is to achieve equal outcomes for both women and men. In order to achieve this, workplaces:

- must provide equal pay and conditions for women and men for work of equal or similar value
- should remove anything that prevents the full participation of women in the workforce
- must facilitate access to all jobs and industries, including leadership roles for women and men
- must eliminate discrimination on the basis of gender, particularly in relation to personal responsibilities including family and caring for both women and men.

Gender equality in the workplace is important as it encourages stronger applicants, especially women, entices more highly educated (often female) applicants, reduces costs associated with staff turnover, and encourages varied perspectives and views which results in stronger business performance, both internally and nationally.

BizFACT

Firms failing to lodge a report or submitting a report that does not comply with the Act may be publicly named in a report tabled in parliament that also receives significant media publicity. They are also excluded from government contracts and industry assistance grants.

BizFACT

Most gender discrimination happens in the recruitment stage, according to WGEA.

Case study: Chevron and the advantages of a diverse, culturally competent workforce for a global business

The US multinational energy company Chevron has operated since the end of the nineteenth century. In recent years it has been recognised for its commitment to the work health and safety, human rights, development and diversity of its workforce. Its Australian operation is a wholly owned subsidiary, Chevron Australia Pty Ltd. It, like its parent company, understands its role as an ethical employer and invests in community programs, often in the area of the country where its projects are located.

It is particularly committed to pursuing programs that provide for a diverse and culturally competent workforce that it attributes to:

- recruitment and outreach programs that target underrepresented groups such as women and indigenous people
- diversity councils, employee networks and personnel development committees
- an emphasis on diversity of thought, education, origin, gender, skills and experience.

SNAPSHOT



'. . . understands its role as an ethical employer and invests in community programs . . .'

A recent initiative has been its education programs that aim to increase the number of women in engineering roles in Western Australia. The Women in Engineering Program seeks to provide women with the skills and confidence to pursue engineering careers in the oil and gas industries and its Women in Future Leadership Program aims to equip women with basic employment skills relevant to the energy industry. The programs provide female students with an environment where they can gain insights into engineering from a female perspective with access to mentors and successful female engineers. Each program attempts to give insight into how to break down barriers that often prevent women from choosing a career in engineering, including options for part-time work that support women with existing family responsibilities.

SNAPSHOT QUESTIONS

1. **What** are Chevron's main business interests?
2. **List** reasons for Chevron's diverse workforce.
3. **Identify** its recent education programs and their objectives.
4. Go to Chevron's career page on their website and view some of the worker experiences. **List** the advantages of such a workforce for the business.

on Resources

Weblink: Chevron careers

studyon

Syllabus area 4
Topic 2
Concept 5

Legal: WHS, workers' compensation, EEO, anti-discrimination
Summary screen and practice questions

SUMMARY

- Discrimination occurs when a policy or a practice disadvantages a person at work because of a personal characteristic that is irrelevant to the performance of their work.
- All employers must implement anti-discrimination legislation, as well as audit all policies and practices to avoid large fines, legal orders and damages, and loss of reputation.
- Anti-discrimination legislation is supported by government agencies, including the Australian Human Rights Commission, the Workplace Gender Equality Agency and the Anti-Discrimination Board (NSW).
- Equal employment opportunity refers to equitable policies and practices in recruitment, selection, training and promotion.
- Affirmative action refers to measures taken to eliminate direct and indirect discrimination and for implementing positive steps to overcome the current and historical causes that result in a lack of equal employment opportunity for women.
- There is significant gender inequity in management roles in Australia.
- All employers with more than 100 employees, and all higher education authorities, must report annually, unless exempted, on equal opportunity programs they develop in consultation with employees and progress achieved.
- Businesses that do not comply are likely to be named in parliament, and excluded from government contracts and industry assistance grants.
- Strategies commonly used to resolve a complaint of discrimination include apology, counselling, official warning, mediation, conciliation or disciplinary action.
- Developing a code of practice and making equal opportunity awareness a criterion in promotion and performance appraisal are two of the practical strategies that can be used to improve affirmative action and gender equity.

EXERCISE 14.4 REVISION

1 **What** is meant by the term 'discrimination'?
2 **Identify** the grounds under which a discrimination complaint may be made.
3 Look at figure 14.20 and **distinguish** between direct and indirect discrimination.

4 **Recall** a range of possible outcomes for a discrimination complaint.
5 **Why** are most employers keen to avoid such complaints?
6 Select the strategy you consider to be the most effective in eliminating discrimination in business (see page 420). **Justify** your selection.
7 **Outline** the consequences for employers who do not comply with the legislation.

EXERCISE 14.4 EXTENSION

1 Tamara has recently applied for a promotion. She informs her manager that she is pregnant and will be taking parental leave in three months. Tamara fails in her application for promotion. Although she is highly qualified for the job, Tamara's manager advises her that she was not promoted because she will be able to do the job for only a short time before she goes on parental leave.

