



*The University of Sydney*

AUSTRALIAN CENTRE FOR INDUSTRIAL RELATIONS  
RESEARCH AND TRAINING (ACIRRT)

# IS ENTERPRISE BARGAINING GOOD FOR YOUR HEALTH?

*Kathryn Heiler*



MONOGRAPH No. 14

# **Is Enterprise Bargaining Good For Your Health?**

**Kathryn Heiler**

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**ACIRRT Monograph No. 14**

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## **Preface and Acknowledgments**

This research project was funded by Worksafe Australia and was carried out over the period 1994 to mid 1995. The research was undertaken jointly by a team of researchers from both ACIRRT and Effective Change Pty Ltd.

ACIRRT undertook the literature review and the analysis of the ADAM and AWIRS data and three of the case studies. Effective Change Pty Ltd provided advice and comment throughout the project, particularly in the design of the case study questionnaire, and undertook nine of the twelve case studies.

The final report was written by Kathryn Heiler with valuable assistance from Toni O'Loughlin at ACIRRT and Andrea Shaw previously with Effective Change Pty. Ltd.. The following researchers from ACIRRT also had significant input in terms of ideas, feedback and editing along the way: Shannon O'Keeffe, Richard Pickersgill, Brad Pragnell, John Buchanan and Ron Callus. Andrea Shaw from Effective Change Pty Ltd provided substantial editorial comment and advice.

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Although this report constitutes a preliminary investigation into the relationship between enterprise bargaining and occupational health and safety, we hope it will help to facilitate a greater awareness of the individual and societal costs and benefits of workplace change in Australia.

Kathryn Heiler (ACIRRT)

*with the assistance of* Andrea Shaw

and Toni O'Loughlin (ACIRRT).

# Executive Summary

## Is Enterprise Bargaining Good for your Health?

This report, funded by Worksafe Australia and written by Kathryn Heiler (ACIRRT) with assistance from Andrea Shaw (Effective Change Pty Ltd) and Toni O'Loughlin (ACIRRT) is a study of the relationship between enterprise bargaining and occupational health and safety in Australia. The project represents the culmination of over two years of research into the subject. The research strategy involved analysis of overseas and Australian literatures, enterprise and workplace bargaining statistics and twelve case studies over seven industries.

### GENERAL FINDINGS

The overall findings of the study (outlined in Part 5 and detailed in Parts 2 and 3 of the report) are as follows:

- There is *inadequate recognition and acknowledgment* of the occupational health and safety implications of changes to work processes and arrangements under enterprise bargaining. Critical OHS issues which are not receiving attention they deserve include the impact of changes to work systems and working time arrangements, workplace stress and the impact of productivity and performance targets.
- The *agenda for enterprise bargaining in the 1990s* is primarily about economic performance and concession bargaining, not about OHS. The primacy of this

agenda has meant that issues such as OHS have become *subordinated* in the bargaining process.

- The overall impact of enterprise bargaining, combined with other changes occurring at an organisational level, has been *work intensification* (ie increased work effort on the job).
- Since the hazards created by workplace change may be harder to discern and therefore easier to ignore, changes under enterprise bargaining may reinforce the *individualisation of risk*.
- Positive OHS processes and outcomes are being compromised by *inadequate bargaining capacity* of the workplace parties to cope with the new demands of reduced reliance on awards and increased reliance on negotiations at an enterprise and workplace level.
- The most *positive OHS and industrial relations outcomes* of enterprise bargaining occur where there is active trade union, employee and senior management involvement and commitment. The growth of non-union bargaining may therefore potentially compromise OHS outcomes.
- There is no strong legislative requirement under the Federal *Industrial Relations Act 1988* (as amended in the *Industrial Relations Reform Act 1993*) for the Australian Industrial Relations Commission to *preserve*, rather than just take into account state and territory OHS general duties, regulations and standards. This could act to potentially undermine OHS standards. This weakness in the legislation is serious in light of evidence that many workplaces are not well placed to anticipate the OHS implications of workplace change.
- There is no requirement that the Australian Industrial Relations Commission, in *certifying* an enterprise agreement, preserve the state and territory general duties, regulations and standards which may be undermined by changes to work practices and conditions. This is particularly serious given the often subtle nature of many of the changes being undertaken with enterprise agreements.

- There does *not appear to be a strong recognition* of the short and long term OHS implications of changes to work organisation among employee and employer representatives in the bargaining process.
- There is a poor interface between IR and OHS structures and organisations at a workplace and an institutional level.
- The bargaining processes allowed for under both state and Federal legislation do *not ensure that workers fully understand the implications of changes in enterprise agreements*. This is likely to be more serious where there are poor levels of literacy, high numbers of workers from non-English speaking backgrounds (NESB) and workers in a weak bargaining position.
- The tendency towards '*concession*' bargaining, whereby conditions are 'traded away' for wage increases has potentially serious implications for the downgrading of conditions for workers in a weak bargaining position which are often women workers and workers from NESB.

## **SPECIFIC WORKPLACE CHANGES AND THEIR IMPLICATIONS FOR OHS**

A key finding of the research was that clauses dealing with OHS systems and procedures were quite rare in registered enterprise agreements. More importantly, where they were included, positive or improved OHS could not be guaranteed. In other words, the OHS content of agreements did not reflect the level of OHS activity nor ensure that these initiatives would be implemented. An understanding of the OHS implications of the decentralisation of bargaining requires a careful analysis of the specific types of changes underway in Australian workplaces today. An analysis of this nature is provided in Part 4 of the report. The key findings are as follows:

### **Functional Flexibility**

- Positive OHS outcomes of increased functional flexibility will be dependent on adequate and appropriate levels of training, and clear career path progression.

- Work intensification may result if the primary focus of increased functional flexibility is improved productivity and cost cutting alone.
- Where functional flexibility involves primarily an increase in the number of less complex tasks (multi-tasking) the impact on OHS may be detrimental.
- The implications of the removal of so called 'restrictive' work practices and demarcations may be detrimental for workers.
- The gender implications of notions of skill and career advancement should be considered when implementing increased functional flexibility.

### **Flexibility in Hours**

- Increased flexibility in hours can be beneficial to OHS if the arrangements are *clear*, and have been introduced primarily in response to the needs of *employees*.
- There is a 'new language' of 'flexible' working time arrangements emerging in enterprise agreements. These new 'flexible' provisions are leading to unregulated extended working hours and quasi 'shift-work' like arrangements without the traditional safeguards.
- Open-ended flexible working time arrangements may lead to *work intensification*.
- Increased flexibility in hours of work should be accompanied by initial and continuing workload assessment to avoid risks associated with work intensification.
- Increased flexibility in hours which are too open-ended may increase worker stress.
- Rewarding of sustained and excessive working hours may individualise risk and represent a new form of 'danger money'.

- The overall impact of increased flexibility on OHS of trading off 'restrictions' associated with working time arrangements may not be recognised or understood.
- Particular working time arrangements prevail because stress is seen as a personal problem.

### **Consultation and Employee Participation**

Under current laws, employees have a right to be consulted about OHS issues. The literature and evidence from the case studies have revealed that *direct representation* in the form of health and safety representatives is the *most effective form of consultation*.

Of those workplaces studied, many did not *have the bargaining capacity* in terms of knowledge, resources and commitment to achieve positive outcomes.

The relationship between consultative arrangements and more positive OHS outcomes is complex. The mere existence of formal consultative structures - such as committees - did not ensure heightened recognition of the OHS implications of work changes, nor implementation of OHS initiatives. Workplaces which recognised OHS implications of workplace change and implemented strategies had the following:

- formalised and effective OHS and/or enterprise bargaining processes and structures
- active and informed trade union involvement
- committed and informed senior management willing and able to dedicate resources to OHS
- active and informed employee involvement and representation
- an industrial relations environment conducive to and supportive of genuine employee empowerment in OHS.

**The case studies revealed that if one or more of these key ingredients was missing OHS outcomes were likely to be less positive than would otherwise be the case. Arguably, the most significant findings on the role of consultation were that:**

- There is a relationship between the presence of trade unions and OHS activity at a workplace which is likely to be significant for positive enterprise bargaining and OHS outcomes.
- Trade union presence and activity raises the likelihood of OHS issues being included and OHS implications of work changes recognised in bargaining negotiations.

### **Performance/Productivity Recognition Systems**

- The use of performance/productivity recognition systems increased the risk of stress.
- Performance/productivity recognition systems may lead to the speeding up and hence intensification of work.
- Open-ended reward systems may both intensify the work effort and lead to an increase in managerial prerogative.
- Safety indicators can lead to under-reporting of accidents.

### **Non-Wage Conditions**

- The inclusion of flexible leave provisions in agreements which are responsive to the needs of *employees* will be beneficial to their OHS, particularly in terms of their well-being.
- If casual and contract staff are excluded from access to non-wage benefits, the OHS outcomes for these workers - often women and low paid workers - are likely to be compromised.

- Common family and social time may be compromised if restrictions are placed on leave provisions.

### **Marginalisation**

- The way in which changes to work processes and conditions facilitated by enterprise bargaining impact on the OHS conditions of sub-contracting companies have not been acknowledged and are poorly understood.
- If principal contractors do not fulfil their duty of care towards sub-contractors generally, or as part of the enterprise bargaining process, the implications for OHS in the contracting companies may be negative.
- If cost reduction is the primary imperative behind sub-contracting the OHS implications in the contracted firm are likely to be detrimental and acts to create a 'core-periphery' workforce.
- While enterprise bargaining can be a tool to try to improve the OHS standards of sub-contractors, cost pressures often undermine these more positive trends.
- If pro-rata conditions are awarded to part-time and casual staff many of the negative effects of marginalisation can be alleviated.
- The concentration of casual work in often low paid, narrowly skilled, gender segmented workplaces is likely to increase the detrimental OHS effects of this type of work for women and other industrially weak workers.
- Marginal workers may be excluded from consultative processes around both enterprise bargaining and OHS and may not have their interests represented.
- A gender and ethnic dimension to marginalised work may develop.

### **Major Recommendations**

Increased emphasis must be placed on assisting the bargaining parties to understand the implications of changes to work practices and work systems *at the time of negotiating these changes*. There are two major strategies required to achieve this:

- First, greater institutional intervention in the enterprise bargaining process. This can take two forms. The *State and Federal Industrial Relations Commissions* are given a greater role in vetting agreements to ensure that OHS implications of changes have been identified and assessed and that state and territory OHS general duties, regulations and standards are preserved; *OHS authorities* have a role in intervening to ensure that employers are meeting their duty of care in terms of recognising and preventing the OHS impact of changes to work systems under enterprise bargaining.
- Second, the *bargaining capacity* of the parties - managers, employers, unions and employees - needs to be strengthened substantially. They need to be better informed, better trained and better resourced.

These strategies will, in combination, help to ensure that the OHS implications of the shift towards enterprise bargaining in Australia are positive rather than negative.

# 1. Introduction

## 1.1 BACKGROUND TO THE STUDY

The shift towards the decentralisation of bargaining arrangements in Australia in the 1980s and 1990s mirrored a shift to performance-based regulation governing OHS in the early 1980s. This devolved responsibility for decisions about how to control risks to the workplace level. Positive industrial relations and OHS outcomes are now seen by many as more efficiently secured by the development of broad federal and state regulatory frameworks which prescribe minimum wages and conditions in the case of industrial relations, and performance based regulations and codes of practice in the case of OHS.

Underpinning both is an assumption that the enterprise is the level at which these issues are most cooperatively and responsively managed and negotiated. Proponents argue that wages and conditions of work are best negotiated by the parties themselves within a flexible framework which commits them to workplace reform (DIR, 1992:1). Developing an enterprise focus for the management of OHS is similarly seen as a critical component of a more cooperative, consultative workplace environment (eg Mathews, 1990).

However, these views have not been unchallenged and concerns about the likely impact of more decentralised bargaining arrangements on vulnerable groups within Australian society persist. The potential for greater wage dispersion for women and other less strategically placed workers has been raised by writers such as Hall and Fruin (1994), Lee (1994), Robertson (1992), and Hammond (1992), while the

impact on workers of non-English speaking background have been examined by Alcorso and Hage (1994) and Kusuma (1994). Alcorso and Hage (1994:1) note:

'Despite the assurance of its advocates, it is not easy to know what is happening under the rubric of enterprise bargaining within workplaces. Nor is the effect on the working conditions and performances of the labour force easily predictable and necessarily positive'.

Only recently have questions been raised in Australia about the shift towards decentralised bargaining and its likely impact on occupational health and safety outcomes for workers. Commentators such as Collins (1993) and Maiden (1993) have raised critical but unresolved questions about the likely impact of enterprise bargaining on OHS, while Bennett (1994) has explored the ways in which the regulatory framework for bargaining at state and federal levels fails to protect workers against the excesses of trends such as longer shifts, and work intensification. Quinlan (1994) has indicated a nascent framework of analysis within which the impact of workplace reform might be explored, focussing on institutional arrangements, the role of trade unions and the significance of changed bargaining power between the parties. However, others such as Mathews (1990) and Betts (1994) have focussed more on the potential benefits for OHS which can flow from a more cooperative and consultative workplace culture and by linking positive OHS practice with improved productivity.

Institutional responses to the issue have varied. Worksafe Australia (1994) has advocated the integration of OHS with broader workplace reform while raising the potential OHS consequences of changes to work practices, job design and work organisation arising from efficiency measures. The ACTU (1994) has tried to promote the inclusion of OHS clauses in agreements while at the same time emphasising the role of trade unions in ensuring that OHS issues are addressed within the enterprise bargaining process. There has been a tendency to support the inclusion of OHS clauses in agreements as a way of addressing OHS issues in the bargaining process.<sup>1</sup>

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<sup>1</sup> For example, *Workplace* (1995) outlines the importance of addressing OHS in agreements.

There has been some conjecture about the potential negative impact of workplace change on OHS, or about the *potential benefits* of integrating OHS into the bargaining process. However, this has been largely unsupported by empirical research. Moreover, there has been little consideration given to the broader political and economic environment within which the devolvement of *both* industrial relations and OHS to the enterprise level has taken place and the significance this has for workplace outcomes. This broader environment has been characterised by increased international and local competition, an emphasis on national and enterprise productivity and profitability, high levels of unemployment, changes in industry structure and declining union membership and coverage.

The lack of empirical information about the links between workplace change and OHS and the lack of explicit OHS focus in the debates around enterprise bargaining provided the impetus for this study.

The key aims of the project are to:

- focus critically on the potential and actual relationships and dynamics between changes facilitated by enterprise bargaining and OHS outcomes
- analyse the processes and causes which have given rise to these relationships
- provide information of use to public policy, union policy, management and employer organisations, and OHS promotional strategies.

## 1.2 FRAMEWORK FOR ANALYSIS AND STRUCTURE OF THE REPORT

An explanation of the relationship between workplace change and OHS must move beyond the narrow confines of the technical/medical/legal based paradigms which have tended to dominate OHS analysis. It needs to take account of:

- the pressures and constraints *external* to the workplace which place limits on the choices which individual workplace and organisations make on a daily basis.

the social relations at the workplace, the manifest power relations, the control of the work process which reflect broader economic and social and structural relationships such as relations based on class, gender and ethnicity.

- the forms of employee involvement in workplace decision-making which should be differentiated from genuine worker autonomy and control. This is because they are clearly not the same, and because of the strong relationship that exists between OHS outcomes and control of the work process (Marchington et. al., 1993; Evans and Fischer, 1992).

With some notable exceptions<sup>2</sup> there is little tradition of this type of broad, more structural analysis in the OHS literature. The 'medical/technical' paradigm has weakened the discourse between OHS and industrial relations practitioners, specialists and academics<sup>3</sup> and neglects the social and political aspects of work which impact on OHS outcomes. Often the above factors are treated as mutually exclusive, rather than as factors which are dynamically linked.

James (1993:54), in an attempt to look more broadly at these linkages, has argued that the incidence of injury and ill health is a reflection of the labour process which includes economic, social, ideological, labour market and production pressure variables. She asserts (1987:47) that occupational injury is not an unintentional consequence of work, but is embedded in the very relations of production. She further argues that the relations of work are not structured to protect the health of workers.

Writers such as Quinlan (1993:146) also argue that OHS is embedded in the organisational and social relations at work, but that an understanding of the causes of OHS problems is only possible through a more sophisticated understanding of the relationship between management and labour, and between organised and unorganised labour. Similarly, Carson (1989) stresses that an understanding of OHS rests on an analysis of the power relationships which reflect and reinforce relative

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<sup>2</sup> The work by writers such as Quinlan (1993), Quinlan and Bohle, (1991) in Australia, and seminal British pieces such as Dawson et. al. (1988) are notable examples.

<sup>3</sup> Again, Michael Quinlan in books such as *Work and Health* (1993) has tried to bridge the divide which has emerged between OHS specialists and industrial relations.

bargaining strengths at a firm level. There is also the need to be sensitive to what Williams (1992:139) describes as the 'ideological construction' of OHS. By this she means that there is a traditional medical and technical construction of OHS which promotes a 'blame the victim' mentality. Any study of OHS needs to avoid the assumption which locates the primary causes of ill-health and injury primarily with individual employees.

