

Under the Howard Government's IR changes unfair dismissal protections have been abolished for all people working in workplaces with fewer than 100 workers.

Nearly 4 million Australians now have no protection from unfair dismissal: According to the Australian Bureau of Statistics, the abolition of unfair dismissal protections for employees in businesses with up to 100 staff would leave more than 3.761 million Australian employees without any protection from unfair dismissal. (ABS 6306.0 May 2004)

99% of private sector firms won't need to comply with unfair dismissal laws: Businesses with up to 100 staff are exempt from unfair dismissal laws. ABS data suggests only 1.1% of private sector employers have more than 100 staff. This means employees in more than 575,800 private sector businesses now have no unfair dismissal rights under the Government's new IR laws. (ABS Small Business in Australia 1321.0, 2001)

Employees in large businesses are unprotected too: The Howard Government's IR Laws mean that workers who are made redundant or retrenched due to the 'operational requirements' of a business will not be able to claim unfair dismissal, no matter what size their workplace.

Prohibited Content: It has been made illegal for workers or their representatives to request that their workplace agreement provides a remedy for unfair dismissal. Workers can be fined up to \$6000 just for *asking* for unfair dismissal protection, even if their employer agrees. Unions can be fined up to \$33,000 for asking on behalf of workers for protection against unfair dismissal.

Pre WorkChoices	WorkChoices
Unfair dismissal laws that provide a remedy for employees whose employment is terminated harshly, unjustly or unfairly.	Unfair dismissal protection removed for all employees in workplaces with fewer than 100 permanent or long-term casual employees. Unfair dismissal claims will be refused where employer gives operational grounds as a part of the reason for the decision to dismiss.
Redundancy provisions in awards.	No longer available to employees in workplaces of fewer than 15 employees.
Provisions in some awards and agreements that provide that employees in insecure forms of employment (casual or fixed term) have the option to convert to permanent employment after a fixed period.	Will be a non-allowable matter in awards, and will be unenforceable from March 27, 2006. Will not form part of test underpinning agreement.
The 'no disadvantage' test which provides that agreements must be tested against awards, including all components of take home pay including redundancy provisions.	Retrenchment pay not part of guaranteed minimum.

Free confidential assistance can be obtained from the ACTU's Union Helpline, for both union members and non-members: 1300 362 223.

What happens if you are unfairly dismissed under the Howard Governments new IR laws?

- If you work in a business with less than 100 employees you can no longer claim for unfair dismissal.
- You can still seek a legal remedy if your employment has been 'unlawfully terminated.' This involves being sacked on the basis of prohibited grounds – like discrimination on the basis of race, sex, age, pregnancy or family responsibility.
- If you believe your job might have been 'unlawfully terminated,' you can lodge an unlawful termination case in the Federal Court. Action in the Federal Court is expensive, requires legal representation, and can take up to three years to conclude.
- The Howard Government says it will provide \$4,000 in legal assistance to employees pursuing an unlawful termination claim, but this figure is based on your income, and you could expect to pay up to \$40,000.

SACKED UNDER THE HOWARD GOVERNMENT S NEW IR LAWS

March 27, 2006 Sacked despite glowing references - on the first day of the new IR laws: Erin McLemon, 21, was told on the first day of the new IR laws that she had to leave at the end of her shift. Ms McLemon had been employed at a small photo lab as a casual. She worked up to 40 hours a week at the company for more than six months, meaning that she could have qualified as a permanent employee before the IR changes. A 65-year-old man who worked permanently at the lab was also fired. Because it is a business of less than 100 employees, neither has any recourse to unfair dismissal. Ms McLemon said her boss told her she was fired because the company was overstaffed - even though it had hired someone only the week before.

Friday March 31, 2006 Forced to resign or else miss out on entitlements: Lyn Barnes was fired from Windsor RSL Club after working there for 25 years. Ms Barnes, 58, said that in her time as everything from a barmaid to an assistant manager she had never heard a bad word about her performance. But she was told to see the club directors. They "said my performance wasn't up to scratch and they were going to let me go," she said. "They said I had a choice of resigning or they were going to give me the sack, but they were going to get rid of me that day." Ms Barnes, marketing and functions co-ordinator at the time, said she offered to perform any other work with the club if they were unhappy with her performance in that role. Ms Barnes said she was told she would receive her full sick leave entitlements only if she resigned. She wrote the letter under duress.

Wednesday March 29, 2006 Ten minutes to get out childcare worker sacked for no reason: A single mother was sacked from a childcare centre because of a "personality clash" with her employer, who gave her just 10 minutes notice to leave her job. Emily Connor, 23, was sacked and not allowed to say goodbye to the children and families she had looked after for almost five years. Canberran Ms Connor, a qualified childcare worker and mother of a two-year-old boy, said she was given no reason for her dismissal. "I arrived for work, my normal shift, and thought it was just another day," Emily said. "I was called into the office for a quick meeting and I sat down and my employer said to me 'this is just a quick meeting to let you know that your services are no longer required.' I was told I had 10 minutes to collect my personal belongings and leave the premises"

Wednesday March 29, 2006 NSW Medical Receptionist sacked after assurance from Liberal MP: Part-time medical receptionist Rhonda Walke wrote to her MP last November seeking assurance for her job security. Recently widowed Ms Walke got a comprehensive reply from her local MP Danna Vale, which included assurances that it would be "unlawful for an employer to apply duress in the negotiation of agreements, or to terminate an employee for refusing to negotiate an AWA." On March 29, Ms Walke was handed a workplace agreement by the office manager, who insisted she sign it immediately. Ms Walke declined, saying she wished to take it home to study it in depth. The following day she told the manager there were several points she needed to clarify before signing. At lunchtime she was served termination papers on the grounds that her reluctance to sign proved she did not wish to become part of a team.