Tamara comes to see you, an adviser at the Australian Human Rights Commission. **Explain** the advice you would give Tamara. To help, use information available from the **Australian Human Rights Commission** website.

2 **Evaluate** the legal requirement for large employers to provide a regular equal opportunity report.
3 **Create** a script in which you support a group of women experiencing sexual discrimination at work. **Propose** strategies to resolve the problem.

on Resources

Weblink: Australian Human Rights Commission

14.3 Economic influences

14.3.1 The economic cycle

The demand for labour (employees) is determined by the demand for goods and services within the economy. If labour shortages develop during periods of economic growth, such as during a peak or during the expansion phase in the business cycle, shown in figure 14.22, employers compete for employees by offering higher wages. Unions may use their stronger bargaining power to demand significant wage increases, which may then put upward pressure on costs and prices, creating inflation. During downturns in the economic cycle, as indicated in a trough, or the recession phase of the business cycle, the demand for goods and services falls. Businesses are forced to reduce the size of their workforce (downsize) and limit their capacity to provide significant wage increases.

BizFACT

Subdued wage growth has plagued the Australian economy for the past two years. Low pay increases persist and growth is at its slowest since the end of the twentieth century. Among reasons for the sluggish growth are the need for Australia's economy to become more competitive, technological change, higher rates of casual employment, global trends and existing spare capacity in some sectors.

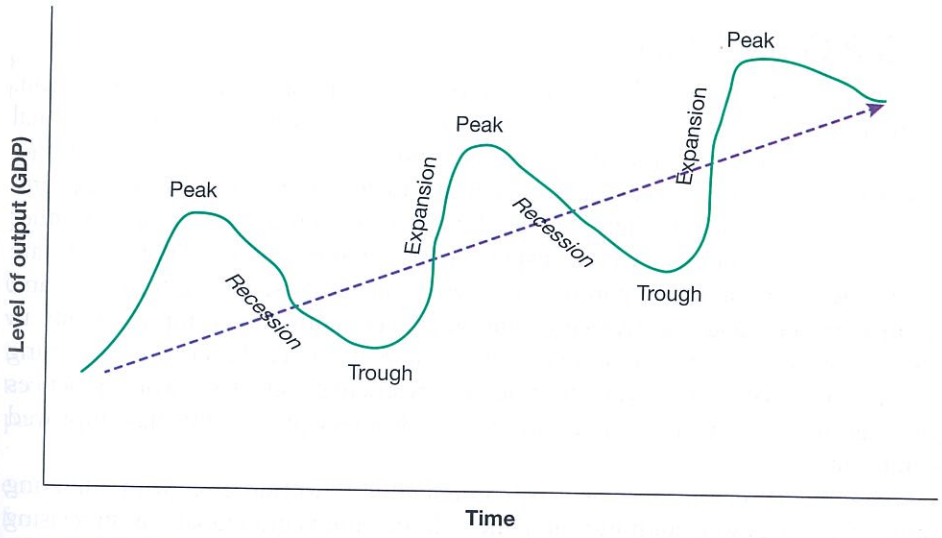


FIGURE 14.22 The business cycle

BizWORD

Structural change *refers to a change in the nature and pattern of production of goods and services within an economy. This includes a significant growth in the level of services in an economy compared to other sectors.*

BizFACT

Australia's transitioning economy needs to plan for tomorrow's employees. Literacy, numeracy and STEM education are vital to those who will be affected by industry and professional change due to automation.

Structural change

Structural change occurring in the economy has led to a rapid employment growth in the services sector, which accounts for 86 per cent of total employment.

Employment is growing in property, business, retailing, trades, tourism, educational services, hospitality, and community and personal services. Some of these industries have been traditionally dominated by women. As each sector grows, recruitment, selection and remuneration become important industrial issues. With an ageing population, flexible staffing arrangements, retention and mentoring increase in importance. Effective training and staff empowerment are also critical to business success in such customer service-based industries.

In manufacturing, removal of protective tariffs and quotas has increased business exposure to international competition. The subsequent fall in employment in manufacturing has been hastened by rapid technological change.



FIGURE 14.23 As the economy undergoes structural change, opportunities in some industries are created, leading to job creation. For example, tourism is a rapidly growing industry. Unfortunately, jobs are lost in industries that can no longer compete.

studyon

Syllabus area 4
Topic 2
Concept 6

Economic influences
Summary screen and practice questions

14.3.2 Globalisation

Globalisation of business has increased the level of international competition. Australian businesses compete every day with 'local' subsidiaries of transnational corporations. Many restructure, outsource non-core functions or subcontract production in order to compete effectively. Corporations, both domestic and transnational, are increasingly prepared to relocate production units in other cities, states or countries where dispute levels, labour and regulatory costs are much lower. In such an environment, there is an increased need to attract and retain motivated and effective core staff, and make continuous improvements in productivity, costs, innovation, quality and customer service. Enterprise bargaining has allowed many employers to trade-off restrictive/inefficient work practices for wage increases in industrial agreements. Business profitability has improved significantly.