At the firm level, there are a range of more specific industrial relations and organisational factors which are seen as pointers to positive OHS outcomes at a workplace level. A Best Practice Approach advocated by Worksafe Australia (1992) includes a range of features apparent in OHS Best Practice organisations. These include a management style which is committed and consultative; an organisational structure which is flexible and OHS sensitive; a preventative organisational strategy; a management system which is OHS inclusive; a focus on skills; an empowerment of employees and superior organisational performance. In addition, Frick (1990) argues for the integration of OHS into work and management processes and production design is essential. The existence and activity of trade unions either in the form of active delegates or as representatives on committees is seen as being critical by Brooks (1988), Weil (1991) and Biggins (1991).

However, these workplace factors need to be examined by reference to the external environment which can act to compromise OHS outcomes. Factors such as competitive market pressures, a focus on productivity, the state of the labour market, the role of the state in regulation and enforcement and the bargaining strength of workers to ensure adherence to OHS systems are also significant.

OHS outcomes are therefore a result of the complex interaction of a range of societal and organisational factors which are further mediated by factors such as organisational size, technology and workplace resources. An analysis which can explore the ways in which complex structures and social relations interact, and how they play themselves out at a workplace level is required.<sup>4</sup>

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<sup>4</sup> This framework is based on the findings of the literature review undertaken by ACIRRT in the early phase of the project. A more detailed overview of the theoretical influences can be found in Heiler (1994a).

## Framework for Analysis

### *The Role of Theory*

The selection and development of an analytical framework is underpinned by a number of - usually implicit - assumptions about reality. In the social sciences, particular phenomena cannot be 'isolated', so there is a huge burden placed on abstraction, the activity of identifying particular constituents and their effects (Sayer, 1992:3). The identification of these constituents and the links between them is not a matter of 'common-sense' but is mediated heavily by theory. According to Sayer (1992:50):

'In everyday life, insofar as common-sense is characteristically unexamined, we tend not to notice the social aspect and imagine that we can know objects in an unmediated fashion. In common sense, we think with our beliefs and concepts and not about them.'

Similarly the data collection and findings within this report have been influenced and mediated by pre-existing assumptions about reality. Theoretical assumptions have been guided by a commitment to improve the working conditions of employees, and providing information and direction to address power imbalances within the workplace. Further, explanation requires more than just the documenting of patterns of social phenomena. It requires the identification of *mechanism and relationships* which sustain and perpetuate these patterns (Isaac, 1987).

To meet the aims of the study, a broad framework for analysis was adopted and modified throughout the course of the study. The following is what Sayer (1992:50) called the 'particular constituents', or analytical categories, that this study identified. The remainder of the report explores the links between them to assist our understanding of the relationship between enterprise bargaining and OHS:

- external and internal economic, political and ideological pressures which impact on workplaces and which constrain and facilitate organisational choices
- organisational and industry level responses to external and internal economic pressures

- workplace level dynamics such as the bargaining strengths of the parties, the role of trade unions, the industrial relations environment, organisation of work, management systems and the ways these converge with workplace change
- the nature and scope of specific workplace change and its relationship - in light of the above - with OHS

### **Structure of the Report**

The report has been structured to reflect the analytical framework. Theory, quantitative data and case study material are combined at every stage to explore the key themes outlined above.

This report raises potential issues which might impact on health and safety outcomes. Both the quantitative data and the case study material point to potential issues and further questions.

The structure of the report is as follows.

#### ***Volume 1: Major Trends***

Part 1: Introduction: This section presents the analytical framework for the report and a detailed methodology.

Part 2: Enterprise bargaining and OHS: Economic, political and regulatory context. This section explores the broader context within which workplace change is being pushed and regulated. It examines the external and internal pressures for workplace change which may act to reorient and restructure the activities of organisations with implications for OHS.

Part 3: The nature of workplace change in Australia: This section outlines the nature and extent of broad organisational change as expressed in AWIRS, ADAM and the WBS data.<sup>5</sup> It also briefly examines the processes for change and the

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<sup>5</sup> ADAM (Agreements Data Base and Monitor) is a database formulated by ACIRRT which monitors and analyses trends in the content of federal and state registered enterprise agreements; AWIRS (Australian Workplace Industrial Relations Survey) was the first major study undertaken of

relationship between OHS indicators in agreements, and workplace level OHS activity and the characteristics of organisations.

Part 4: Specific workplace changes and their implications for OHS. This section focuses in detail on the level of the workplace itself where changes introduced during the bargaining process and their implications for OHS will be most directly seen. Here, specific workplace changes have been grouped and evidence from the case studies used to demonstrate how change can be introduced, the potential impact on OHS and what the mediating factors are.

Part 5: The major trends and recommendations.

**Volume 2: Detailed Case Studies.**

### 1.3 METHODOLOGY

The research process for this study was carried out in four stages.

- Stage 1: desk-based research of an extensive review of Australian and overseas literature to examine the potential relationships between workplace and organisational change and OHS.
- Stage 2: quantitative data derived from ADAM, WBS and AWIRS to look at the scope and patterns of workplace change, and the OHS content of agreements.
- Stage 3: qualitative data collected from 12 case studies where the processes and causes of these relationships were explored.
- Stage 4: synthesis of findings and formulation of major findings and recommendations.

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workplace industrial relations arrangements. Detailed findings are Callus et. al. (1991); WBS refers to the Workplace Bargaining Survey, 1994 undertaken by DIR.

Key findings at each stage of data collection were used to guide data collection and data analysis at subsequent stages. For example, findings from the literature review were used to guide exploratory data analysis of the ADAM and AWIRS data at Stage 2. The synthesis of findings from these two stages were used to construct the protocol for the collection of information in the case studies. Finally, we used trends picked up in the case studies to guide the way the case studies material was structured and presented. Issues which arose during each stage of the research are detailed in the text. Outlined below is a diagram of the research stages:

**Figure 1: Research Process**

<b>Stage 1: Literature Review</b> ↓	⇒	Used to develop framework for analysis and grouping of AWIRS and ADAM
<b>Stage 2: ADAM/AWIRS</b> ↓ Data from Stage 1 and 2 used to develop protocol for the case studies ↓	⇒	Used to identify some of the major changes in agreements
<b>Stage 3: Case Studies</b> ↓	⇒	Used to structure data analysis for case studies and overall findings
<b>Stage 4: Synthesis of data and identification of key trends</b>		

### **Stage 1: Literature review**

As outlined, because little work had been undertaken on the links between decentralised bargaining systems and OHS outcomes, theoretical and empirical issues from a diverse range of sources were drawn together to provide pointers to the types of issues to explore in the data analysis and case study phases of the study. The findings of the literature review can be found in Heiler (1994a), and are integrated thematically throughout the report.

**Stage 2: Quantitative Analysis of ADAM and AWIRS Data:*****ADAM***

The Agreements Data-base and Monitor (ADAM) is a data base of 1048 registered State (NSW and Queensland) and Federal enterprise agreements with information coded on every clause in an agreement. ACIRRT develops and monitors the data-base which contains information on up to 800 variables including wages, training, hours of work, flexible work arrangements and occupational health and safety. The data-base can also provide an industry breakdown.

***AWIRS***

The Australian Workplace Industrial Relations Survey (AWIRS) was undertaken by the Federal Department of Industrial Relations between November 1989 and May 1990, with the results being released in February 1991. The survey involved interviews with workplace managers and, where present, union delegates at 2004 workplaces with 20 or more employees. The survey involved workplaces throughout Australia and covered all industries except Agriculture and Defence. The survey collected data on a range of industrial relations issues including occupational health and safety as well as information about the workplaces' economic performance, product market and organisational structure.

***The Aims of the Analysis***

The aims of the ADAM and AWIRS analysis were to:

- track the OHS content and workplace change trends in agreements in the case of ADAM
- develop a snapshot of workplace OHS activity and workplace change as captured in the AWIRS project
- examine the relationship between workplace change and OHS content and assist in identifying potential case study sites.

### ***Issues Associated With the Use of ADAM and AWIRS Data***

First, as argued earlier, the selection and analysis of both qualitative and quantitative data is mediated by theory. Concepts which are utilised to make these decisions are often not made explicit, and generalisations are drawn which are often internally consistent, but heavily concept and theory dependent.

Similarly with the grouping of the ADAM and AWIRS data, decisions about the significance of one indicator over another, the significance or absence of others all influenced the ways the groupings were made. The selection and manipulation of ADAM and AWIRS data was shaped at two levels. First, when the questions were drafted and the responses coded. Second, when this project grouped the data to draw out certain information, judgements were made which were shaped by the theoretical issues suggested in the first stage of the research project.

As both data sets were pre-existing, this study was not able to control or influence the scope and range of the information included. It was only possible to select and draw on the existing categories and to utilise the existing information in ways which could best draw out information useful to this study.

### ***Grouping the Data***

Given the size of the data sets, decisions had to be made about grouping various indicators. On the basis of the literature review, it was decided that ADAM and AWIRS would be used to explore whether there was *a relationship between those workplaces or agreements which displayed OHS activity, and the presence of other organisational factors*. In this way issues which emerged as important in the literature, such as size, level of union activity, organisational change and so on, could be set against the level of OHS activity. It seemed that it would also be useful to know the overall inclusion and level of OHS activity at workplaces and in agreements.

One way of doing this was to use some of the indicators proposed in the literature to group workplaces and agreements. For this we drew on a number of frameworks including Bradley (1989), Quinlan and Bohle (1991), and Worksafe Australia's Best Practice features. Agreements and workplaces were grouped as follows:

- *comprehensive* suggesting some level of extensive OHS content in agreements or activity at the workplace
- *limited* where there was obviously some OHS activity, but substantial gaps
- *no activity* where there was either no mention, or it was very non-specific.

In order for workplace or agreements to be labelled OHS 'comprehensive', 'limited', or 'no activity', the agreement or the workplace must have had several, some or none of the following range of general indicators. It is also important to note here that even since undertaking the case studies, some of the workplaces may have undergone change which may have altered their OHS status in terms of comprehensiveness. The detailed grouping techniques can be found in Appendix B.

- a written policy/ set of objectives
- evidence of measurement/monitoring
- consultative/representative/participatory mechanism
- someone responsible for OHS at the workplace and who spent the majority of their
- time on OHS
- training mechanism/opportunities
- industry specific criteria

The overview of main findings is in Chapter 5 of the report, but data from ADAM and AWIRS is also integrated throughout to illustrate some of the key themes.

### **Stage 3: Case Studies**

The strengths of the case study approach lie not in statistical representativeness but in the capacity to develop 'analytical connections between social processes'. Edwards et. al. (1994:9) argue that that the workplace is where all the aspects of an

industrial relations system come together - its labour laws, collective agreements, managerial and union policies. They state that:

'It is to the workplace that one must look to consider what happens in practice: How the structures of law and agreements combine with workers' and managers own goals to create a workplace regime that governs how work is actually performed' (p3).

Edwards et. al. identify five key strengths of the workplace focus. Case studies can:

- reveal hidden forms of behaviour
- identify critical cases
- explore causal mechanisms
- identify the nature and sources of variation
- be explicit about explanation

However, as with any method, there are important issues and limitations which should be kept in mind, particularly when drawing together key themes and making generalisations.

First, case studies, unless they are longitudinal or of long duration, are a snapshot in time. Information gathered reflects current activities with an historical perspective but does not necessarily capture the processes of change or anticipate future activities. The reasons for this can be practical, including the absence of workers or managers with a history of the workplace, and the fact that staff interviewed may be immersed in current crises or issues which colour their views of the organisation at that time.

Second, the quality of information derived from case studies is dependent on the information released by the interviewees. For instance, in the case of OHS outcomes, it may be difficult to ascertain the real impact of workplace changes if there has been no monitoring of the impact of change undertaken.

Third, the act of research itself impacts on the processes and outcomes at the workplace. The often highly charged industrial relations environment of the workplace means that raising issues sparks interest in the issues which may then be acted upon by the workplace players. Thus the research process can influence the views of the interviewees, and in some cases have an important educative role. When undertaking some of the case study research, the researchers created additional pressures for change and at times helped to identify what could be done.

Fourth, there is a level of self-selection associated with those organisations and companies which agreed to participate (Stephens and Bertone, 1995:53). Companies that agreed to be involved are those less concerned about exposing their activities to public scrutiny. This means that they may feel a level of confidence about their performance. As it was, nine of the twelve organisations involved in the case studies decided to remain anonymous.

Fifth, the content of the case studies reflect what participants say to the researchers, whatever written information has been made available, and the assessments of the researchers, not the views of the company. To overcome what is the inevitable bias of the workplace participants, all players were interviewed including management, workers, union delegates, union officials, industrial relations and OHS professionals involved in the workplace. Similarly, the perspective of the researchers influences the way data is collected and analysed.

The case study phase of this research aimed to explore the issues which emerged in the first two stages of the research. The preliminary analysis of the ADAM and AWIRS data and the literature review identified the key issues to be addressed through the case studies. The detailed protocol used for the case study fieldwork is in the appendix but the broad questions were:

- What was the external environment for this workplace within which enterprise bargaining had taken place?
- What were the key external and internal pressures?
- What were the characteristics of the workplace and what was their significance for understanding the shift towards enterprise bargaining?

- What were the industrial relations and OHS arrangements at a workplace level?
- What were the main drivers and processes for the agreement?
- What were the key changes introduced by enterprise bargaining and how did they impact on OHS?
- How is OHS content in the agreement implemented and was there recognition of the OHS implications of the work changes?
- How did OHS management change/impact on workplace change?

### *Selecting the Workplaces*

After reviewing the findings from the first two stages of the research the following criteria for selection of the case studies were adopted. First, the workplace must have experienced a *level of change* either through an enterprise agreement or through some other organisational change process. These included growth, the removal of demarcation barriers, flexible working time arrangements and introduction of technology. Second, because the agreements from which most of the case studies were selected had been grouped for OHS content, it was possible to ensure that the second criteria included a spread of 'comprehensive'<sup>6</sup> and 'limited' OHS agreements. The eventual mix of the case studies aimed for was as follows:

- Different state and federal jurisdictions for industrial relations and OHS
- Registered and unregistered agreements
- A broad industry mix
- Large, medium and small employers
- Union and non-union agreements

As well as these criteria there were a number of constraints, including:

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<sup>6</sup> See Appendices D and E for an explanation of OHS grouping criteria.

*Location:* Many potential cases had to be excluded because they were in Western Australia, or North Queensland. Resource constraints meant that cases had to be within reasonable travelling distance of Sydney and Melbourne.

*Timing:* Some workplaces which were approached initially agreed, but were unable to participate during the fieldwork phase.

*Refusal rates:* Case study refusal rates for this project were significant. Companies refused to be involved in case studies for a range of reasons including the pressures on their time, because they had already been studied, or because they did not wish their work practices to be scrutinised. For some industries we were able to secure agreement quickly (for instance 'recycling'), whereas for others (such as 'other manufacturing') it proved to be extremely time consuming and ultimately fruitless to secure a second study from this industry.

*Securing agreement:* Eventually, a mixture of strategies was used to secure the case studies. Sometimes there was 'cold-calling' where the organisation was contacted by phone on the basis of being identified in the ADAM data base. Sometimes contact was made through other professional contacts such as the trade union movement or professional organisations. Occasionally, especially for those industries which proved very difficult to secure, personal networks were utilised.

The final mix of case studies was as follows:

<b>Number:</b>	12
<b>Industries:</b>	Recycling (2) Textile Clothing and Footwear (2) Community services (2) Construction (2) Finance (2) Other manufacturing (1) Waterfront (1)
<b>Bargaining type:</b>	Registered (11) Informal (1)
<b>Location:</b>	NSW (3) Victoria (7) Tasmania (1) South Australia (1)
<b>Jurisdiction:</b>	Federal (11) NSW (1)
<b>Size:</b>	Large (3) Medium(5) Small (4)

On the following two pages is a summary of the key features of the case studies.

#### **Stage 4:      Synthesis of Major Data Sets**

Stage 4 of the project consisted of the synthesis of the major data sets generated throughout the study. A decision was made to structure the final report around themes, rather than around the different sets of data. In this way literature, quantitative data and case study material could be drawn together around the key themes and issues identified. While this proved to be a more time-consuming endeavour, the final result has been a more comprehensive synthesis and analysis of the data.

