

WORKPLACE REVIEW

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The catalyst for the election was the Federal Government’s thwarted attempt to get its Australian Building and Construction Commission (ABCC) legislation through the Senate. Featuring large in the Government’s arguments for restoration of the ABCC, was the alleged corrupt and lawless conduct of the Construction, Forestry, Mining and Energy Union (CFMEU). Rita Mallia, NSW Branch President of the CFMEU, provides the union’s perspective on the Government’s plans. Challenging the sensational allegations against the union, she argues the Government is targeting legitimate union industrial activity while turning a blind eye to corporate “lawlessness” in the construction industry. Ms Mallia concludes that democratic civil liberties, and even the very lives of building workers, may be placed at risk by a restored ABCC with strengthened powers.	52
Interns or employees? – <i>Steven Moore QC</i>	
In this election, the Federal Government’s “Youth Jobs PaTH” proposal with its provision for partially subsidised internships for young job seekers has received applause and criticism. Criticisms have focused on concerns that employers may exploit young workers engaged under the scheme by paying them below award rates. These criticisms hinge on whether the interns would at law be employees with their attendant rights. With reference to the Fair Work Act 2009 (Cth), Steven Moore QC reviews case law in the United Kingdom and Australia which could shed light on how the question of whether an intern is an employee may be determined. An examination of the “substance and reality” of relations between an intern and their “host” employer will likely be decisive.	56
The future of Australian industrial relations – <i>Neil Napper</i>	
The future of industrial relations in Australia has been a central theme in this election. At an event in Sydney this future was canvassed by Employment Minister, Senator Michaelia Cash, and a panel of industry representatives. This forum considered the Government’s priorities for reform in the industrial relations area and identified challenges to be faced – including emergence of the “sharing economy”, the pace of technological change, the achievement of gender equity in the workplace. Increased flexibility and change in the industrial relations system around issues such as penalty rates, for example, was seen as	

key to greater productivity and jobs creation, particularly in the context of a rapidly developing global economy and a world experiencing momentous developments – including climate change and rapid population growth and urbanisation. 59

Green Acres (with apologies to Eddie Albert and Eva Gabor) – domestic service regulation in Australia – Jeffrey Phillips SC

Domestic service in Australia is regulated under the Fair Work Act 2009 (Cth), the Fair Work Regulations 2009 (Cth), and Modern Awards. Domestic servants must be paid in money not in kind, should receive penalty rates, and have appropriate records kept of their employment. 63

What is the future of employee representation? – Marea Wilson

With declining membership, allegations of corruption and mismanagement, and the Fair Work Act’s sidelining of their previously central role in industrial relations, is the union movement facing an existential crisis? In this broad-ranging meditation on employee representation, Marea Wilson, suggests the union movement’s survival may turn on its ability to evolve new ways of representing employees. Rising to this challenge, will require the union movement to negotiate the dialectic constituted by the right to be represented at work and the right not to belong to a union. A pressing issue is the prospect of commercial businesses filling the representation gap for employees. Ultimately, for many employees, access to justice may be at stake. 65

NSW Police Force – Workforce Improvement Program – Assistant Commissioner Carlene York APM and Kristie Out

Police work is demanding and often dangerous. The mental and physical health of police officers is vitally important to their being able to carry out their duties effectively. In New South Wales the Workforce Improvement Program (WIP) provides a range of health and wellbeing services for the State’s police employees. State Government funding was allocated to help abate increasing levels of ill health and job separation of NSW Police employees. WIP’s range of innovative health and related services are examined, and details provided of the impressive outcomes achieved, including fewer workers compensation claims and medical discharges. 68

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