Training in the management of multicultural workforces, with differing approaches to power, authority and the role of groups/individuals, is increasing with the globalisation of business.

There is also an increasing role for international organisations, such as the International Labour Organization and trade blocs (for example, the European Union and the World Trade Organization), to promote trade between countries that adhere to social justice principles (such as bans on child labour).

14.4 Technological influences

As outlined in topic 1, technological change is the major source of improvements in productivity, communication and competition between businesses. It is causing the nature of production and services to change, and new jobs to be created, while others are made redundant. Many businesses are re-engineering and restructuring as networks, often offshore, make increasing use of 'virtual teams' using video technology. A suite of electronic communications options allow firms to operate 'anywhere, anytime' and to harness staff through telecommuting. This has provided a major opportunity for businesses to access employees at home, increasingly those in developing nations who would otherwise be disadvantaged through traffic congestion or distance from the business office. Use of new communications technology does increase the need for ongoing training programs and new protocols to ensure that work–life balance is maintained in an environment in which society often expects people to be 'always on call'.



FIGURE 14.24 Technological change underpins productivity improvements, however, it can have a negative effect on achieving a work–life balance.

BizFACT

Communications technology can change the workplace structure. For example, a cleaning company that relies totally on mobile phone communication may be able to virtually eliminate its main office. However, it may need to increase its social activities, or plan special team meetings to promote commitment and communication to the business and its identity.

BizFACT

Approximately 6 million Australians will require training in digital literacy by 2025 and at least 100 000 IT workers by 2022 to compete globally.

studyon

Syllabus area 4
Topic 2
Concept 7

Technological influences
Summary screen and practice questions

BizFACT

The 2016–17 NSW Intergenerational Report (Future State NSW 2056) *provides insight into how the state may look 40 years from now, with respect to demographic, workforce and housing trends. It identifies issues that the government of the day should consider in order to ensure the highest possible living standards for its citizens.*

Its key findings in respect to influences on human resources were:

- *growing services sector*
- *more flexible work patterns including outsourcing*
- *portfolio careers, telecommuting and remote working*
- *increased work opportunities beyond the traditional retirement age, especially women*
- *decreasing workforce participation for the 15–24 years age group as they stay longer in education*
- *increased skill levels for workers*
- *job growth in the aged care sector.*

14.5 Social influences

14.5.1 Changing work patterns

Over the last two decades there has been a dramatic growth in part-time and casual work, largely due to growth in the finance, retail, hospitality and community service industries. Most part-time workers do not want to work additional hours and part-time work offers them flexibility in balancing their work and personal lives. Work patterns are changing and commentators refer to this trend as 'labour fragmentation'.

In recent years there has been an obvious drift away from traditional full-time employment towards part-time employment. In 1979 only 16 per cent of the work-force identified themselves as part-time employees, but by 2012 this had grown to 29 per cent. Part-time work is especially common among women.

Businesses in search of greater flexibility in the workplace are more likely to offer part-time options that are greeted favourably by workers in search of a better work–life balance. Other workers may be interested in undertaking additional education and training and/or want to ease themselves into retirement and are also keen to take advantage of such arrangements.

Other changes such as a 'casualisation' of the workforce are evident in changing work patterns and as businesses seek a more flexible workforce. The proportion of casual workers grew from 17 per cent in 1992 to approximately 35 per cent today.

Despite being popular in industries such as retail and hospitality, many casual workers would prefer to work additional hours. While casual workers are in search of more flexible work arrangements such as those provided by casual work, most would like to receive paid holiday or sick leave.

Career flexibility and job mobility

Career flexibility and job mobility have increased. Workers are taking more control over their own careers. Around 14–16 per cent of employees are considered job mobile, and only 44 per cent of full-time employees have worked for their current employer for more than five years. The most mobile employees are aged 20–24, Australian-born, or of English-speaking background, and found in retail or hospitality industries. Many leave full-time positions after developing specialist skills and experience to become independent contractors or consultants.

Creative and knowledge-based fields like education, design, writing and information technology provide the most flexibility in the workplace and many workers in these occupations, especially women, are seeking part-time, casual, flexible work day and work-from-home options. Both businesses and the government are recognising the need to address these demands and in doing so are providing increased options for employees.

BizWORD

The **participation rate** *refers to the percentage of a given group of individuals of working age who are employed or actively seeking work.*

The **ageing of the workforce** *refers to the growth in the average age of the population, due to sustained low fertility and increasing life expectancy. As a result, there are proportionally fewer children under 15 in the population, and more people in older age groups.*

Increased participation rates for women

The increase in the **participation rate** over the past three decades has been due to the increased participation by women and older people in the workforce. Since 1980, the participation rate of females aged 25–54 has increased by over 20 per cent, reflecting changing social expectations, increased education levels, improved access to child care and more flexible work arrangements.

The participation rate of people aged 55 and over has increased by 10 per cent as people have incentives to work longer, better employment opportunities, increased employment opportunities in the physically less demanding services sector, and better health and longer lives.