Table 1.1: Summary of Key Characteristics

ENTERPRISE	Workplace Description	OHS Arrangements	OHS Problems/Hazards	Major Changes in EA	OHS Content In Agreement	Significance of EA for OHS	Implementation of OHS in EA	Recognition of EAs OHS Implications	Current OHS Approaches
Ace Embroidery	Small embroidery company, non union	Informal OHS arrangements	Manual handling, noise, machinery	Internal numerical flexibility	Not applicable (no agreement)	Formalised existing conditions and OHS commitment	Not yet	Yes	Preventative
The Textiles Company	Medium sized TCF plant, US owned, closed shop	Active OHS Committee, comprehensive OHS in EA	Manual handling, noise, hazardous chemicals, machinery	Functional flexibility	Comprehensive	Prioritizes OHS	Not yet	Limited	Reactive
Recycling Company 1 (RC1)	Small subsidiary of US company, non union recycling company	Informal, paternalistic	Road hazards, noise, cuts, manual handling	Operational flexibility, internal numerical flexibility	Comprehensive	Attempts to shift responsibility for OHS to employees	Not yet	No	Reactive, individualistic
Recycling Company 2 (RC2)	Small council recycling service, active union	OHS Committee	Road hazards, manual handling	Functional flexibility	Limited	OHS low priority in cost cutting environment	Not yet	Limited	Reactive
The Bank	Large Bank, active union	OHS Committees, (State) Employee Representative pilots, employee assistance programs	Overuse injuries, stress, manual handling	OHS agreement, functional flexibility	Limited to comprehensive	Directly address OHS	Not yet	Limited	As before EA

Table 1.1: Summary of Key Characteristics (continued)

ENTERPRISE	Workplace Description	OHS Arrangements	OHS Problems/Hazards	Major Changes in EA	OHS Content In Agreement	Significance of EA for OHS	Implementation of OHS in EA	Recognition of EAs OHS Implications	Current OHS Approaches
The Insurance Company	Medium size insurance company, low union involvement	HSR and OHS Committees, other consultative forums	Overuse injuries, stress	Functional flexibility	Limited	Does not address OHS	N/A	Limited	As before EA
Lady Gowrie	Medium size, community owned child care centre, active union	No formal structures, 'poverty' mentality	Manual handling, asbestos, stress, communicable diseases	Functional flexibility	Comprehensive	Recognises OHS as a feature of management, model for the industry	Not yet	Yes	Preventative
Community Service Organisation (CSO)	Medium size, government funded provides crisis relief, active union delegates	Informal	Stress, client aggression, organisational factors	Functional flexibility	Limited	EA unlikely to solve OHS	No	Limited	Reactive
Construction 1 (CON1)	Large construction firm, active union	OHS committee, OHS representatives	Heavy equipment, hazardous chemicals, noise, manual handling	Reinforced existing arrangements	Limited	Improved OHS for sub-contractors	Underway	Yes - especially sub-contractors	Preventative

Table 1.1: Summary of Key Characteristics (continued)

ENTERPRISE	Workplace Description	OHS Arrangements	OHS Problems/Hazards	Major Changes in EA	OHS Content In Agreement	Significance of EA for OHS	Implementation of OHS in EA	Recognition of EAs OHS Implications	Current OHS Approaches
Construction 2 (CON2)	Large construction firm, active union	OHS committee, OHS representatives	Heavy equipment, hazardous chemicals, noise, manual handling	Functional flexibility	Comprehensive	Increased focus on OHS at sites	Yes	Yes at senior levels	Preventative
The Manufacturing Company	Small size manufacturer of building goods, limited union involvement	OHS Committee, consultative team	Manual handling, noise, machinery	Functional flexibility	Limited	No major significance	Underway	Yes	As before EA
CTAL	Large container terminal, active union	Site OHS committee	Manual handling, sunburn, noise, flying objects	Functional flexibility	Comprehensive	Increased focus on OHS	Not yet	Yes	Reactive

## 2. Economic, Political and Regulatory Context for Workplace Bargaining: Implications for OHS

### INTRODUCTION

The impact of enterprise bargaining cannot be assessed in isolation from a broader range of social and economic pressures which are pushing workplace change. While the relationship between enterprise bargaining and OHS is a function of the interaction of a number of complex economic, political and regulatory factors, the links between them will not always be direct. This chapter explores the relationship between these factors and their implications for OHS.

First, it will be seen that *enterprise bargaining in Australia is being driven by broad economic, political and ideological pressures for workplace change*. It is important to understand how factors such as financial deregulation, tariff reduction, increased competition and labour market pressures may act to define the climate within which management, union and employees respond to both change and OHS. This environment is not merely contextual, but is a dynamic component influencing the complex ways enterprise bargaining might impact on health and safety.

Second, the *IR legislation which has emerged in part as a response to these broader pressures delineates the institutional and legal parameters* within which minimum standards and conditions are determined. It also defines the roles of

employers, unions and workers, setting critical boundaries for the type of changes and activities. The external rules governing enterprise bargaining will therefore have implications for OHS.

What follows is an examination of the interrelationship between these factors in light of the quantitative and case study data. Because the implications of enterprise bargaining for OHS are not straightforward, they also may not be immediately obvious. However, this highlights the importance of proceeding with caution in the area of workplace reform.

## **2.1 ECONOMIC AND POLITICAL PRESSURES: SIGNIFICANCE FOR ENTERPRISE BARGAINING AND OHS**

### **Economic and Political Pressures**

While we should be cautious when generalising about the impact of international economic trends on Australian industrial relations systems, there is some agreement that the changes seen at a national level are related to global trends.

Overall, the 1980s and 1990s have seen heightened international competition, uneven growth, the growing importance of finance capital, a revolution in technology and communications and the restructuring of industry mix in most advanced capitalist countries (Harvey, 1989:168). Changes in the level and composition of demand, intensified competition in product markets, changes in the structure and shape of labour markets and regulatory environment were all part of a fundamental restructuring occurring on international and national levels.

There has been a concomitant internationalisation of segments of the domestic economy and adjustments in internal modes of labour market and financial regulation in an attempt to integrate domestic economies with regional and international markets (McMichael and Myhre, 1991:84).

In Australia, this increased exposure to, and integration of, our domestic economy with the world economy has been happening since the mid 1970s and in earnest throughout the 1980s and 1990s. As capital, technology and skilled labour become mobile and markets change, Australian industry has had to compete in the

international arena in order to be chosen as a development and production site for new technologies (Ravenhill 1994:93). The dismantling of tariffs, the deregulation of the financial markets and loosening of controls on foreign ownership were undertaken in the belief that exposing domestic operations to international competition was the surest way of improving domestic efficiency.<sup>1</sup>

The Federal Government, through its economic, industry and industrial relations policies, embarked on a program of restructuring the Australian economy aimed at speeding up integration with the international economy and facilitating change at an organisational level. Kearney (1993:27) outlines how the federal Labor Government - since 1983 - pursued a number of strategies including: the deregulation of the financial sector; substantial reform of the tax system; a tariff reduction program; promotion of competition and planning of national infrastructure especially in the areas of power, rail, roads, waterfront, aviation, telecommunications and industrial relations. Other industry policy initiatives included commercialisation and privatisation of some government services, and support for enhanced education and training. These have been mirrored to a greater or lesser extent on a state level. The assumptions underpinning these strategies have been that market forces and the removal of unnecessary state intervention is the best way to ensure the competitiveness and efficiency of Australian industries and services.

### **The Push for Workplace Reform and Enterprise Bargaining**

The push for change at a workplace level has been an integral part of these federal and state government initiatives. Governments have seen a more decentralised, enterprise based industrial relations system as a means of achieving efficiency gains. The reform of industrial relations was influenced heavily by employer initiatives such as the report by the Business Council of Australia in 1989 entitled *Enterprise-Based*

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<sup>1</sup> The deliberate strategy of increasing the exposure of Australian industry and pursuing enterprise bargaining has been undertaken partly in an effort to make Australia a more attractive business option for overseas and local investors. For example Blandy (1992:27) - a leading proponent of enterprise bargaining - stated that: "*The macroeconomic issue for the future is making Australia an attractive place in which to locate production activities for which there will be world-wide competition*". This perceived need to be more "entrepreneurial" and maintain a favourable business climate for investment has turned attention to issues like productivity, flexibility of operation and - inevitably - work practices (Fieldes and Bramble, 1992).

*Bargaining: A Better way of Working.* With support from the employers, the ACTU and broad sections of the trade union movement, the federal and state governments undertook a number of regulatory initiatives throughout the late 1980s and early 1990s which have led to the progressive decentralisation of industrial relations, while industry - in both planned and unplanned ways - has restructured and reoriented its activities. As Gahan (1993:293) points out:

'Much of this has rested on the *assumption* that the efficient functioning of labour markets is impeded by the inflexibility of the present system and its inherent insensitivity to those issues which are unique to individual industries, firms and workplaces'.

Trade union support for generating an environment more attuned to the needs of business has been undertaken through a series of Accords with the Federal Labor Government. In return for involvement in economic decision-making and promises of improvements in the social wage, the union movement has delivered an unprecedented period of wage restraint and relative industrial peace. The ACTU agenda for enterprise bargaining revolves around the belief that wages and conditions can be improved for workers at the same time as enterprise efficiencies are enhanced. While some unions may be concerned about their ability to protect industrially weak and poorly organised workers, other more industrially powerful unions have embraced enterprise bargaining (Kelly, 1994:144). Indeed, strong unions in more strategically placed industries such as construction and metals manufacture may indeed be able to use enterprise bargaining to improve and enhance the position of their members.

The message from the government and employers associations, endorsed by sections of the trade union movement - particularly the ACTU - has been that companies need to lift their performance and increase profits and employees need to work longer, harder, smarter and to moderate wage claims. However, this message has been delivered in the context of high unemployment, the threat of capital flight, and a weakened union movement.

The clear aim of enterprise bargaining is to facilitate workplace level change designed to help enterprises respond to the above external pressures; to increase competitiveness; reduce operating and labour costs; increase operational and labour flexibilities and intensify the work effort. The ACTU has also argued that enterprise

bargaining can help to deliver better working and more flexible working conditions and genuine and sustainable wage increases over the longer term.

### Impact of External Pressures on Workplaces

These international and national pressures also impact on industries and individual enterprises. For instance, many enterprises have found themselves exposed to international competition for the first time, such as in the clothing textile and footwear industries, while the deregulation of the financial markets has seen the entry of many new players onto the domestic market.

### Case Studies

The case studies show that the perception of the need to be 'competitive' and efficient, places pressures on all workplace players to implement change. These pressures to change and compete more successfully may at times come into conflict with OHS priorities.

**Table 2.1: External Pressures for Workplace Reform and Key Drivers for Enterprise Bargaining**

Company	External Pressures For Reform Identified By Managers And Employers	Key Drivers For The Agreement
Ace Embroidery	No real external pressures, expanding niche market	Informal bargaining; no registered agreement, desire to formalise existing conditions through a registered agreement
The Textiles Company	Reform of the textile industry which has led to removal of tariff protection and exposure to international competition, especially South East Asia.	A Union enterprise bargaining claim provided the opportunity for management ask for trade-offs in terms of shift arrangements, changes to organisational structure, multi-skilling and improvements in non-wage benefits such as family leave

**Table 2.1: External Pressures for Workplace Reform and Key Drivers for Enterprise Bargaining (continued)**

Company	External Pressures For Reform Identified By Managers And Employers	Key Drivers For The Agreement
RC 1	Local Council Competitive tendering and the entry of large multinational waste disposal companies into the market	Reduce amount of paid overtime; speed up work, even out payment
RC 2	Local government reform measures in Victoria and the introduction of Compulsory Competitive Tendering (CCT)	Prepare business units for compulsory competitive tendering; union's desire to increase productivity in order to bid successfully and retain jobs
The Bank	Higher levels of competition from banking and non-banking sources intensified since deregulation of the finance industry; international benchmarking targets	Improve productivity and profitability, address flexibility issues, especially hours of work; streamlining of work processes
The Insurance Company	Intensified competitive environment, standardised products on the market	Takeover by the parent company intensified attempts to improve productivity and ensure viability of the operation; also an attempt to increase unity and mobility between the newly merged companies.
Lady Gowrie Child Centre	Increased participation of women in the labour market and consequent growth in demand for childcare services; pressures to provide flexible and affordable hours of operation; quality accreditation.	Union drove the EBA as a desire to catch up wages and conditions; management keen to secure agreement to formalise working arrangements.
CSO	Scarce government resources amidst a climate of increased demand for the crisis service; pressures to run leanly and efficiently; response to industrial relations reform climate	Management driven desire to formalise awards, need for a flexible industrial relations structure; need to reduce overtime being worked
Con1	Decline in the construction market, increased competition, industry reform	EBA part of Con1's continuous improvement program; facilitate flexibility changes, RDOs, productivity improvements and OHS; union keen to secure wage increases and improve job security

**Table 2.1: External Pressures for Workplace Reform and Key Drivers for Enterprise Bargaining (continued)**

Company	External Pressures For Reform Identified By Managers And Employers	Key Drivers For The Agreement
Con 2	Difficult economic climate, market pressures to become competitive	Improve competitiveness by increasing flexibility; multi-skilling, improved communication, consultation; union keen to secure wage increases and job security; part of the ongoing rivalry between management and the union over the loyalty of the workers
The Manufacturing Company	Competition with low wage economies of the Pacific rim; decline in tariff protection coupled with the decline of the Australian dollar.	Management initiated desire to formalise change processes already implemented; workers desire to increase job security and wage issues
CTAL	Concern about waterfront efficiency, reliability and international competitiveness led to Waterfront Reform Programme. This promoted enterprise bargaining as a reform outcome.	Waterfront reform process drove the agreement, increase management's right to manage; increase enterprise focus, shift loyalty of the workers from the union to the company

Only two of the case studies - Lady Gowrie and CSO - were not seriously exposed to increased domestic and international competition. On the other hand, they experienced different kinds of external pressures resulting from increased demand for their services in the context of stretched government resources. These organisations had looked at bargaining both as a way to formalise and/or improve working conditions and as way of facilitating internal workplace flexibility. There was not the same intensity of pressure to cut labour costs, or to speed up work as in some of the other examples.

All the other case studies cited the role of an increased competitive environment. This was either in the form of increased exposure to international competition brought about through the removal of domestic protection, as in Textiles, Clothing and Footwear, or through the entry of new multinational players into the domestic

market, such as in the recycling and finance industry. Pressures such as an industry downturn - as in construction, or industry reform, as in the waterfront industry were also significant. In these examples there was a perception of an 'economic imperative' driving the decision to pursue enterprise bargaining.

A desire to lift enterprise performance is at the core of enterprise bargaining as the objectives set out in agreements reflect. The following is an overview of the main objectives included in agreements listed in ADAM.

**Table 2.2: Examples of Some Key Objectives in Enterprise Agreements**

Key Objective	Percentage Of Agreements
Improve competitive performance, increase productivity, increase profitability, improved efficiency, continuous improvement	65
Reorganisation of work, increased flexibility, new culture, introduction of new technology, changes in work organisation	60
Labour/Management cooperation/communication including the specification of processes, information dissemination	52
Improvements for employees such as EEO, improvements in safety, job satisfaction, employment security	47

Source: ADAM, February 1995, ACIRRT

## **Implications for OHS**

### ***The Push for Economic Performance May Subordinate Concerns for OHS***

In the pursuit of improved performance and profitability there are clearly articulated expectations that workers will negotiate the removal of some of the perceived barriers to efficiency. While employers, workers and unions may share the objective of maintaining the viability of the enterprise, their willingness or ability to concede changes to working conditions and work arrangements may be different. Indeed, they may be divided about what the changes and strategies should be, who should bear the costs, and how the benefits of workplace reform should be distributed. Some trade unions may find themselves torn between trying to protect their members' conditions while at the same time advancing the federal government's and ACTU's agenda for change through enterprise agreements. *Importantly, these issues may see the health and safety implications of changes introduced under enterprise bargaining subordinated to the primary aim of bargaining itself, to secure the financial and operational viability of the enterprise in a climate of increased competition.*

In many of the case studies, structural and ideological factors acted to diffuse concern for, and recognition of, health and safety as an issue which might be affected by workplace change. In short, the philosophy underpinning the agenda for change has influenced attitudes towards OHS. This helps in part to explain why the OHS implications of enterprise bargaining were sometimes not recognised or considered. The reticence or failure to recognise the potential OHS implications often occurred because other more pressing economic issues seemed to dominate the bargaining agenda.

### ***Economic Imperatives May Compromise the Ability of Workers to Raise OHS Issues***

Workers who worry that the alternative to change may be the loss of their jobs are less likely to oppose change on the grounds that they may experience a diminution of wages and conditions. This may mean that health and safety issues associated with work changes will not - at the time - be recognised or have the same priority that ensuring the financial viability of the firm or securing jobs might have. Indeed, this was the experience in Britain.

Dawson et. al. (1988) in an extensive evaluation of the British health and safety environment, concluded that the onset of the recession and increased competition had seriously compromised health and safety. Pressures on firms to cut back specialist health and safety roles, and pressures to contain labour costs and to increase productivity all impacted on health and safety outcomes. The recessionary climate and a slack labour market forced individual workers to accept unsafe work conditions due to fear of dismissal or retrenchment, and to take risks in order to increase wages (p258). Although managers did not necessarily make conscious decisions about reducing health and safety standards, Dawson et. al. argue that the *'infrastructure which supported effective safety management seemed to disintegrate'*. Managers were pressed by other priorities, reorganisations blurred safety responsibilities, OHS activity declined and the activities necessary for maintenance of health and safety were eroded (p258).

The ways in which the economic environment can impact on the bargaining agenda are illustrated in the following examples.