BizFACT

Australia's female participation rate for women is 4 per cent lower than countries like New Zealand and Canada. Effective policies to increase female involvement in the workforce, such as childcare availability, flexible hours and removing discrimination, would substantially increase the size of the economy.

Ageing of the workforce

Ageing of the workforce is likely to see a significant shortage of skills in the community over the next few years. Flexible working arrangements, including job share, part-time and contracting, will be critical in utilising this ageing workforce, particularly women, who are concentrated in health, education, and society and culture. Businesses and government will need to respond by upskilling the population, creating incentives to encourage staff to postpone retirement and implementing appropriate human resource strategies to transfer skills to those remaining in the workforce. Removing discrimination in the recruitment of older workers, providing opportunities to update skills, and offering targeted health and safety programs will also be essential.

Early retirement

Early retirement from full-time work is popular today. The average age of retirement from full-time work has increased to an average age of 53 years (58 for males and

47 for females); however, participation in part-time work is much higher, suggesting older employees are using a gradual withdrawal approach to retirement. The most common reasons are eligibility for superannuation or for health reasons. A growing number of people are returning to work in a part-time capacity following retirement for financial reasons or to relieve boredom.

BizFACT

Compulsory retirement is now illegal unless someone is on a federal award/agreement that states a compulsory retirement age.

14.5.2 Living standards

Australians have one of the highest living standards in the world today. These high standards include work health and safety, regular wage increases, performance bonuses, fringe benefits, leave and superannuation benefits, which they remain keen to preserve. Australians are aware of the pressure from global competition on these hard-won benefits and our living standards. All political parties recognise the importance of these conditions to the average Australian at work, and are unlikely to challenge these rights in the future.

Companies who seek to undercut conditions through excessive outsourcing and casualisation of the workforce, or by shifting production or operations offshore to reduce costs and increase profits, will be challenged by unions keen to avoid erosion of our living standards. Casualised workers suffer from higher levels of stress due to difficulty in purchasing assets, including homes, and managing finances and debt with unstable or uncertain income.



FIGURE 14.25 Australians love extended shopping hours, but at what cost?

Social expectations in terms of home ownership, holidays and ownership of consumer goods are an important factor in the rising participation of women in full-time and part-time work, and in the rising retirement age for women.

Conflict between our desire for high living standards, achieved through our work–life balance, is evident in many surveys. We enjoy shopping on weekends and on holidays, which is reflected in liberalised trading hours.

Concerns are, however, frequently raised about the loss of weekends for families working flexible hours and shifts. The blurring of work and home lives, because of electronic communications such as email and mobile phones, is creating an expectation that employees and businesses will be 'always on'. Others cite the lack of support for carers in our community. Governments have responded by implementing legislation to encourage workplaces to become more

family friendly, through providing carer's leave, job share, part-time and flexible working hours.

A recent report, *Shifting Risk: Work and Working Life in Australia*, prepared for the ACTU, indicates Australians had major concerns about their living standards and working life over the last few years. They are concerned about:

- increasing income inequality in Australia, as growth in real wages has lagged behind profit growth in recent years, and the widening gap between average male and female wages
- the casualisation of the workforce, with two million Australians now working part-time or casually, and the pressure this creates on family finances and life
- increasing pressure to manage the finances in their lives as governments retreat from welfare and encourage individual responsibility for retirement, healthcare, education and debt management
- a lack of work–life balance, with long working hours and loss of holidays and weekends with families.

Australians are keen to have 'quality jobs' that are safe, meaningful, secure and productive; where they are respected and consulted by their employer, and earn enough for a decent standard of living.

study on

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BizFACT

There is an increasing global trend for women to be the family's breadwinner and thus improve its financial security. Increased female participation rates, male unemployment or underemployment and the desire to achieve career goals are thought to be behind the greater contribution of women to family finances. The traditional male-breadwinner and female-homemaker view is being challenged and the social consequences of such a change will be an important research topic in human resources in the years ahead.

BizWORD

Ethical business practices *are those practices that are socially responsible, morally right, honourable and fair.*

14.6 Ethics and corporate social responsibility

A wide range of human resource issues arise in the workplace (see figure 14.26) and, if they are not handled in an ethical, legal or socially responsible manner, they can lead to poor morale, low productivity, heavy costs and industrial disputes. **Ethical business practices** are those practices that are socially responsible, morally right, honourable and fair.

BizFACT

Corporate Social Responsibility (CSR) refers to the way that a business considers the financial, environmental and social impacts of its decisions and is often referred to as its 'triple bottom line'. The human resource policies and procedures of a business are often an integral component of its CSR.

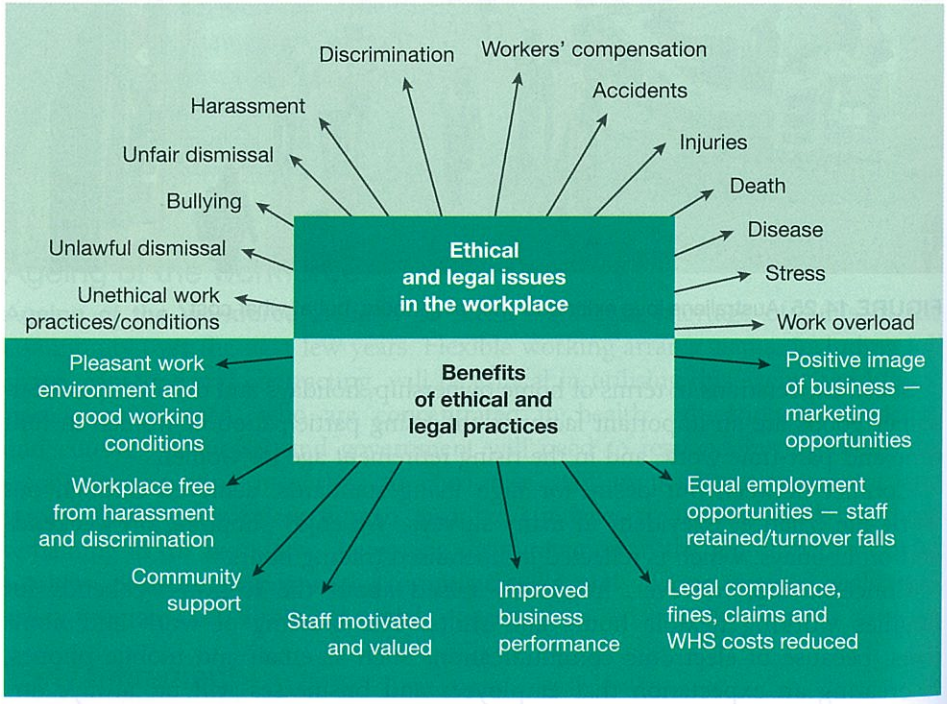


FIGURE 14.26 Some ethical and legal issues arising in the workplace and the benefits of dealing with them successfully

14.6.1 How businesses exhibit corporate social responsibility in the management of human resources

A socially responsible, ethical employer recognises that:

- a pleasant working environment and good working conditions are valuable in motivating and retaining staff
- performance and motivation are maximised when staff feel secure, confident in their work, recognised, safe, equally valued and rewarded for their efforts
- an effective workplace benefits from good working relationships and teamwork
- the business depends on community support, as a source of staff and as a source of business (that is, customers) and resources
- management should be committed to an ethical workplace culture
- customers eventually find out which businesses are acting responsibly and which are not.

An ethical framework must be developed for the workplace, in collaboration with the major stakeholders. This framework may include a **code of conduct** and a **code of ethics**. Key principles may include ensuring equity in workplace processes, legal compliance and commitment to customers.

The benefits accruing from ethical practices are becoming increasingly evident from research and include the following:

- Staff retention and absenteeism rates improve as staff feel more valued and motivated.
- Business costs (such as recruitment and training) are reduced and business performance is enhanced.
- There are significant marketing and business opportunities — **best practice** employers enjoy regular publicity in the media, in journals and on the internet.

BizFACT

A recent study indicated that 90 per cent of business students would be willing to forgo a percentage of their income to work for an ethical business.

BizWORD

A **code of conduct** *is a statement of acceptable and unacceptable behaviours in a business.*

A **code of ethics** *is a statement of a firm's values and principles.*

BizWORD

Best practice *refers to business practices that are regarded as the best or of the highest standard in the industry.*

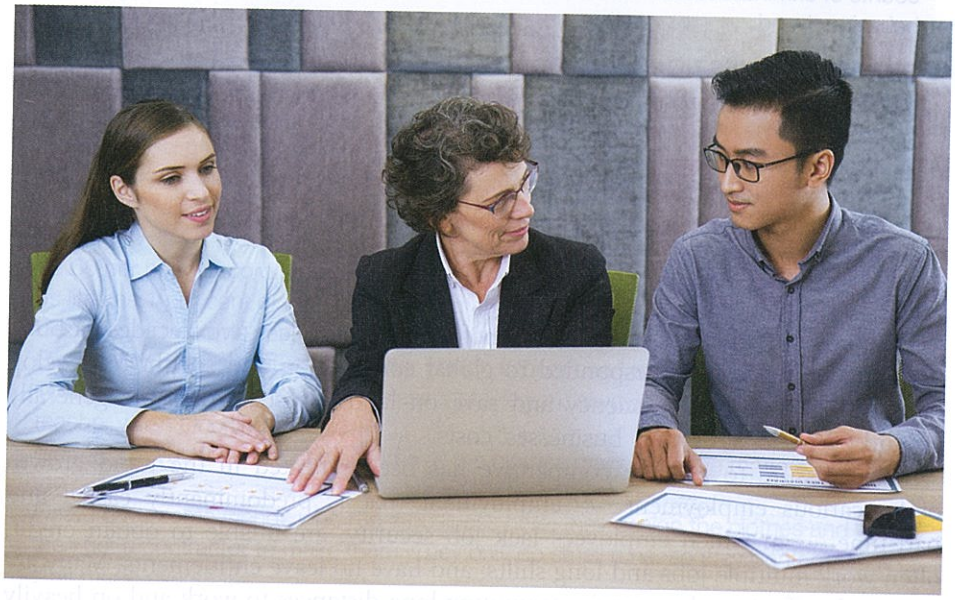


FIGURE 14.27 Managers are important role models for ethical and responsible behaviour.