### ***Case Study Example: Recycling Company 2***

In this local government organisation the recycling service was placed under considerable pressure to cut costs and compete with small contractors. The bargaining process itself was perceived to be 'successful' in that the teams were operating well and management achieving their goal of improved productivity with fewer staff.

However, work intensification was acknowledged as a potential problem by both staff and management. At the same time, neither party would risk losing the contract if the only solution was to increase the size of the work teams and therefore increase costs.

The experience of this case study suggests that at times of great job insecurity or imposed change, workers are prepared to accept greater work intensification as it means retaining their jobs. Because the hazards created by work intensification are not likely to result in immediate negative outcomes, this allows consequent potential hazards to be given a low priority.

### *Case Study Example: The Textiles Company*

The Textiles Company exemplifies how exposure to international competition creates pressures on the workforce and management to implement changes designed to save the company from being moved off-shore. The takeover by a US Company created pressures to reduce production costs. To increase competitiveness there was a need to upgrade plant, and management perceived a need to operate with more flexible shift provisions. Management sought the capacity to operate machinery 7 days per week 24 hours per day without penalty rates. At the same time, as a result of the takeover, workload has doubled with only a 30% increase in the workforce. The unions, supported by the workforce, successfully resisted the more radical shift provisions sought by management. The major changes involved more flexible shift arrangements, increased multi-skilling and a new classification structure, and the intention to establish productivity targets. At the same time, the agreement includes a comprehensive array of OHS clauses, initiated by the Union and supported by the new HR manager. However, the OHS implications of the changes to work practices are not widely recognised and visible commitment from senior management to OHS, or to the consultative processes set up by the EBA is not evident. OHS continues to be treated as a low priority as production imperatives increase.

### *The Philosophy of 'Reform' in the 1990s Accepts Costs Associated with Change*

The philosophy of reform in the 1990s gives pre-eminence to the economic viability of the firm and this can subordinate other workplace issues to this primary focus. In particular, the detrimental impact of reform on the OHS of workers may be considered less important than the overall benefits of reform.

The workplace reforms promoted in the 1990s, particularly under the mantle of enterprise bargaining, are different to reforms promoted in the late 1970s and 1980s. At that time, workplace reform was about the empowerment of workers through industrial democracy, improvements in the social wage, strengthening of occupational health and safety<sup>2</sup> and increasing flexibility for workers. This sought

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<sup>2</sup> See for example, Davis and Lansbury (1986).

to improve conditions, humanise work and allow workers to better juggle the demands of work with other responsibilities.

In contrast, the philosophy of 1990s workplace reform is more focussed on improving workplace efficiency and flexibility, increasing worker effort and strengthening the rights of managers to implement change. Flexibility today means *enterprise flexibility* where workers are meant to adapt flexibly to the product and service demands of the enterprise (Campbell, 1994). The 1990s 'reform' philosophy is about workers making adjustments to wage demands and working conditions in order to improve the overall economic health of the enterprise and ultimately the nation.

Within this ideological context, workers and unions who raise objections to workplace change on the basis of occupational health and safety may be seen as *obstructing* the pace of reform by trying to hang onto what are viewed as 'restrictive' work practices and an inflexible approach to deregulating hours of work. These may be perceived by management as being associated with outdated modes of workplace arrangements more suited to the 1970s than the 1990s.

### ***Tensions Over Greater 'Workplace Loyalties' May Create Conflicts of Interest***

One of the central tenets of the reform philosophy is that employees should identify more closely with and develop greater loyalty towards the enterprise. The aim is to encourage workers to take greater individual and group responsibility for work effort and output and to see it as directly linked to the profitability of the firm. Under enterprise bargaining, one aim is to tie reward systems to the performance of the enterprise, rather than to an industry standard, as under the award system. This improved 'fit' between the profitability of the firm and worker effort is seen to be better facilitated by enterprise bargaining over wages and conditions than by more centrally regulated award systems.

There is an expectation that enterprise bargaining can be undertaken within an environment of trust, consensus and cooperation between the bargaining parties. Any bargaining imbalance is thought to be resolved either through negotiation and/or the retention of a 'safety net' of minimum wages and conditions protecting weaker workers. There are similar claims about a commonality of interest which is

said to exist between the parties over occupational health and safety. There are two divergent views.

One view, represented by commentators such as Mathews (1990), argues that the new workplace culture in industrial relations has the capacity to improve OHS outcomes, and that within a high trust and participative environment the traditional trade-offs between health and safety and productivity can be controlled. Indeed, enterprise bargaining may result in improved and positive relations between management and unions, between workers and management. This may help to develop an environment within which health and safety can be improved, as in the Lady Gowrie Child Centre case study.

Another view, represented by writers such as James (1987), questions this commonality of interest between workers and management and argues that OHS and bargaining outcomes may reflect the tensions and conflicts between the parties more than they reflect shared interests. Tensions can also emerge between management and unions over the winning of worker loyalties which can be heightened by the process of bargaining. Success for management may be viewed as successfully shifting the loyalties of the workers away from the union and towards management. This may act to pervade negotiations and consultation over health and safety issues and processes.

Priorities for all of the parties occasionally come into conflict. For the unions, helping to facilitate change and advocate on behalf of the workers can become a complex and often contradictory task. Some - such as the ACTU - support the involvement of trade unions in negotiating with management on behalf of their members to secure an outcome equitable to all parties. Others argue that a positive role for trade unions at an enterprise level is difficult to sustain and that unions represent a market imperfection by increasing the costs of labour above competitive levels (Wooden, 1990:81).

Health and safety issues and industrial relations issues, which generally overlap, can be caught up in the contest over the loyalties of the workers and the rights of managers to manage. As revealed by the case studies, this can result in a range of outcomes.

- Sometimes it can be an opportunity for the workplace players to negotiate cooperatively around a range of issues and try to reach agreement in a way

which improves outcomes for all the parties. OHS outcomes are much more likely to be positive in such an environment, as was the case in the Lady Gowrie case study.

- On occasions it can involve jockeying between management and the union over the winning of workers' loyalties. Insofar as this heightens tensions between the parties it may act to increase antagonisms, as was the case in CTAL. This is not an environment conducive to positive OHS outcomes.
- It can also result in the ultimate exclusion of unions from the bargaining process, as in the case of The Manufacturing Company. In these situations OHS may be compromised because antagonisms are created and resources and energies are channelled into industrial conflict, or because in the long run workers' representation is diminished.
- It may also place subtle pressures on workers to intensify the work effort and accept a diminution of conditions as proof of their commitment and loyalty. Here OHS priorities may be subordinated to perceived higher priorities such as the need for longer hours of operation as a response to the increased customer focus of the enterprise, as was the case in the finance industry case studies.

## **2.2 REGULATORY FRAMEWORK FOR ENTERPRISE BARGAINING: SIGNIFICANCE FOR OHS**

A convergence of the factors outlined above led to the formal shift towards the decentralisation of negotiations over wages and conditions in Australia which commenced in the late 1980s. While informal and unregistered enterprise bargaining has always existed, and at times flourished in Australia (ADAM No.4 1994), attention continues to be focussed on *registered* agreements at state and federal level. Indeed, public debate has centred for the most part on the formal regulatory framework which defines the parameters within which the industrial relations players - employers, trade unions, government bodies and employees - operate.

The extent to which enterprise bargaining has 'freed up' the industrial relations system has been the subject of some debate. Buchanan and Callus (1993), for instance, argue that considerable flexibility has always existed within the arbitration

and conciliation system, and the shift to enterprise bargaining should not be seen as an attempt to *deregulate* the industrial relations system, but rather to replace the pre-existing system of external regulations with rules that are determined *within* business units, that is, *internal rules*. This has also had the effect of removing some of the protective mechanisms which existed within awards governing many aspects of wages and conditions, lessening the capacity of tribunals to intervene on such matters. As Campbell (1995:1) argues,

'...the change is most accurately understood as resulting in a decisive shift in bargaining power, expanding the scope for management prerogative in the determination of wages and conditions'.

Whether or not enterprise bargaining represents a radical or marginal change in the industrial relations system will depend in part on the capacity of individual unions and groups of workers to bargain effectively, and to minimise the tendency towards 'concession' bargaining, where conditions are traded off for often meagre wage rises (Campbell, 1995:1).

Nevertheless, there is little question that the registration of enterprise agreements, either as a replacement for awards or as a supplement to awards is increasing. The following table provides a recent estimate of the scope of registered enterprise agreements across the jurisdictions.

**Table 2.3: Registered Enterprise Agreements Across the Jurisdictions**

Jurisdiction	No of Agreements	Estimated No of Employees Covered	Percentage of Awards Covered Employees
Federal	3240	1 414 000	57
NSW	1081	283 000	25
Vic	360	not available	not available
SA	190	2 564	1
WA	346	29 303	8
Qld*	497	176 816	25
Tas	85	1 188	2

\*Note: Qld figures are derived from March 1995.

Source: Federal Department of Industrial Relations at end of January 1995

### Differences in Institutional Arrangements

The generic term 'enterprise bargaining' is used to describe this general shift towards workplace level negotiation and flexibility over payment systems, hours of work, demarcations and work processes. However, the various institutional arrangements found within the different jurisdictions obscure important differences (Bennett, 1994:191). These jurisdictional differences determine the degree to which minimum award provisions have been maintained, the extent to which 'collectivist' traditions of negotiation have been weakened or maintained, and the impact on the role of trade unions. These issues are likely to be important when considering the implications for OHS.

Bennett (1994:191-192) argues that the different state and federal jurisdictions are part of a continuum. At one end there are the more individual contract systems of Victoria and Tasmania, affording little procedural protection for weak labour market positions, and at the other the more 'collective' systems where the labourist tradition of arbitration has been retained to '*temper market outcomes*'.<sup>3</sup> According to Bennett (1994:193) there are three major types of processes for bargaining which will impact on outcomes. These types are typified by the registered unions/single bargaining units found in the Federal sphere; enterprise based committee found in NSW and individual employees/bargaining agents found in Victoria.

In addition to the legal and institutional arrangements, Quinlan (1993:6) argues that the implications of enterprise bargaining for OHS will also depend the organisational strength and commitment of the unions and on the attitude of employers. Significantly, he argues that where the law has abolished awards, or permits enterprise agreements without union involvement, or where workers are weakly organised and unions lack bargaining strength, then the outcomes for OHS are likely to be adverse. The importance of the changes to the regulatory framework may lie in the way they act to shift the bargaining power of the parties and compromise the capacity of workers or unions to intervene over OHS issues.

Drawing on these issues, the different systems will now be examined in terms of:

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<sup>3</sup> For detailed commentaries on legislative changes see Naughton (1994), Stewart, (1994), Naughton and Mitchell, (1993); Shaw and Walton, (1994).

- the ways in which the different legislation affects the role and functions of unions
- the extent to which minimum conditions have been maintained
- how the bargaining processes and arrangements ensure that workers - whether or not they are represented by unions - fully understand and are able to scrutinise the changes contained in agreements.

### 2.2.1 The Federal Regulatory Frameworks

At the federal level, the *Industrial Relations Reform Act* (1993) which came into force on 30 March 1994 was aimed at entrenching and spreading enterprise bargaining as the predominant form of negotiation over wages and conditions (Lee, 1994:190). There are a number of features of the legislation which are worth considering in terms of their possible significance for OHS.

#### *Bargaining Processes and The Role of Trade Unions*

Two types of enterprise agreements are available under the Federal Act. First there are Certified Agreements which a union or unions must be a party to, and EFAs (Enterprise Flexibility Agreements) which may be negotiated between employers and employees without union involvement (Naughton, 1994:156). The provisions regulating both EFAs and Certified Agreements are extremely complex and contain many potential areas of uncertainty surrounding the definition of 'consultation', 'bargaining in good faith', 'safety net' and so on (Stewart 1994:145).

Some commentators have argued that the impact of the legislation has been to weaken union security and union recognition which will result in a general undermining of collectivism (Weeks, 1995). In the case of EFAs, concerns that the requirement for employers to be a respondent to a federal award upon application for approval may have left open the way for trade union intervention, have been allayed (Stewart, 1994:145). In the *Asahi* decision the AIRC Full Bench stated that while it had the '*discretion to encourage and facilitate bargaining*', it did '*not have the power to order a person to negotiate*' (Naughton 1995:7). This has cemented the legislation's capacity to exclude unions from EFAs. It may also encourage

employers to ensure that they *do not* have union members as a way of guaranteeing that they can avoid union involvement altogether.

### ***Implications for OHS of a Reduced Role for Trade Unions***

The need for positive OHS outcomes to be underpinned by appropriate levels of consultation and active trade union participation has been highlighted by a number of researchers including Biggins (1993), Quinlan (1993), and Brooks (1988b). There is also preliminary evidence that there exists a positive relationship between the presence and activity of trade unions, and the level of OHS activity at a workplace level (Pragnell, 1994).

Williams (1993:77) argues that unions also have an important contributory enforcement role in ensuring that standards and rules are adhered to. In addition, trade unions are important in the dissemination of information, the identification of hazards and the promotion of training - all important components of a sound OHS programme.

Quinlan (1994:6) argues that union involvement in OHS is important not only in terms of giving workers bargaining strength, but also in influencing the approach adopted by employers. The recent Industry Commission draft overview into occupational health and safety reaffirmed the importance of both employee representation and the role of trade unions. The IC stated that *'trade unions can play a significant role in producing good occupational health and safety outcomes'* (Industry Commission, 1995:23). Clearly, the extent to which the new IR Act encourages non-union bargaining may be of concern for OHS outcomes where it acts to diminish the role of trade unions, or where it allows bargaining to by-pass unions altogether.

Unions and management have an important role to play in the bargaining process in the identification of changes to work practices and work systems which may have OHS implications. Management has a legislative duty of care to ensure that changes to work systems and working arrangements do not constitute a hazard or potential danger to the health of workers. Unions have a clear responsibility to ensure that workers fully understand the implications of these changes and that changes will not disadvantage them.

The role of trade unions is especially critical because workers may not be adequately trained or sufficiently well-informed to be able to understand what the changes to hours of work, shift arrangements, multi-skilling and staffing levels may mean. Workers may also not be in a sufficiently strong bargaining position to be able to raise these issues without representation. Much will also depend on the skill levels and understanding of the individual employees or employee representatives involved in the negotiation process.

However, trade union involvement is no absolute guarantee that these issues will be satisfactorily addressed. Where unions are involved, the pressure on trade union resources created by enterprise bargaining, and the need to protect even basic levels of wages and conditions, may mean that health and safety issues become less important in the bargaining process. Similarly, trade union officials may not have a thorough understanding of the work systems involved and may not appreciate the full implications of changes to hours of work, work arrangements and so on. It is therefore critical to ensure that negotiations also include workplace delegates or other employee representatives who understand the complexities of the work processes involved.

Although trade union involvement in the bargaining process is no guarantee that OHS implications of changes will be identified, their absence does cast doubt on the capacity of workers to adequately represent their own interests.

### *Case Study Example: The Manufacturing Company*

The Manufacturing Company has a federally registered EFA and demonstrates the way in which the regulatory framework, which governs the bargaining process, can enable management to by-pass an established union and potentially decrease the role of the union within the company. In this example, the avoidance of the union was not management's original intention, but the reluctance of one of the unions to reach agreement led to a stalemate. The Act allowed management to abandon negotiations for a certified agreement to which a union must be a respondent, and seek an EFA where there was no requirement that unions be involved, even though there were union members on site.

The process itself became a process whereby the loyalty of workers towards the union was tested and workers chose to support an EFA. Prior to the EFA the union

had been actively involved in the OHS committee and had been able to raise OHS issues around changes to work practices. At the time of writing there does not appear to be a diminution of management's commitment to OHS but the potential exists for the changes in employee representation to have adverse consequences for OHS. This is especially the case when the enterprise agreement is renegotiated and the relevant unions may no longer have the right to have input to the bargaining process.

### ***Implications for OHS***

#### *Weakness of the 'No Disadvantage' Test*

The federal 'no disadvantage test' requires the Industrial Relations Commission to decide whether certification of the agreement would result in the reductions of any entitlements or protections which the employee may enjoy under an award, EFA or any other law the Commission considers relevant. If the Commission decides such a reduction occurs, then it must decide whether, in the context of the terms and conditions of the employees concerned as a whole, the reduction would be contrary to the public interest.

The 'no disadvantage' test is a weak test for assessing the more subtle and long term effects of issues in agreements such as productivity targets, performance indicators, bonus systems, reductions in staffing levels and 'flexible working time arrangements' - all of which may lead to work intensification.<sup>4</sup> This is also because the significance of the changes may not be immediately discernible, and may manifest themselves in the longer term. Long term assessment, rather than just assessment at the point of registration, would be required to fully evaluate the impact of such changes.

Moreover, the 'no disadvantage' test is not designed to assess the impact of changes within agreements, which may have to be assessed in conjunction with other types of changes at an organisational level. Changes to work practices which may appear to be insignificant within the context of an agreement may in fact have major significance when assessed in the light of organisational restructuring and

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<sup>4</sup> See Bennett (1994).

downsizing. For instance, extending the normal span of hours may on its own may not constitute a hazard, but combined with reductions in staffing levels, may represent serious work intensification.