14.6.2 Working conditions

An ethical employer can be expected to achieve safe and fair working conditions that improve the welfare of employees. This is achieved through:

- compliance with social justice and industrial legislation covering areas of WHS anti-discrimination and equity in all aspects of human resources.
- providing a safe and healthy working environment, safe working practices and equipment, appropriate supervision and training in safety and health, without which, workplace incidents may occur (see the following Snapshot)

- creating challenging, interesting and meaningful work to stimulate intrinsic rewards for staff
- improving communication, and fostering teamwork and empowerment of staff
- providing study leave and training opportunities to reduce skills obsolescence and improve access to management positions
- offering equitable and open rewards and benefits subject to clear criteria
- offering flexible working hours and conditions that promote a balance between work and life
- a strategic plan supported by management that incorporates specific ethical responsibilities
- implementing change through collaboration with staff
- establishing a **code of practice** for customers, employees and suppliers
- evaluating and benchmarking its performance to ensure it is operating at best practice.

BizWORD

*A **code of practice** is a statement of the principles used by a business in its operations. It generally refers to practices that are seen as ethical or socially responsible.*

SNAPSHOT



"The manager was found guilty on four counts of criminal assault."

Working conditions — ethical and legal issues

A case was brought to a local court in Sydney in which a 19-year-old pizza deliverer charged his employer with assault. The pizza store manager allegedly:

- locked him in the freezer for almost half an hour, ignoring his pleas to be released because of his asthma
- tied the teenager to the bonnet of his car while he drove it back and forwards
- sprayed a fire extinguisher under the door of a toilet cubicle where the teenager was hiding
- hit the teenager in the head, jammed his ankle in a door and cut his face with a wristwatch during a scuffle.

In court, the 27-year-old manager defended his actions, claiming they were part of the teenager's 'initiation' into the company. The manager was found guilty on four counts of criminal assault. He was fined $650 and placed on a 12-month $500 good behaviour bond.

SNAPSHOT QUESTIONS

1. **Identify** the ethical and legal issues arising from the treatment of the pizza deliverer.
2. As a class, **discuss**:
   (a) the adequacy of the penalty
   (b) why some employees engage in 'intiation' ceremonies.

Working conditions have come under focus over the last two decades as businesses have increasingly responded to global competition and sought to develop practices that improve efficiency and save on labour costs, which are generally around 60 per cent of most businesses' costs.

This pressure to become competitive has been reflected in the rapid growth of 'precarious employment' — employment that is predominantly casual and part-time — in which employees lack job security; are unable to obtain credit; often work multiple jobs and long shifts; and have no leave entitlements. Many are poor and suffer 'travel poverty', commuting long distances to work and on heavily congested highways.

Exploitation of adult workers through outworking and subcontracting locally and offshore is often raised as a major ethical issue. Many are concerned about the nature and extent of child labour globally, and what they see as a constant 'race to the bottom' to secure the cheapest cost of labour. Businesses argue that many jobs involve a high level of skill and education and only those jobs that are unskilled and offer a major labour cost differential are shifted offshore. They argue that shareholder pressure for ongoing profits requires them to constantly search for

BizFACT

Investments that are acknowledged as 'ethical', have also experienced success, particularly when large occupational investment groups pressure their pension funds to invest in ethical businesses.

more efficient approaches to managing their most costly resource — employees. These factors are behind businesses' decision to shift offshore.

Businesses are sensitive to consumer concerns due to the success of consumer lobby groups and actions, and media scrutiny.

Ethical businesses have responded by demonstrating corporate social responsibility through such strategies as regularly undertaking audits of their factories abroad, and by working with agencies to support ethical practices in their local and offshore operations. In the clothing industry, traditionally renowned for 'sweatshops', businesses seek accreditation from agencies such as Ethical Clothing Australia and Fair Wear Foundation.

Ethical Clothing Australia — CSR in action

Marina is a journalist writing about Ethical Clothing Australia for a new TV fashion program and website.
Steph, Fina, Georgie, Matt and Rocco are friends interviewed by Marina, while out at a club.

Marina: Do you know where your clothes are made?
Steph, Matt: No idea!
Georgie: I made my own! Aussie Aussie Aussie, Oi Oi Oi!
Marina: Do you know any labels made in Australia?
Steph: Aussiebum?
Marina: Yes, and designers that produce under the labels Pure Pod, MHOO MHOO and Vodim. All committed to producing 100 per cent Australian made, ethical fashion. We have heard that sales of Aussiebum went up hugely when the story about that other major 'Aussie' business moving its production offshore appeared. They sacked nearly 2000 staff in the move.
Marina: As future fashion designers, are you aware of how and where our clothes are made?
Rocco: (Pulling at Fina's label) I'll check out your label Fina! Aha! Made in Vietnam.
Fina: It's cheap, and it's all I can afford right now. I should really be thinking about why it is so cheap. I guess even a child could have made this overseas. Now you make me feel guilty.
Rocco: Well, I know that around 92 per cent of all clothes sold in Australia are imported.
Marina: Well, Fina, your dress was made by someone probably earning less than $3.60 per hour, according to something I saw on the ABC the other day. It can be as little as 1 per cent of the selling price of the clothes.
Georgie: How come you know so much about this Rocco?
Rocco: My Business Studies teacher in high school used to work in the fashion industry, and I actually listened in class, not like you, always texting when the teacher wasn't looking.
Marina: Do you think we can assume all the clothes made here are made ethically too?
Fina: I have some friends who run a business here; they design the clothes and then get a contractor to make them. They only do small runs, so they don't get their stuff made overseas.
Marina: Do they know about the conditions worked by the garment workers?
Fina: I don't know how much they ask.
Marina: How many of you are aware that many of the clothes made here are subcontracted to garment workers working at home often earning only $8 per hour?
Steph: Yeh, I know. I have a friend whose mother does it at home; she works around 15 hours a day. She often works on shirts where she gets paid $3 per shirt and it takes 30 minutes to make. She has to stay home because her mum is

SNAPSHOT



'Well, I know that around 70 per cent of American clothes are made in China, and I think it is around 50 per cent here.'

BizFACT

Ethical Clothing Australia is a not-for-profit organisation funded by the the Victorian Government that works for a more transparent textile, clothing and footwear (TCF) industry to ensure that consumers and buyers can identify and support ethically made Australian TCF goods.

unwell, so it's all she can do. She has bad eyesight now and her hands are a mess from the constant strain on her fingers.
Matt: There are sweatshops everywhere, but what can we do about it?
Steph: Well, she could join the union. I've told her but she does not want to cause trouble.
Marina: Are you aware of the Ethical Clothing Australia (ECA) program? It is encouraging businesses who use ethical clothing practices to use labelled swing tags on the clothes. All they have to do is get accredited. ECA helps 'map' your supply chain and verifies that all workers within it are receiving their legal entitlements. This means anyone who wants to buy from companies who treat employees fairly can see from the swing tag. Fashion brands like Cue and Veronika Maine and footwear businesses like R.M. Williams are all supporting it. If companies see that consumers are supporting ethical companies, here and overseas, and that they are getting government contracts and media attention, others will follow. Would you stay in touch with our website on this in future? What will you all do when you finish your course?
Georgie: Well, I'll be hassling the company I work for to do that or do it myself. I certainly will be asking about it when I buy clothes in future. I don't want to be buying things made by kids, and I want anyone who makes my clothes to get a fair deal.
Steph, Fina, Matt and Rocco: We will be following what your website and the ECA suggest too.

SNAPSHOT QUESTIONS

1. **What** are the major concerns that consumers have about the fashion industry in Australia?
2. **Create** and conduct a short survey of those around you to **investigate**:
   (a) general views about labour practices in the clothing industry
   (b) the level of support for more ethical practices in the clothing industry.
3. **Summarise** your conclusions and share them with the class.

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Syllabus area 4
Topic 2
Concept 9

Ethics and corporate responsibility
Summary screen and practice questions

SUMMARY

- Economic factors have a major impact on the demand for labour and the pressure on wage growth. This affects the role of human resource management in planning to acquire or reduce staff, and in negotiating awards and agreements.
- Globalisation has increased competitive pressures on businesses, with many increasingly recruiting or outsourcing functions offshore.
- Technological change allows many employees to work from home or offshore, and assists business in providing 24-hour support.
- The workforce is increasingly more flexible in working arrangements, with a recent dramatic increase in part-time and casual work.
- The community is increasingly concerned that this flexibility is leading to difficulties for families in balancing their work and life responsibilities.
- Major social factors affecting the workforce today include increased participation of women and an ageing of the workforce.
- Global organisations are increasingly focused on promoting trade between countries and organisations that support ethical employment practices.
- Ethical business practices are those practices that are socially responsible, morally right, honourable and fair.
- Many businesses are realising the benefits of a more committed workforce and good public reputation achieved through embracing the ethical principles of corporate social responsibility.