As Campbell (1995:30) argues, to consider provisions in agreements either in isolation from the starting point of the previous arrangement, or in isolation from other provisions, is erroneous since it misses the interrelationship of provisions and the total effect on the workplace. For example, a wage increase to offset the effects of working a longer span of hours may lead to unacceptable levels of fatigue and work intensification out of proportion to the wage increase awarded in compensation. In addition, it is unlikely whether consideration is given to the type of work being undertaken and whether it is suited to extended shift arrangements.<sup>5</sup>

The following case study highlights the importance of assessing changes within agreements in conjunction with other organisational level changes and the weakness of the 'no disadvantage' in situations such as these.

### *Case Study Example: The Textiles Company*

The Textiles Company demonstrates the ways in which market pressures, other organisational changes and enterprise bargaining changes converge. It highlights why it is critical to consider changes contained within agreements in the light of other changes not contained within the agreement but which may compound the effects of the EBA changes. The overall result are levels of work intensification which may not have been apparent by merely looking at the changes within the EBA.

The takeover of The Textiles Company by a US company involved considerable internal restructuring. There was also the pre-existing threat of the company being moved off-shore. Moreover, the parent US company expected rapid reductions in production costs. As a consequence, the workload doubled with only a 30% increase in staff. More specific changes contained within the agreement included increased functional flexibility and multi-skilling, an agreement to look at increased operations and increased flexibility in shift arrangements. The agreement also increased the length of time casuals can be employed from eight weeks to four

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<sup>5</sup> See Williamson (1994) for a full discussion of the case for and against extended shifts.

months. While the agreement is comprehensive in terms of OHS content, including provisions for training associated with multi-skilling, and formalises OHS processes and procedures, many aspects of the OHS management systems have not yet been implemented.

Overall, these combined changes, flexible shift arrangements and flexibility in ordinary hours, may increase levels of stress, fatigue, manual handling, exposure problems to hazardous substances and increased exposure to noise. This situation is compounded by aging and inflexible technology.

#### *Trading Off Conditions for Wage Rises*

The practice of providing wage increases to offset a reduction in working conditions is highly questionable and can be seen as a form of 'danger money'. Productivity bargaining requires that working arrangements and 'inflexibilities' governing work are assessed and rigidities removed. Often workers only have above award conditions associated with break and rest arrangements, 'picnic' days and other non-wage conditions which they can 'trade off' to prove they have made productivity improvements. This may not be a problem in the short term for industrially strong workers who have built up a buffer of conditions they are able to trade off without undue hardship. However, for many industrially weak workers, their award conditions have only ever been slightly above minimum levels. They therefore will have to cut into essential conditions at an early stage, often surrendering conditions which have helped to alleviate the hardship associated with the job.

Bennett (1994:200) argues that minimum protection should be assessed in terms of how widely defined the protections are, whether they cover standard wages and hours or whether they extend to protection of community and social norms, excessive work intensification and the provision of common social and family time. This is a critical point since many conditions governing hours of work in particular were developed around community assumptions about the rights of workers to social time with their families at standard times such as weekends and at nights. While it may be tempting to try to allocate a monetary value as means of compensation to the removal of these conditions, it is likely to vastly underestimate the social and personal costs borne by individual workers.

*Protection of Marginal Workers*

One of the key aims of enterprise bargaining has been to promote greater workplace flexibility. At the same time, there has been an increase in the use of casuals and contract workers to cope with fluctuations in demand or production.<sup>6</sup> This employment may lead to a displacement of more hazardous and mundane work onto marginal workers because they are excluded in many ways from the OHS and IR legislation.

Existing OHS legislation continues to leave marginal workers - specifically contractors - in a less advantageous position to full time and permanent employees. Creighton (1994:62) describes how workers deemed as having 'non-employee status' and subcontractors in particular, are in a markedly less advantageous position to employees. They have fewer employer duties owed to them or access to protection through elected health and safety representatives and safety committees. They also continue to be denied access to damages actions for breach of statutory duty in most instances.

Creighton argues that there are considerable financial incentives for employers to engage contractors rather than employees. This is especially the case in a competitive market environment where the oncosts of direct labour may place companies at a disadvantage, or where competitive tendering allows for reductions in units costs (1994:62).

In terms of OHS, some of the case study examples reveal that the health and safety standards and outcomes for subcontractors can be inferior, as in the case of RC1, either because dirty and dangerous work is sub-contracted out, or because enforcement and regulation of OHS for subcontractors is difficult (CFMEU, 1994; Nichols, 1986)<sup>7,8</sup>.

The federal legislation neither specifically makes provisions for the protection of these workers, nor does it in any way act as a disincentive to the growth of marginal

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<sup>6</sup> See Bray and Taylor (1991) on marginal workers and trade unions.

<sup>7</sup> Interview with CFMEU, August, 1994.

<sup>8</sup> This has been supported by a British study by Nichols (1986) who argues that the shift away from direct employment in general renders workers more vulnerable to poor health and safety.

employment. Indeed, by excluding many of these workers from non-wage conditions such as maternity leave, sick leave, long service leave, and paid holiday leave the federal legislation can render marginal workers a cheaper and more flexible option than the employment of permanent staff. In many respects, the legislation has not responded adequately to the issues and problems which confront marginal forms of employment and its consequences for workers (Creighton, 1994).

However, the case studies have also shown how the enterprise bargaining process can be used to improve the OHS standards for subcontractors, by better integrating them into the OHS standards and processes of the principle contracting companies. As the following case study also reveals, the use of EBAs to improve conditions for marginal workers will also be more likely where there is an active trade union who are acting to also protect their own wages and conditions. Overall, it will be seen that market pressures can act as a barrier to the promotion of positive OHS standards among sub-contractors.

### *Case Study Example: Con 2*

Con 2 is an example of how current market pressures converge with enterprise bargaining to make it difficult to avoid using sub-contractors. At the same time the case study shows how, through the efforts of an active trade union, the negotiation of an EBA can be used to try to improve the OHS conditions and standards of subcontractors. It also highlights the importance of the legal status of the employment relationship and the weakened responsibility companies have towards sub-contractors.

Con 2, through the EBA has trialled the increased use of direct employees to perform some functions traditionally undertaken by subcontractors. This was an effort to not only improve quality and reliability, but to address in part the OHS problems of sub-contractors. However, Con 2 has a genuine commitment to ensuring that OHS requirements are met by sub-contractors, who both the union and management recognise as the greatest barrier to improving OHS on the site. The aim is to employ only sub-contractors who fulfil Con 2's OHS requirements. There was a formal procedure for the control of sub-contractors in relation to safety management. This involves a safety evaluation prior to the awarding of the contract as well as compliance once the contractor is on site. However, this has not yet been

implemented at a project level, and there is some concern that market pressures on sub-contractors will continue the problems of unrealistic tenders which cut corners and compromise occupational health and safety.

### 2.2.2 New South Wales

All of the issues raised with reference to growth of EFAs in the federal legislation hold for NSW. However, the NSW legislation does have further implications for trade unions primarily because of the restrictions placed on trade union access to workplaces. It also offers less protection for the maintenance and protection of award conditions.

#### *Trade Unions*

The NSW legislation places constraints on trade union activity at a workplace level by restricting access to workplaces unless seven days notice is given<sup>9</sup>, and restricting unions right to talk to union members during breaks and other non-working time. Macken (1994:43) describes these provisions as follows:

'The Act is unashamedly anti-union...lets face it...to allow right of entry after seven days notice of a specific complaint is to allow the employer to either 'cook the books' or 'get' the complaining employee. There can be no other reason for the change'.

This restriction on trade union activity has potential implications for OHS because it limits the role of trade unions to be able to spot-check hazards and the conditions of workplaces, and it constrains consultation with members, opening the way for management to pressure workers during the seven days notice. This may dissuade employees from contacting unions for fear of being identified or being labelled as 'agitators'. Given the potential importance of trade union activity in the identification of health and safety hazards, the dissemination of information and advocacy role on behalf of workers, this restriction may be potentially serious for OHS.

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<sup>9</sup> *Industrial Relations Act 1991 (NSW) Section 733.*

### *Protection of Minimum Conditions*

Unlike the federal legislation, agreements registered under this Act may override all or any of the conditions set out in New South Wales awards, with the retention of minimum conditions, such as holidays and sick leave, being the only 'safety net' requirement (Naughton and Mitchell, 1993:286).

There has also been little attempt under the NSW legislation to use the registration process to anticipate the ways in which award conditions may be undermined to produce unsafe systems of work. This is despite the fact that the 1983 NSW *Occupational Health and Safety Act* obliges the employer to ensure that *systems of work* do not constitute a hazard. Moreover, the agreements are excluded from any 'no disadvantage' test or any general public interest test.

While there is a requirement that the enterprise agreement must be approved by a majority of 65% of employees, the legislation does not in any way guarantee that the employees involved in the negotiations are fully cognisant of the implications of the changes. *Knowing what the changes are is not the same as fully understanding their implications over time.* Further, unlike the AIRC, the NSW Commission cannot refuse to register an agreement that undermines community standards even if employees are supportive of the changes. Indeed, Shaw and Walton (1994:6) argue that:

'While all agreements must comply with minimum conditions, if a proposed agreement in some way undermined overall conditions of employment (perhaps with the agreement of industrially weak or poorly advised employees) the Commission cannot prevent the agreement being registered'.

Once employees have agreed to the changes, they may be locked into the agreement for three years, as was the case with RC1. This then locks workers who subsequently join the company into this agreement, even though they were not originally a party to it. This is also clearly the case with the federal legislation.

There is the additional problem that changes made to working conditions which may have been appropriate at the time are no longer appropriate in another environment or in different circumstances. There may not be as much flexibility in the enterprise

bargaining system to change only certain aspects of the agreement rather than have to negotiate all of the agreement again. For example, an undertaking by workers to agree to a 'work to finish' arrangement may have been agreed to on the basis that the workload could be finished in an 8-10 hour shift. However, if business activities increased, a shift of 10-12 hours may be required to finish the job. In other words, an agreement to work flexibility in the context of one set of market conditions may present workload problems for employees if this set of conditions changes and may undermine minimum conditions over time.

### *Enforcement Issues*

Some state and federal enterprise agreements have included specific OHS clauses in agreements. There has been a tendency to equate the comprehensiveness of OHS clauses in agreements with evidence that OHS has been considered in the bargaining process or has the potential to be more effectively addressed at a workplace level through the agreement (eg Betts, 1994:16). There are a number of issues which have significance for OHS outcomes.

First, Section 97 of the 1993 *Industrial Relations Reform Reform Act* specifies that in the determination of an industrial dispute the Commission shall take into account the provisions of any law of a state or territory relating to the safety, health and welfare of employees in relation to their employment. However, it is questionable whether this would ensure that would act to *preserve* the general duties, regulations and standards of the states and territory.<sup>10</sup> The focus of the federal legislation is therefore to merely take into account rather than ensure that OHS laws and regulations are preserved. Moreover, the Act is silent on the process of certifying federal enterprise agreements, which raises the second issue.

This is, that while there is some provision in the Federal Act to take into account OHS issues, there is no firm undertaking to take into account or preserve OHS standards and regulations in the act of certifying federal enterprise agreements.

Indeed, Worksafe Australia (1994) and the ACTU (1994) have previously raised the issue of OHS clauses within federal awards potentially overriding state

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<sup>10</sup> The author would like to acknowledge the input of Richard Johnstone from the University of Melbourne Law School for advice with this section.

regulations and legislation and 'downgrading' OHS standards at a state level. Both recommend that legal advice be obtained before drafting specific or substantive clauses within Federal agreements. The ACTU has also recommended the inclusion of a 'savings clause' designed to retain state OHS regulations and standards. But while savings clauses may preserve minimum OHS standards, depending on the manner in which the clauses are drafted, enforcement difficulties may still exist.<sup>11</sup>

Also, Federally registered workplace agreements which include OHS provisions that restate the requirements of Commonwealth and Territory government OHS legislation in total or in part can create enforcement problems (CCH, 1994: 90-129).

### **2.3 OHS REGULATORY FRAMEWORK**

The shift towards a greater decentralisation of negotiations of wages and conditions mirrored a similar shift to the workplace level for the management of health and safety in Australia in the early 1980s. Based around similar assumptions about the potential for consensus and cooperation at the workplace level, the new 'co-regulation' for health and safety was seen to promote greater employer responsibility for ensuring a healthy and safe work environment, irrespective of the individual workplace technology or hazards. The workplace is now perceived to be the level at which all major decisions about and management of wages, conditions and health and safety are most appropriately negotiated and managed.

#### **The Introduction of Robens-style Legislation in Australia**

Until the 1970s, the Australian approach to occupational health and safety (OHS) was modelled on British 'factory' legislation. This approach was typified by situation specific legislation which laid down minimum safety standards in Acts of Parliament or in regulations. The failure to meet those standards was an offence, enforced

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<sup>11</sup> See CCH (1994), Worksafe Australia (1994) and the ACTU (1994) for advice and recommendations about the form that clauses should take.

through the processes of inspection and prosecuted through an independent public inspectorate.<sup>12</sup>

In Britain, concerns over this system prompted a formal parliamentary inquiry on Health and Safety at Work established in 1970. The result was the 1972 'Robens Report', underpinned by four key assumptions which formed the basis of the legislative changes adopted in Britain and later, in part, in Australia. First, the report concluded that the pre-Robens approach was over-regulated with 'too much law', and that the punitive approach to enforcement had failed. Second, it concluded that apathy was the most important cause of accidents. Third, it asserted that the primary responsibility for prevention should reside with those most directly affected - employers and employees; and fourth, it alleged that employees and employers had a mutual interest in OHS matters (Quinlan & Bohle 1991:223). Another key assumption was that a strong and active trade union movement existed able to participate at a workplace level on OHS issues.

The broad thrust of Robens-style reform was to streamline the implementation of OHS laws by condensing the mass of 'old style' OHS related legislation into a single enabling statute which imposed *duties of care* on all workplace participants - management and workers. It was also designed to create a more effective *self-regulatory* system, instead of the prescriptive legislation contained within the old Factories Acts. The Robens Report contended that the protection of employees' health and safety would be best achieved by fostering cooperation and self regulation (alternatively, these terms combined have also been expressed as co-regulation) at the workplace. This was to be achieved by the introduction of 'flexible' performance standards as determined by codes of practice, a system of employee representation and the codification of the common law duty of care (Quinlan 1994:2). Theoretically this would create a framework in which the employers' designated responsibility could remain viable even in the context of changing work processes and newly emerging occupational hazards (Quinlan & Bohle 1991:208).

Prompted by the Robens reforms, state governments around Australia overhauled their industrial safety laws throughout the 1970's and 1980's (Quinlan 1994:2).

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<sup>12</sup> Creighton, B. and Stewart, A. (1990) *Labour Law An Introduction*, Annandale, The Federation Press, p263.

However, this does not mean that prescriptive legislation and regulations were fully replaced by Robens style legislation. Most states have retained and extended detailed sets of regulation covering particular hazards, industries or specific processes (Quinlan & Bohle 1991:212). All states and territories now have some form of Robens-style legislation. Consequently there are nine pieces of 'Robens-style' legislation that operate in conjunction with over 150 separate legislative instruments dealing with OHS. In addition there are industry specific OHS regimes covering workers in mining, petroleum and the maritime industries. Despite the legislative differences in each jurisdiction, there are important common elements reflecting Robens reforms.

To varying degrees each piece of legislation promotes two significant approaches in managing workplace health and safety. First, a *duty of care* is imposed on *all* employers, self-employed persons, occupiers and manufacturers. The duty of care also underpins the general rights and obligations in each jurisdiction. Affected parties are required to do everything 'reasonably practicable' to protect the health and safety of their employees. This requirement includes, but is not limited to, the provision of:

- a safe working environment;
- safe *systems* of work;
- equipment and materials in safe condition with adequate facilities; and
- information, instruction, training and supervision to enable work to be performed safely.

In determining whether the duty of care has been met, there is adherence to 'codes of practice' which have evidentiary status and as such may act as *de facto* regulations. While they are often used as a guide, they are not legally binding. (Brooks 1988a:353). Nonetheless, employers have to be able to show that they have achieved the required standard.

Second, the Robens approach allows for varying degrees of *employee involvement* in health and safety. Provisions have been made for the establishment of joint

employer/employee safety committees (as in NSW) and for elected and/or appointed employee safety representatives with varying degrees of power (as in Victoria).<sup>13</sup>

Whilst codes of practice and the employers duty of care are important in ensuring safer workplaces, the existence and proper functioning of OHS committees and representatives is critical in an OHS legislative regime predicated on cooperation and self-regulation. Employee representatives and OHS committees can provide a forum for employee concerns to be voiced and addressed. However, the extent of employee participation is limited by the inability of committees and representatives to give stop work directions in most states. The exception is in Victoria where OHS representatives have the right, after consultation with management, to direct a cessation of work in the face of a significant risk to the health and/or safety of employees in their designated work group.

Provisions for committees exist within all jurisdictions except Tasmania and the ACT. There are two methods outlined for establishing a committee. In jurisdictions where an employee Health and Safety Representative (HSR) exists, an OHS committee is established at the request of the HSR. In the two jurisdictions where there are no provisions for HSRs (namely NSW and Northern Territory) committees are to be established when requested by a majority of employees. In most jurisdictions there is a minimum workplace size to which these provisions apply. In NSW and NT, there needs to be 20 or more employees in a workplace for an employer to be obliged to establish a committee when so requested. In South Australia and Western Australia, there needs to be 10 or more employees for an employer to be bound by a request for an OHS committee.

### **Strengths and Weaknesses of the Current Approach**

The efficacy of the current legislative approach to OHS has been the subject of much debate. In 1994 the federal Government established an Industry Commission (IC) inquiry into the current OHS legislation and approach with the Draft Report being published in April 1995. In recommending that the legislation be reformed, the Industry Commission criticised the current OHS regime for inhibiting management's ability to implement *'the range of responses necessary for efficient prevention at*

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<sup>13</sup> See the appendices for an overview of the rights and responsibilities of OHS representatives and committees.

*each workplace'* (IC 1995:2). Some commentators such as Brooks (1988a) have been stronger in their criticisms of 'Robens-style' legislation. Speaking of the NSW legislation she stated that '*..there are alarming indications also that it is ineffective and possibly counterproductive'* (1988a:352).

To a large extent, many of these concerns relating to the legislation's' efficacy have emanated from the social and economic costs to community of workplace illness and injury which remain considerable despite the intention of Robens-style legislation. The IC estimates that annually around 500 workers experience traumatic deaths, a further 2200 die from work related illness and disease, whilst another 650 000 had injuries and illnesses, with costs estimated at \$6 billion. Employers pay \$5 billion in compensation premiums and \$2 billion in lost productivity and additional overtime. Taxpayers foot the bill for \$7 billion of social security and subsidised medical services. The IC further estimates that a 10% reduction in workplace injury and disease would increase national income by \$425 million annually (1995:2).

These concerns have led to a greater scrutiny of the assumptions and construction of Robens-style legislation in Australia. Some of the more general criticisms of the adequacy of the legislation have significance in light of the shift to enterprise bargaining.

### **Employer's 'Duty Of Care' and Management Systems for Health and Safety**

The 'duty of care' provisions within current legislation have been strongly criticised for their ambiguity and lack of specificity (Brooks, 1988b). However, the IC criticised the current legislation as being too prescriptive and not providing enough flexibility. While there is a level of disagreement on the issue there is evidence that compliance with the legislation has often been a matter of confusion. The vagueness of these standards means that employers may not be sure whether their behaviour is criminal until a prosecution is brought and the charges upheld or dismissed (Brooks 1988a:355). In practice, this lack of specificity has meant that the intention of the legislation to promote a preventative approach to OHS has been largely unfulfilled. Many employers have failed to implement OHS management systems which adequately regulate and monitor work *systems*. Indeed, many employers have not adopted the proactive approach to OHS which the 'duty of care' requirement aims to engender.

## Implications for Enterprise Bargaining

The existing OHS regulatory approach to the management of OHS has been found to be wanting both by past commentators (eg Brooks, 1988b), and in more recent times by the Federal Government's own Industry Commission (1995). Certainly there have been serious and sustained questions raised about the efficacy of the current approach. With both OHS management and enterprise bargaining there has been an assumption, perhaps misplaced, that workplaces, employers and employees had the time, resources, knowledge and *bargaining capacity* to adequately manage OHS and IR at a workplace level. Indeed, it may be that the resources already required to adequately manage OHS at a workplace level are strained by the extra resources required by enterprise bargaining

Implicit in many of the concerns and questions raised about the likely OHS implications of the shift to enterprise bargaining (eg Worksafe, 1994; Maiden, 1993; Bennett, 1994) is that there may have been an assumption that the *existing* OHS arrangements were not able to cope with the new demands posed by enterprise bargaining. Presumably, if the existing OHS arrangements were effective, responsive and flexible, they would have been able to anticipate and deal with any potential hazards created by enterprise bargaining.

The inability of some employers to adequately implement their duty of care with regard to OHS may indeed mean that their organisations are not well positioned to anticipate the OHS implications of changes to work practices and systems of work facilitated by the shift to enterprise bargaining. If workplaces do not even have the basics of a satisfactory OHS approach prior to undertaking enterprise bargaining, they may not be able to anticipate the OHS implications associated with the subsequent work changes.

## Summary

This chapter has highlighted how enterprise bargaining in Australia is taking place within the context of substantial economic and political pressures which are facilitating different types of change at a workplace level. It was also shown how the drivers for enterprise bargaining were primarily the search for improved productivity and enterprise performance and that the dominance of this focus could act to subordinate OHS in the bargaining process.

It was also seen that the regulatory framework for enterprise bargaining at both state and federal levels was not structured to address the OHS implications of enterprise bargaining. Moreover, the ability to erode award conditions and exclude unions from the bargaining process was shown to be potentially detrimental for OHS outcomes. An assessment of the existing OHS framework also raised concerns that workplaces may not be placed to anticipate the problems associated with workplace change.

Chapter 3 will examine more closely the nature of organisational change in Australia and explore the strategies for bargaining. It will also overview the key findings from the ADAM, WBS and AWIRS analysis.

### 3. The Nature and Extent of Workplace Change in Australia

Chapter 3 of the report examines the extent and impact of broad organisational change. The more specific workplace changes will be examined in Chapter 4.

#### 3.1 BROAD ORGANISATIONAL LEVEL CHANGE

The economic and political pressures for and regulation of enterprise bargaining generate a range of responses at an organisational level. Enterprise bargaining is but one response among many at a workplace level. Indeed, enterprise bargaining usually occurs in conjunction with other organisational and industry level changes. These other more structural changes such as industry and organisational restructuring, downsizing and ownership changes can also impact on health and safety, sometimes independently of enterprise bargaining, sometimes compounding its impact. *The impact of enterprise bargaining on health and safety will usually depend on the ways it interfaces with other types of organisational changes.*

The relationship between external economic and political pressures on organisations and workplaces, and their responses to them are not straightforward. Organisations can at times be short-term and reactive to these pressures and cut staff and focus on cost minimisation. Or they can be more responsive and proactive and look to restructure and refocus their business activities in ways which help to sustain their activities in the longer term (Tomasko, 1987). Organisations therefore adopt a range of strategies as ways of dealing with broader economic and political pressures.

Some organisations seek to change conditions in the external environment through actions such as political lobbying (Dunford, 1992:300). Others shift activities to other locations with more favourable business environments or lower wages; some merge operations or expand into new areas. The range of organisational responses are sometimes involuntary, sometimes aggressively proactive, and none of them mutually exclusive. These will often occur in tandem with enterprise bargaining

Probert (1994:100), writing about the Australian situation, argues that the causes for industry restructuring and change cannot be reduced to one overarching factor such as cost minimisation, but is rather the result of a complex and interlocking set of factors. Citing a 1990 study by Bagguley et. al. of Lancaster in England's north west, she explains that industry responses to factors such as the decline of traditional manufacturing and the rise of the service sector have involved technical change, production reorganisation and even spatial relocation. Probert argues that:

'... industrial restructuring might involve workforce flexibility based on multi-skilling and enlarged job functions, but it might equally well involve - as in the case of textile firms - more night shifts around expensive new technology' (1994:103).

She also states that strategies might involve direct confrontation with the trade union movement - as in Britain, or co-option of the trade union movement - as in Australia. Similarly, it may mean the deliberate employment of more weakly organised workers such as women in the finance industry, or workers from non-English speaking backgrounds in the clothing and textiles industry.

The situation is similar in Australia, where formal enterprise bargaining is occurring in conjunction with other broad organisational level changes. These changes may occur in the absence of formal enterprise bargaining. This is evidenced by the results of a study undertaken by Waldersee and Blackstock (1993) which consisted of a survey of 300 large Australian organisations to investigate the types of changes they had undergone in the previous three years.

**Table 3.1 The Three Most Significant Organisational Changes in the Last Three Years: Summary of Responses**

Type of change	%
Downsizing, rationalisation, devolution	34.8
Organisational restructuring	32.1
Quality and customer focus	28.4
Industrial relations changes	28.4
Participative management changes	23.0
Productivity programmes	16.5
Expansion	9.2
Training and staff development changes	9.2
Strategic thinking	9.2
Broad culture change	7.3
Management structures	6.4
Information technology	6.4
Safety changes	3.7
Technological changes	2.8
Global outlook	2.8
Communication changes	2.8
Environmental impact awareness	0.9

Source: Waldersee, R. and Blackstock, L. (1993) *Organisational Change in Australia; What's Really Happening? Working Paper No. 27*, The Centre for Corporate Change, AGSM, University of NSW, Kensington

These types of changes also appeared in the case studies. The results reveal that there are organisational level changes happening and that these can occur simultaneously with enterprise bargaining. These are outlined below.

**Table 3.2 Types of Organisational Level Changes Undertaken by the Case Studies**

Case Study	Type Of Other Organisational And Industry Level Change
Ace Embroidery	Growth of the company; CAD/CAM technology.
The Textiles Company	Taken over by a US company and restructuring as a result; affected by reform in the TCF industry; workload doubled while only a 30% increase in workforce.
RC 1	Company was sold to a large US waste disposal company; likely to mean the introduction of automated collection technology in the long term.
RC 2	Implementation of the Structural Efficiency Principle led to work and job redesign programme; Local Government Reform and the introduction of Compulsory Competitive Tendering (CCT).
The Bank	Introduction of new technologies such as automatic dispensing devices; restructuring of branch delivery systems, division of sales and transaction functions; flattening of the organisational structures; increased employment of part time and casual staff.

**Table 3.2: Types of Organisational Level Changes Undertaken by the Case Studies (continued)**

Case Study	Type Of Other Organisational And Industry Level Change
The Insurance Company	Taken over by new parent company, restructuring including consolidation into smaller business units and reduction in staff numbers; process re-engineering and job redesign; merger of some operations after the takeover and some business relocations.
Lady Gowrie Child Centre	Relocation to another building; significant growth in the organisation outstripped management capacity.
CSO	Relocation to a new site; organisational review led to restructuring of the organisation into 'management teams' and a flatter management structure; new work and salary classifications and staff appraisal and development programme.
Con 1	Industry reform processes; changes to site management; continuous improvement program.
Con 2	Taken over by a large diversified company and some subsequent restructuring; increased reliance on direct employees rather than subcontractors.
The Manufacturing Company	Continuous improvement program; move to a two-tiered employment structure consisting of core (permanent) and peripheral (casual) workers.

**Table 3.2: Types of Organisational Level Changes Undertaken by the Case Studies (continued)**

Case Study	Type Of Other Organisational And Industry Level Change
CTAL	Management restructuring, strengthening of the human resource management function; Waterfront Reform Process which reduced industry workforce and facilitated EBA in CTAL.

While some of the above changes had important implications for OHS, they did not necessarily appear in formal agreements. It is therefore important to assess the overall impact of enterprise bargaining on OHS in conjunction with these other broad changes, where this is appropriate. This is additionally important since these broader changes also often focused on cost cutting, lifting productivity and improving performance. The overall result has, in many cases, been a compounding of the impact of enterprise bargaining on OHS.

### 3.2 IMPLICATIONS FOR OHS

As outlined above, not only is workplace change implemented in a variety of ways, but there is actually a good deal of change occurring either outside the formal bargaining processes, or alongside it. Before looking in detail at some of the more specific workplace change introduced via the formal enterprise bargaining process, it is useful to explore the more general implications for OHS of this broader change environment.

#### **Potential Benefits of Organisational Change for OHS**

Writers such as Mathews (1993) and Oxenburgh (1991) argue that good health and safety is good for business and can increase both productivity and profitability for

firms. Both writers see OHS not as a cost but as a potential benefit and an essential component of the improved profitability of the firm. Theoretically, organisations undergoing major organisational changes to improve profitability should also seek to improve health and safety as a means of better achieving their goals. Indeed, the process of change is seen as an ideal time to look at OHS and attempt to better integrate improvements in OHS with overall business and management systems.

The following case study illustrates the way in which economic pressures and industry restructuring have converged to provide some opportunities to improve OHS. While the OHS performance of the case study example still leaves room for improvement, this example does highlight a preferred approach to OHS in the face of stiff external competition and organisational change. It further highlights the benefits to be gained from active trade union involvement along with senior management commitment to OHS.

#### *Case Study: Con 2*

Con 2 was taken over by a large diversified company in the early 1990s. At the same time there was a downturn in the construction industry which has placed competitive pressures on companies. Con 2 had stressed to its employees at all levels that their jobs depended on running tight budgets to win tenders in a difficult economic climate. While these factors may still act to compromise OHS among sub-contractors, Con 2 is attempting to act proactively.

Con 2's strategy has been to use the EBA consultative processes to increase flexibility and remove demarcations. Through the agreement, Con 2 hopes to increase (rather than reduce) the number of direct employees, develop multi-skilled teams and improve the quality and reliability of the sub-contractors.

The national officials of the CFMEU were the driving force behind the inclusion of OHS in the EBA. The agreement is comprehensive and both management and the unions see OHS as highly significant. Through the agreement, OHS has become a more central feature of the day to day work on Con 2's sites. In particular, Con 2's commitment to ensure that sub-contractors follow OHS policies and procedures has played an important role. Nevertheless, there are still many problems associated with the implementation of OHS systems and standards among sub-contractors.

## Potential Costs of Organisational Level Change for OHS

### *Stress and Work Intensification*

Little empirical work has been undertaken on the potential detrimental impact of organisational change and OHS. One exception is Tomasko (1987:29-42) who points out that during the 1980s, organisations pursued a range of strategies including asset restructuring; 'downsizing', 'delaying', cost-cutting, creation of business units and other internal restructuring of management systems. He explored the 'unintended consequences' of these activities, including the high human costs to those who are retrenched. Later, Cascio (1993) explored 'the survivors syndrome' explained as the syndrome experienced by workers who remained after major organisational downsizing or delaying. Workers often experienced trauma and increased stress as a result of increased workloads, increased span of responsibility, fear of further cuts and changes and guilt associated with others losing their jobs.

In Australia, Maiden (1993) raised the potential problems associated with increased decentralisation of large corporations and the compartmentalisation of enterprises into smaller business units. Similarly, Williams (1993) pointed out that one of the consequences of industry restructuring, privatisation, recession and high unemployment may be work intensification. Among a surveyed group of workers in South Australia, she found that work intensification was associated in general with higher levels of stress, backache, fatigue, hearing loss and pains in joints and fingers and overuse injury (p78).

### *Reduced Organisational Focus On and Commitment to OHS*

More speculatively, James (1992) suggests that the increased pressures to meet tight budgets all have the potential to compromise health and safety (1992:85). He further argues that these trends create a climate where managers develop a "*short-run opportunistic' response towards employee relations'* and cites evidence of companies in the United Kingdom abolishing or reducing the size of health and safety units because competitive pressures have created 'organisational disincentives' towards safety (1992:86). By this he means that both the costs of maintaining specialist staff and implementing training and other programmes are not seen as

adding to the bottom-line profitability of the firm, especially if other firms are cutting costs in a similar way.

Purcell and Ahlstrand (1989) focus on structural changes to companies which impact on the way an enterprise manages '*the boundaries of its employee relations systems*' (p405) of which OHS management is a part. They argue that the decentralisation of firms and the establishment of profit centres which operate within an uncertain economic climate leads to reduced attention on personnel and industrial relations issues at the corporate level (p402). They found that the strategies of aggressive acquisitions, decentralisation, removal of divisional tiers and business unit autonomy was at odds with the 'professional' standards of management integration and co-operation. In addition, the move towards financial control within companies leads to a concern with budget compliance which set the parameters within which labour costs must be managed (p403). They explain that if the personnel function is weakened, there is the potential to neglect industrial relations and personnel issues (p405). This may lead to a situation where issues like health and safety become isolated from the strategic core of the enterprise and relegated to line managers who may not have adequate expertise and training in the area.

The evidence from the case studies is mixed. A number of the case studies reveal examples of restructuring where the impact on health and safety has been negative but where the ultimate outcomes of the restructure on the remaining staff may open the way for improved health and safety in the long run. The following example of the Insurance Company is illustrative of Cascio's 'survivors' syndrome' where staff experienced major trauma as a result of a series of mergers and restructures. It also shows how, ironically, the parent company responsible for the staff cuts, may also improve OHS systems and structures in the long run. At the same time, and more seriously, it shows the lack of recognition of the more fundamental effects of a move towards task narrowing and reduced worker autonomy under the new restructured arrangements. Indeed, in both the finance case studies the restructuring and the pressures for change meant that the structures which might have maintained progressive OHS practices were not able to be supported and there was a reversion to a more directive management style.

### *Case Study Example: The Insurance Company*

In this example recent restructuring and the takeover by the parent company has had far-reaching effects on the organisation. The restructuring involved significant changes to work processes and staff numbers. The main strategy was to move from multi-skilling to narrow task operation and there was significant re-engineering into smaller business units. Some staff felt they would be disadvantaged by this perceived 'deskilling' and resigned. However, the management believed there were significant benefits to them in the form of improved productivity and more manageable workloads.