EXERCISE 14.5 REVISION

1 The influences on human resource management include legal, economic, social, technological and ethical influences. Read the following scenarios, which each describe a change in workplace employment practices. **Identify** the type of influence that may have caused each change and **discuss** the likely impacts each may have.
   (a) An agreement is introduced to allow continuous production and changes in work practices.
   (b) Employees are more highly educated today, and seek greater challenges and rewards from work.
   (c) Affirmative action awareness is made a criterion for promotion to management positions.
   (d) Training in the management of employee complaints of discrimination is provided.
   (e) A call centre operating out of Fiji is set up to handle customer service calls.
   (f) Three hundred assembly line workers are being retrenched as their jobs are redundant. The human resource management manager may offer younger staff the opportunity to 'up-skill' for jobs in other areas of the business.
   (g) Australian staff in the Vietnam office are being given cultural awareness training.
   (h) Two employees work out of Australia and four work out of the United Kingdom in a 'virtual team'. They hold regular video conferences to develop and improve product design.

2 **Match** the correct terms with the appropriate definitions.

multiskilling, restructuring, outsourcing, productivity, feminisation of workforce, corporate social responsibility, code of conduct.

   (a) Occurs when a firm changes its organisational structure and functions, often closing down sections or removing jobs that are no longer needed or too expensive for the business to operate
   (b) Involves employees learning new tasks, which allows them to carry out a wider range of tasks in the workplace
   (c) The efficiency of production of goods and services; officially output per unit of input per employee
   (d) The increasing participation of women in the workforce
   (e) Firms hire businesses or consultants to carry out tasks such as accounting or marketing for them on a contract basis
   (f) A statement of acceptable and unacceptable behaviours in a business
   (g) Employers making decisions that consider the welfare of employees and the community

3 **How** is structural change affecting the workforce?

4 **Describe** three impacts of globalisation on the management of human resources.

5 **Discuss** the impact of technology on employees.

6 (a) For three minutes, **identify** your ideas about the meaning of and the perceptions associated with 'changing work patterns'.
   (b) Select a partner. For about five minutes share your ideas with your partner. Then have your partner share his or her ideas with you.
   (c) In your pairs, **create** a table that records shared views about changing work patterns using the headings: Positive views, Neutral views and Negative views.
   (d) **Analyse** these views and **explain** each. It is important that you can support each explanation with reliable evidence (not unsubstantiated claims).

7 'Having one of the highest living standards in the world has costs and benefits particularly in relation to working conditions.' Jesse Hancock, consultant, HRM Direct. **Discuss**. In your answer refer to the *Shifting Risk: Work and Working Life in Australia* report.

8 In small groups, use the brainstorm technique to **determine** the human resource management issues that may arise due to economic, technological and social influences. Share your answer with the rest of the class.

on Resources

Weblink: Shifting Risk: Work and Working Life in Australia

on Resources

Weblink: Ethical Clothing Australia

on Resources

Weblink: Selected company websites

on Resources

Digital doc: Chapter summary (doc-24816)

Interactivity: Chapter crossword (int-7175)

Interactivity: Multiple choice quiz (int-7176)

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Sit HSC exam

9 Write a report for a business magazine entitled *Managing people ethically.*
Explain all the reasons corporate social responsibility and ethical practice is important for business today. Give examples from the cases provided in this chapter.

10 **Investigate** companies who are accredited for ethical clothing practices. The **Ethical Clothing Australia** website may help.

11 **Discuss** what students at school can do to encourage ethical employment practices in the clothing industry.

EXERCISE 14.5 EXTENSION

1 Collect information from annual reports, often under the heading of Sustainability, to **determine** how more businesses today are using a human resource management approach to managing people. Using the information, **construct** three cartoons that show a human resource management approach to managing people and three cartoons that show where a human resource management approach is not being used.

2 Use the internet to **investigate** trends in gender equity in Australia. Visit sites such as the Workplace Gender Equality Agency (WGEA). **Why** has gender equity improved slowly over time?

3 Rachel is a human resource consultant. Pretend you are Rachel and write a response to each letter. **Compare** your answers with your classmates.

Dear Rachel
I have just taken over my parents' piggery. I have been away studying physics at uni and have no idea about managing a pig farm. There are eight staff members, and some of them have slackened off a lot over the last few months. Two had a big punch-up yesterday. I'm at my wit's end. How do I start managing all these people? Can I just sack the ones who are the main problem? Who can help me?
Peter

Dear Rachel
I recently got work in a large supermarket chain. They told me I had to do two days' trial to see if I was any good at the job, and then they took me on probation for six months. They have not paid me for those two days, and I have only been paid twice. The owner often makes disgusting comments about me. He does the same thing with the other employees too. I really need this job, but I want to be paid on time and not be harassed by my boss. What do I do?
Latife

Dear Rachel
The toy company I work for is outsourcing the production of electronic dogs to India. Luckily, I am being retrained, but some will lose their jobs. Why doesn't the government stop this?
Victoria

4 Write a report **analysing** the current state of labour practices in the global clothing industry and why these are a concern for society.

5 **What** are the reasons behind the demise of the Australian car industry? **Discuss** the implications of this for Australian workers.

6 'Coles has developed a 2020 inclusion strategy aimed at building an inclusive workplace where all team members feel supported.' Wesfarmers Annual Report 2017
Research the issue of sustainability in the Wesfarmers annual report and analyse the strategies used by management to develop an inclusive culture across its range of businesses.