Immediately prior to the case study another major restructure was announced resulting in mergers and the reduction of staff from around 230 down to 95. It was acknowledged that there would be major trauma associated with this process, not only for those who were made redundant and there were plans to implement trauma counselling for staff. There was also evidence that the remaining staff 'felt retrenched'. In particular, those staff who remained expressed a limited sense of future security and there was concern about increased workloads for the remaining staff.

While the ultimate impact of the restructure has been traumatic for staff, there is some evidence that the new company will seek to improve OHS systems. Prior to the takeover, OHS had been managed on an ad hoc basis. The parent company has expressed a greater commitment to OHS. However, there is currently minimal training and little awareness. There does seem to be the promise of a more sophisticated approach to OHS. However, there has been limited awareness of the implications of the recent changes, greatest among them the move away from structures which support employee autonomy (multi-skilling and flexitime) towards more standardised work practices (agreed working patterns and narrow band processes).

For the majority of staff the risk of closure or merger was the greatest workplace threat. The majority of stress was created not primarily by the EBA but resulted from organisational rationalisation due to the takeover.

### 3.3 EXTENT AND NATURE OF WORKPLACE CHANGE IN AUSTRALIA

As outlined above, significant change is now a feature of Australian workplaces. Enterprise bargaining in general, and registered enterprise agreements in particular, represent specific strategies among a range which organisations adopt in response to internal and external pressures to change. Outlined below is a more detailed overview of the ways in which change is introduced, and the major types of changes introduced. The implications of these more specific changes are detailed in Chapter 4.

The findings from AWIRS, WBS and ADAM are presented here as a way of providing an *overall* and more diverse picture of the trends associated with change at a workplace level, and how these changes appear in agreements.

It is important to stress that the three surveys are not directly comparable. Different assumptions lay behind the designs of the survey and the coding of the content in the agreements. In addition, definitions of issues such as 'multi-skilling' and 'functional flexibility' are not standard.

#### **Bargaining Strategies and Processes**

Bargaining strategies and processes will take a variety of forms. The decision to pursue a registered enterprise agreement is but one strategy among a number which workplaces can use to introduce change. Moreover, it is also important to overview the way change is implemented. It will be seen that while different parties can be involved in the change process, change itself is not always negotiated. These factors are also likely to impact on OHS outcomes.

#### **How Change is Negotiated**

Organisations and workplaces adopt a range of approaches when implementing change. Commentators such as Sloan (1993) and the BCA (1989) have claimed that enterprise bargaining represents the best and most appropriate process for introducing change. From this perspective, change should no longer be a top down process driven by management, but a co-operative, negotiated process between managers, employees and unions, carried out in the formalised arena of enterprise bargaining and consultative committees (Mathews, 1995).

### **Who is Initiating Change?**

Although the current legislative environment and the new managerial paradigm advocate 'employee involvement' as an important part of the change process, change in the 1990's remains primarily a 'top down' process. Considerable research has shown that despite a supposed 'paradigm shift', managers remain the key drivers of change within Australia's organisations and workplaces (Short et. al., 1993).

Research such as the 1989-90 Australian Workplace Industrial Relations Survey (AWIRS) and the 1992-3 Workplace and Enterprise Bargaining Surveys (WBS and EBS), questions the degree to which change is actually being negotiated, and by whom (Callus et. al. 1991; Short et. al. 1993; Short et. al. 1994).

These studies found that the introduction of change within Australian organisations and workplaces was largely the prerogative of managers. Managers tended to initiate change and in many instances did so without any form of employee or trade union involvement. The WBS found that in unionised workplaces: managers were the initiators of bargaining in 53% of the cases; unions were the initiators in 23% of cases, with employees initiating bargaining in 15% of the workplaces surveyed (Short et. al. 1993:45)

The WBS found that in those workplaces that had introduced change, 35% negotiated some of those changes with a union. However 42% did not negotiate any changes with either employees or trade unions. The remainder of workplaces (23%) negotiated some change directly with their employees (Short et. al. 1993:17-8) This supports results from AWIRS that only a minority of managers consulted or involved their employees or the relevant unions on decisions affecting major changes that would affect the workforce (Callus et. al. 1991:190).

### **Alternative Processes for Change**

Workplace bargaining may not result in a formerly registered enterprise agreement. For example, the WBS found that while 71% of workplaces in Australia with 20 or more employees concluded a workplace agreement, only slightly more than one-third of those workplaces had their agreement certified or approved by a tribunal.

The remainder of agreements were written, unregistered, or simply verbally contracted between the parties (Short et. al. 1993:7).

### **Reasons for Pursuing Different Bargaining Options**

Managers sometimes avoid registering agreements because - contrary to the claims about an inflexible award system - they have not found the award system an impediment to the changes they wanted to make (Callus et. al. 1991:203). Another reason commonly given by managers for not certifying agreements was that it was believed that certification would have a negative effect of bringing it to the attention of union head offices and/or tribunals, something they wished to avoid (Short et. al. 1994:53).

The reasons why managers pursued formal enterprise bargaining included:

- a desire for 'quality control' through the certification process
- increased legal enforceability
- political pressure, expectations or enticements that agreements be formally registered or certified.

Notably, formal enterprise bargaining was rarely perceived by managers as intrinsically superior to more informal means of introducing change. Indeed the WBS results may suggest that managers are still to be fully convinced of the advantages of more formal enterprise bargaining.

### **3.4: MAJOR TYPES OF CHANGE: FINDINGS FROM AWIRS, WBS, ADAM AND THE CASE STUDIES**

#### **AWIRS**

The 1990 Australian Workplace Industrial Relations Survey (AWIRS) (Callus et. al., 1991) found that one of the most striking features was the extent and diversity of change occurring at workplaces.

The survey revealed that organisational change had been dramatic and widespread in Australian workplaces during the period 1989-1990. Given the competitive

environment outlined earlier in the report, and the pressures on organisations to improve efficiencies and profitability, there is no reason to expect that the pace of change has slackened throughout the 1990s.

**Table 3.3: Major Types of Change Affecting Workplaces in Two Years Prior to the AWIRS Survey**

	Major product or service change	Major work practices restructuring	New owners of workplace	More commercial orientation	Re-organisation of management structure	Senior management personnel changed	Intro of new technology	None of these changes
All workplaces	17	34	15	19	37	39	34	14
Private sector	15	28	18	15	31	33	34	17
Public sector	20	49	7	28	53	51	35	7

Source: Callus et. al., 1991:187

The proportion of workplaces affected by different types of change varied according to size, sector and industry characteristics. Some of the key trends were as follows:

- As size increased so did the proportion of workplaces affected by change.
- The extent of change was varied across industries, being most significant in the public sector and in manufacturing.

### *Efficiency Changes*

AWIRS also found that the changes undertaken focussed on the restructuring of work and the reorganisation of management systems; in other words, the introduction of new methods of organising work. Change associated with improved communication and consultation was not as significant, but this may be because communication methods were already in place at a workplace level.

**Table 3.4: Efficiency and Communication Changes Introduced at Workplaces Over the Last Five Years**

<b>Changes</b>	<b>Workplaces %</b>
<b>Efficiency changes</b>	
Staff Appraisal and evaluation	56
Formal training scheme	48
Job redesign	38
Incentive/bonus	27
Quality circles/team building	26
Total quality control	26
Computer integrated management	19
Semi-autonomous work groups	16
Skills audit	16
Just in Time system	7
<b>None of the above</b>	<b>14</b>
<b>Communication methods</b>	
Regular meetings between mtg and employees	27
Workplace newsletter/bulletin	21
Regular meetings between employees and supervisors/line managers	22
Daily walk around by senior management	17
Regular social functions	12
Suggestions schemes	10
Task forces, working parties	9
Ongoing JCCs	7
Employee rep on board of management	3
<b>No communication methods introduced</b>	<b>42</b>

Source: Callus et. al. (1991:193)

As illustrated above, the focus of workplace change appears to be around issues of efficiency and increased productivity rather than about the more 'facilitative' issues of consultation and communication. This confirms earlier speculations in the report that the focus of workplace change in the 1990s is primarily about efficiency and productivity issues rather than about industrial democracy and the empowerment of workers.

### ***Workplace Bargaining Survey (WBS)<sup>1</sup>***

This survey tracked the spread and impact of workplace bargaining in Australia in the early 1990s. The findings presented below are based on a survey of workplaces undertaken in 1992 and some earlier case study findings. As such, it provides a more recent snapshot of some of the key changes introduced by workplaces in more recent times under different types of bargaining arrangements.

#### ***Extent, Type and Pace of Change***

The WBS found that 71% of workplaces surveyed had been involved in, or had been affected by, some form of negotiation in the year prior to the survey. The study also found that almost 90% of workplaces surveyed had introduced at least one of the 19 specified changes in the previous 12 months (p14). The average workplace had introduced five changes.

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<sup>1</sup> The findings of this project are based on work undertaken by ACIRRT, the Industrial Relations Research Centre at the University of NSW and the National Key Centre for Industrial Relations at Monash.

**Table 3.5: Major Types of Changes**

<b>Change Introduced In 12 Months Preceding Survey</b>	<b>All Workplaces</b>
Multi-skilling of some employees	59
New technology or equipment	40
Introduction of major new training programme	38
Reduction in employees to do some jobs	36
Introduction of new management system	36
Major restructuring of work	34
Intro of formal ongoing consultative committee	29
Introduction of systems to measure employee productivity	28
Change in number of job classifications	27
Change in number of casuals	22
Change in standard hours worked	22
Introduction of standard grievance procedure	20
Change in number of part-time employees	16
Change in some penalty rates	12
Incentive based payment systems	11
Change in number of contractors	11
Reduction in number of awards	5
Reduction in number of unions	5
Provision for child care	2

*Source:* Short et. al. (1993:51)

The changes cited most often were associated with more efficient work practices and changes designed to improve productivity. Perhaps significantly, for all types of change, workplaces with ratified agreements were more likely to have undertaken changes. While this does not mean that trade unions were actively involved in the change process, it means that they were at least present.

The WBS also grouped workplaces in terms of the degree of reform taking place<sup>2</sup>. It found that:

- Workplaces with a greater than average number of changes included large workplaces (22 or more), public sector workplaces and unionised workplaces.
- There was a clear relationship between workplace change and workplace productivity. 81% of the 'high change' workplaces reported an increase in productivity compared to 48% of the 'low change' workplaces

### **ADAM - Agreements Data-base and Monitor**

The following provides an overview of the major types of provision in agreements lodged on ADAM. The aim is to present an overview of the key trends and issues which are being negotiated and changed. The types of issues and changes which have been grouped are as follows:

- key types of objectives contained in the agreements
- major types of clauses and provisions in agreements (grouped)

#### ***Key Objectives Outlined in the Agreements***

As outlined in Chapter 2, the objectives of enterprising bargaining are primarily to increase workplace productivity and profitability. As statements of intent, the objectives of enterprise agreements are indicative of what is driving the individual agreements. This becomes clearer when we also look at the key objectives of agreements on an industry basis. Not surprisingly, the data suggests that those industries more exposed to international trade are also more likely to have as their objectives an emphasis on improved enterprise performance and productivity.

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<sup>2</sup> Workplaces were divided into high, medium and low change. These represented seven or more changes, three to six changes or zero to two changes.

**Table 3.6: Key Enterprise Agreement's Objectives by Industry**

Industry	Key Enterprise Agreement Objectives %			
	Improved competitive performance	Improved communication and consultation	Reorganisation of work	Improvements for employees
Agriculture	67	50	44	44
Mining/ construction	75	70	70	68
Food and beverage manufacture	75	63	74	52
Other manufacture	73	63	66	52
Metal manufacture	80	62	77	58
Public utilities	64	53	51	49
Wholesale retail	58	33	51	36
Transport storage	56	36	52	37
Finance services	55	47	49	31
Public admin	65	51	60	51
Community services	51	33	49	29
Recreational services	56	52	59	47
Not otherwise classified	71	58	68	55
All agreements	65	52	60	47

Source: ADAM (February 1995, Unpublished data)

Some trends can be identified:

- While over 50% of all industries have included objectives relating to improved performance, those more directly exposed to international competition, such as mining and manufacturing, have an above average tendency to include objectives relating to enterprise performance.
- The industry differences in objectives relating to improved consultation and communication - objectives also important to positive OHS systems - may also have been a function of the requirements under the old S134 agreements. Industries such as mining, construction and metals manufacture are more likely to include such objectives, while industries such as community services and finance are less likely to have such objectives and are also more likely to be state agreements.

Overall, there seems to be a great interest shown by all industries in improving enterprise performance, productivity and profitability. While other issues such as the reorganisation of work, improved communication and employee benefits are clearly on the agenda, industries where there are active trade unions are more likely to have these objectives than others. The differences may be associated with the level of trade union activity and bargaining strengths of the union and their capacity to have these more employee-based issues placed on the agenda. As suggested earlier, the 'climate of change' surrounding the push for enterprise bargaining may be dictating the agenda and impacting on whether or not certain issues receive priority.

### ***Major Types of Clauses and Provisions in Agreements in ADAM***

Outlined below are some of the major types of clauses and provisions contained in agreements. These have been grouped under broad categories because each category may include a range of minor clauses which are expressed differently but have similar intent. For instance, under the broad category 'flexibility in hours' are a range of clauses most of which are designed to increase working time flexibility.

While ADAM codes these clauses separately, when grouped, they indicate an overall trend associated with the particular issue. Outlined directly below is a list of the main categories and the way they are defined broadly within the coding frame:

- Flexibility in hours: flexibility in starting and finishing times, increased span of hours, averaging of hours over a period, hours may be 'negotiated', hours changed after consultation, specification of 'ordinary' hours and days, employees make up time, meal breaks staggered and so on.
- Training: programs and structures for training, procedures for defining and accrediting training, rights and obligations of employees and employers, resources devoted to training, subjects, issues dealt with by training, training providers.
- Grievance procedures: how disputes are defined, stages of the dispute resolution, who is involved.
- Consultative arrangements: existence of committees, structure, establishment and composition of JCCs; responsibilities of committee members.
- Functional flexibility: This involves a range of provisions associated with work organisation and the more flexible utilisation of skills, preventive maintenance program, removal of demarcations, flexibility in operation.
- Performance indicators: specification of performance indicators, productivity targets.
- OHS: OHS performance targets, substantive provisions such as ACTU code of conduct, decision-making in OHS, training in OHS.

The following tables outline the major provisions types (grouped) and then by jurisdiction and industry:

**Table 3.7: Major Types of Provisions in Agreements on ADAM**

<b>Major Types of Provisions in Agreements (Grouped Clauses)</b>	<b>% of Agreements (N=1048)</b>
Flexibility in hours	70
Training	67
Grievance procedures	63
Consultative arrangements	49
Functional flexibility	49
Performance indicators	39
OHS	37

Source: ADAM (February 1995, Unpublished data)

**Table 3.8: Major Provisions in Agreements by Jurisdiction**

<b>Major Provision</b>	<b>% Federal Agreements</b>	<b>% NSW</b>	<b>% QLD</b>	<b>% WA</b>	<b>All Agreements</b>
Flexibility Of Hours	69	60	82	11	70
Training	77	47	74	70	67
Grievance Procedures	60	74	73	35	64
Consultative Arrangements	59	23	72	43	49
Functional Flexibility	55	34	61	40	49
Performance Indicators	48	16	56	38	39
OHS	45	24	43	26	38

Source: ADAM (February 1995, Unpublished data)

**Table 3.9: Major Provisions by Percentage in Industry Agreements**

Industry	Training	Functional Flexibility	Grievance Procedure	Consultative Arrangements	Performance Indicator	OHS	Flexible Hours
Agriculture	50	39	56	33	28	22	67
Mining/ construction	81	59	64	59	39	59	85
Food and beverage manufactures	73	54	67	66	47	35	62
Other manufactures	81	61	64	61	47	42	67
Metal manufactures	87	69	46	67	70	53	67
Public utilities	54	38	52	39	44	23	67
Wholesale retail	64	47	57	43	40	43	81
Transport storage	60	47	61	43	38	37	69
Finance services	48	30	60	36	30	24	86
Public admin	77	43	60	57	46	37	51
Community services	46	29	82	27	16	29	47
Recreational services	69	49	78	41	19	34	78
Not otherwise classified	68	42	55		48	19	100
All agreements	67	49	64	49	39	38	70

Source: ADAM (February 1995, Unpublished data)

### Key Changes in Case Studies

The trends in the ADAM data are confirmed by the trends in key changes in the case studies. The major types of changes across the case studies are outlined below:

**Table 3.10: Major Changes in Agreements in the Case Studies**

<b>Case Study</b>	<b>Major Changes in Agreements</b>
ACE	N/A
Textiles Company	Functional flexibility, training, improved leave provisions
RC1	Operational flexibility, flexibility in hours, performance pay system
RC2	Functional flexibility and shift changes
The Bank	Flexibility in hours, increase in part-time and casual staff, incentive based pay, non wage benefits
The Insurance Company	More structured working time arrangements, performance grading system, changes to leave entitlements
Lady Gowrie	Functional flexibility, improved leave arrangements
CSO	RDOs introduced, increased span and averaging of hours
Con1	Reinforced existing change program, site based consultative committees
Con2	Functional flexibility, increased training, consultative committee
The Manufacturing Company	Functional flexibility
CTAL	Increased managerial prerogative, productivity scheme, more flexible working time arrangements

### *Key Trends*

It should be stressed again that the three data sets are not comparable and that the ADAM data is an indication of the trends in the content of agreements and should be analysed in this context. However, some broad trends can be detected.

#### *Focus on improved performance and productivity*

All the data sets, including the case studies confirm that the primary focus of workplace change in general, and enterprise bargaining in particular, is on improving enterprise performance. This focus is reflected in both the objectives of workplace change and in the changes themselves.

#### *Flexibility*

- A concern with flexibility was a significant feature of both the agreements and the case studies. Given the potential of enterprise agreements to achieve greater flexibility of operation, it is not surprising that flexibility of hours and functional flexibility are significant areas of content in agreements. Moreover, the 'trade off' between conditions and wage rises implicitly expected under productivity bargaining makes hours of work a logical starting point for negotiation.
- The somewhat lower than average figures for some of the service sector industries such as community services may indicate an existing level of flexibility in hours and operation which has not been necessary to replicate in agreements. On the other hand, the significance of these clauses in industries such as mining, metals and construction may reflect the need to enter into formal negotiating processes in order to increase flexibility.

#### *Consultation and Grievance Procedures*

- While the level of attention given to consultative arrangements is not surprising given that the parties are entering new modes of negotiating, the level of attention given to formal grievance procedures may raise a few more questions. This can be partly explained in the NSW jurisdiction by the legislative requirement to include grievance procedures in the agreement. This is also a requirement of the federal legislation.

- The inclusion of grievance procedures may also be an attempt by the parties to set up more internal modes of dispute resolution as a way of avoiding more centralised arbitration.

### *Training*

The high incidence of training clauses in agreements is likely to be a result of both the need for increased skill levels associated with changes to work practices, and a way of assuaging the passage of the changes contained in the agreement by promising to provide training.

### *Role of Trade Unions*

One of the trends to emerge from the industry and jurisdiction breakdown is that while management may be responsible for driving enterprise agreements, that trade unions are at least present where significant change is occurring. Whether union presence equates with trade union involvement will be further explored in Chapter 4 and may have significant implications for health and safety.

## **3.5 THE SIGNIFICANCE OF OHS INDICATORS IN ADAM AND AWIRS**

As part of the preliminary data collection phase of this study, an analysis was undertaken of the ADAM and AWIRS data. The main aims were to track the OHS content in ADAM agreements and the level of OHS activity at workplaces as indicated by the AWIRS data. This was also undertaken to identify trends in the data and suggest directions for selection of the case studies.

### **3.5.1 ADAM and OHS Indicators**

#### *The Significance of OHS Content in Agreements*

Organisations such as Worksafe Australia and the ACTU (1994), (*Workplace*, 1995), continue to view the OHS content of agreements as significant. Other commentators such as Betts (1994:16) argue that the inclusion of OHS clauses may result in real improvements to productivity, staff morale and the company safety

record. However, while a level of OHS content in an agreement may suggest that OHS has been considered at least minimally, there are a range of reasons why specific content within enterprise agreements will not on its own guarantee comprehensive OHS outcomes. These are as follows:

### *OHS May Exist Elsewhere*

OHS may not be included in detail in agreements because some industries or workplaces have separate internal or industry policies and procedures dealing with OHS, or because they may be contained in some substantive way within awards such as the Vehicle Industry Award or the Stevedoring Industry Award (Brooks 1988a:Ch. 23).

### *OHS Seen as Inappropriate for Inclusion*

The inclusion of OHS content in agreements may be seen by both parties as inappropriate. The reluctance to include OHS clauses may reflect a wish by both sides to keep OHS separate from other issues bargained over, such as wages. There are likely to be two aspects to this. First, unions may feel that OHS should be kept separate so that it does not get 'bargained away' in negotiations. This was the attitude of the Maritime Union of Australia who argued that OHS should not form part of an agreement because once the agreement is finalised it is locked away '... pigeon-holed and safety goes to bed as well' (CTAL case study). On the other hand, management may see OHS issues as potentially encroaching on areas of management control (Quinlan, 1993), or as opening the potential for unions to use OHS issues as industrial issues. This is particularly the case where OHS implications arise around issues such as hours of work which may also overlap with managerial prerogative. However, it should be stressed that as soon as bargaining over wages, conditions and work organisation occurs, OHS is immediately implicated.

### *OHS Not Recognised as an Issue*

OHS may be missing from agreements because the potential health and safety effects of these changes arising from enterprise bargaining may not have not been recognised by either party.

### ***Implementation Not Guaranteed by Content of OHS***

Even where OHS is included in the agreement, the existence of content alone does not guarantee that what is outlined in the agreement has or will be implemented. Indeed, the risk exists that the inclusion of OHS in an agreement has been used to 'nurse' an agreement through and reflects promises made around OHS at the time of negotiation.

### **3.5.2 Nature and Extent of OHS Provisions in ADAM Agreements by Industry**

With the above qualification, the nature and extent of OHS provisions was as follows:

- Overall 38% (n=1044) of agreements made some mention of OHS.
- The detail of the clauses varied and tended to be either very specific or very broad. The top ten OHS clauses included in agreements were:

**Table 3.11: Major OHS Clauses in Agreements on ADAM**

<b>Top Ten OHS Clauses</b>	<b>% Agreements February 1995</b>	<b>% Change Since 1994</b>
Safety and protective clothing	16	N/A
Employers directions to be consistent with responsibility to provide a healthy and safe workplace	10	13
Training given in OHS	9	3
OHS committee/sub-committees present	6	N/A
Creation and maintenance of an OHS environment	6	N/A
Continuous improvement in safety	5	N/A
Performance indicators include OHS	4	9
OHS considered in design	3	9
Accident prevention programme	3	N/A
OHS implementation program	3	N/A

As is illustrated by the major provisions in agreements, where OHS is included, it is most frequently in the form of the standard provision of safety clothing and equipment, or an undertaking restating the employers' responsibilities under the statutory duty of care. More substantive and integrative provisions such as OHS programs, or OHS design considerations were cited in only 3% of agreements.

### ***Industry Trends***

- Some industries were more likely to refer to OHS:

59% of mining/construction agreements

52% of metal manufacturing agreements

43% of wholesale retail agreements

42% of other manufacturing agreements

- Some industries were less likely to refer to OHS:

22% of agriculture agreements

23% of public utility agreements

24% of finance sector agreements

29% of community service agreements

The industry trends may reflect a range of factors including:

- Industries with an above average tendency to include OHS are more highly unionised, have a tradition or organisation around health and safety issues, and are viewed as traditionally more 'hazardous'.
- Industries with a below average tendency to include provisions are primarily service sector industries with less traditionally visible hazards, and low levels of unionisation.

These suggestions are confirmed by the case study examples. Overviewed here is an indication of whether OHS was included in the agreement, the reasons for or against implementation and whether the content looked as though it might be implemented.

**Table 3.12: OHS Content and Implementation in the Case Study Agreements**

Case Study	OHS Content In Agreement	Reasons For Content/No Content	Implementation Of Content
ACE	No agreement	N/A	N/A
Textiles Company	Comprehensive including ACTU intermediate clause	Strong trade union and senior management interest	Not yet
RC1	Comprehensive, including clauses on training, protective clothing and equipment	Previous owner's interest	No
RC2	None	Limited recognition	No
The Bank	Comprehensive including consultative arrangements.	Pushed by the union	Treated as the final agenda item. Not given priority
The Insurance Company	Limited, broad commitment only	Limited recognition	N/A

**Table 3.12: OHS Content and Implementation in the Case Study Agreements (continued)**

Case Study	OHS Content In Agreement	Reasons For Content/No Content	Implementation Of Content
Lady Gowrie	Comprehensive, ACTU model clause, consultative arrangements	Proactive union, staff and management	Not yet
CSO	Limited, amenities and smoking in the workplace	Low recognition	No
Con1	Limited, recognised in the objectives of the agreements	Existing arrangements supported	Underway
Con2	Comprehensive, standards for sub-contractors	Active management and trade union	Well underway
The Manufacturing Company	Limited, no specific clause	Some attempt to integrate into change processes	Occurring
CTAL	Comprehensive, consultative arrangements, training, procedures	Replicate detail in award	Partial implementation

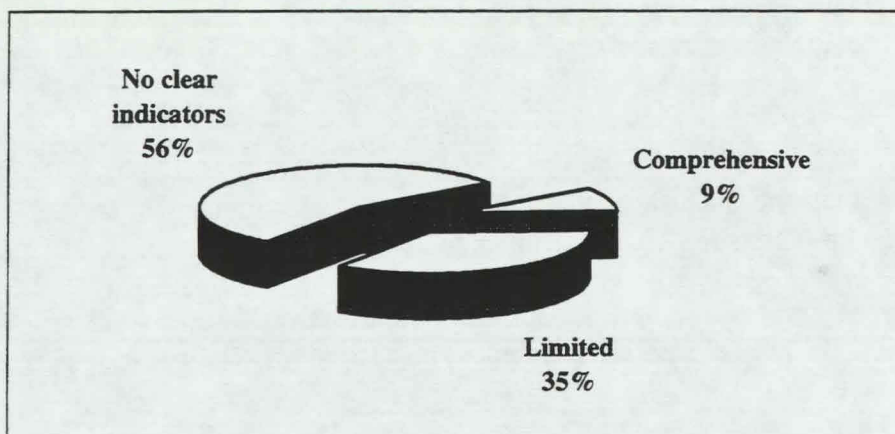
As can be seen from the above, there are some key issues which emerge:

- The major reason why OHS may not be included in agreements is a lack of recognition about the importance of OHS or the OHS implications of the changes.
- OHS is more likely to be included and implemented where there is both trade union and senior management commitment to and interest in OHS, for example in Con2 and Lady Gowrie. In Lady Gowrie especially, the importance of having trade unions, employees and management committed to and cognisant of the importance of OHS is highlighted. However, where there is only management interest for example in RC1 or mainly trade union interest, for example The Bank there is less likelihood of implementation.
- The inclusion of comprehensive OHS clauses in agreements is not a guarantee that the OHS content will be implemented. This was highlighted in the RC1 case study example where there was neither the expertise nor resources to implement the provisions in the agreement.

### **3.6 THE RELATIONSHIP BETWEEN WORKPLACE CHANGE AND OHS INDICATORS**

#### **ADAM and OHS Content**

A preliminary analysis of the ADAM and AWIRS data in the middle of 1994 was undertaken as a way of exploring the relationship between the existence of OHS content or activity, and other organisational characteristics. In the case of both ADAM and AWIRS the agreements and workplaces were grouped according to OHS comprehensiveness. In the case of ADAM the agreements fell into three groups: comprehensive, limited and no clear OHS indicators.

**Figure 2: Agreement Types in Terms of OHS**

Source: (Heiler, 1994)

### ***Industry Trends***

- Mining/construction, metals manufacture and wholesale/retail recorded the highest number of comprehensive agreements
- Community services, finance and food/beverages and public utilities recorded highest number of agreements where there were 'no clear indicators' of OHS.

These industry trends may reflect a range of factors. First, the 'comprehensive' agreements may be in industries with a reputation for significant hazards and second, those industries where the 'no OHS indicators' are concentrated may reflect the lower levels of union activity and awareness of OHS issues.

However, as mentioned earlier, the presence of indicators in agreements only reflects trends about the issues up for negotiation as reflected in registered agreements. For example, the relatively higher number of non-comprehensive agreements in public utilities may reflect the existence of comprehensive OHS policies elsewhere. However, areas such as finance and community services reflected a trend of low involvement in OHS indicators already detected in the AWIRS analysis by Pragnell (1994).

### *Organisational Characteristics*

The agreements were analysed in order to ascertain whether there were other related organisational characteristics of significance.

### *Training*

We found that the inclusion of comprehensive OHS indicators tended to be associated with other sorts of work change indicators and innovations.

- Of the comprehensive agreements, 60% stipulated that some kind of training program be developed, compared with 15% of the non-comprehensive agreements.
- Similarly, 40% of comprehensive agreements had stated training guidelines compared with 6% of the non-comprehensive agreements. 30% of comprehensive agreements had indicated that employees would undertake training compared to 10% of non-comprehensive ones.
- Similarly 36% of comprehensive agreements included the intention to undertake a skills audit, compared with 5% of non-comprehensive agreements.

### *Flexibility Provisions*

- Comprehensive agreements were more likely to contain flexibility clauses. Of those comprehensive agreements, 23% included changes to employment status (such as a change to part-time, casual status) compared with 13% of non-comprehensive agreements.
- While 40% of total agreements included flexible staff arrangement provisions, this figure broke down into 69% for comprehensive agreements and 31% for non-comprehensive agreements (total 40%).
- In terms of functional flexibility provisions the pattern is the same. While 39% of all agreements contained the provision that employees were to do a range of tasks flexibly, this figure was 72% for comprehensive agreements and 21% for

non-comprehensive agreements. While 10% of agreements overall specified that employees were to carry duties out as required, this figure was 22% for comprehensive OHS agreements and only 5% for non-comprehensive agreements.

### *Consultation*

Comprehensive agreements were also more likely overall to have JCCs.

- 65% of comprehensive agreements had JCCs, compared to 17% of non-comprehensive agreements, and compared to 29% of agreements overall. This may mean that the existence of more formal consultative mechanisms may facilitate inclusion of OHS considerations. On the other hand, it could also mean that organisational attention to OHS has facilitated the establishment of more formal consultative mechanisms.
- Comprehensive agreements were more likely to have included the aim of improved communication and information dissemination (70%), compared to non-comprehensive agreements (26%), with the average of 39% overall.

### *Technology*

- OHS comprehensive agreements were twice as likely to have included the introduction of new technology and changes in work group organisation (61%), compared to total agreements (32%) and non-comprehensive agreements (19%)

### *Overall Significance*

There appears to be some relationship between the inclusion of comprehensive OHS indicators in agreements and the inclusion of other sorts of more innovative provisions detailing training, work changes, flexibility provisions and consultation. This by itself does not indicate that these agreements are somehow more likely to produce more positive OHS outcomes, but that an interest in OHS seems to be associated with an interest in other sorts of workplace change issues. It may be that some kind of workplace change may facilitate an interest in OHS; it could also mean that a concern for OHS may produce an interest in broader workplace reform.

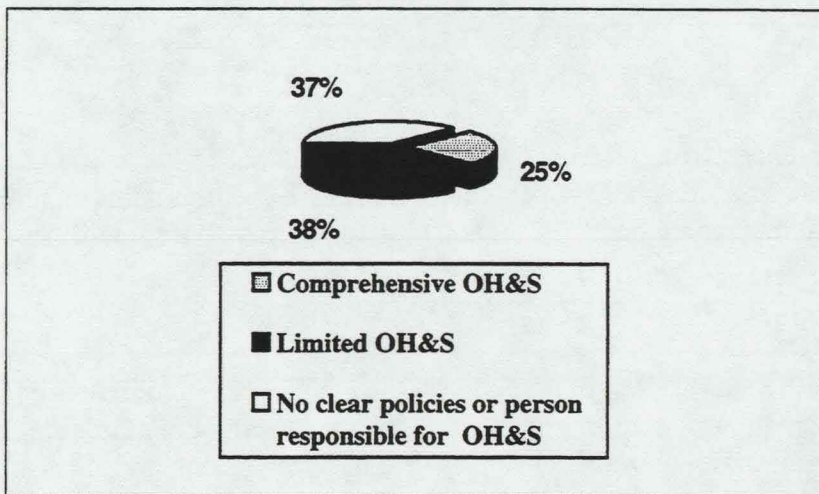
### AWIRS and OHS Activity

AWIRS data was also grouped to explore the relationship between organisational characteristics and OHS. More detailed findings can be found in Heiler (1994). Overall, the trends confirm patterns already detected in the ADAM analysis but there were some additional findings worth noting.

The AWIRS analysis confirms that OHS activity at a workplace level is patchy. It revealed that only 25% of workplaces surveyed could be considered to be comprehensive in terms of OHS activity. Another 38% could be considered to be 'limited', and a further 37% were categorised as having no clear OHS indicators of OHS activity. The AWIRS data indicates that the majority of workplaces surveyed had either limited OHS activity, or none at all.

Like the ADAM analysis, workplaces were divided into three groups depending on their approach to OHS. These also fell into three groups:

**Figure 3: Workplace Approach to OHS**



Source: Heiler (1994)

***Management Techniques and Communication Methods***

There was found to be a relationship between management techniques, communication methods and OHS activity. This is summarised in Table 3.16.

**Table 3.13: Differences in Management Practices by OHS Type**

<b>Practice</b>	<b>Comprehensive (%)</b>	<b>Limited (%)</b>	<b>None (%)</b>
Work appraisal used	66	65	57
Disciplinary procedures	94	82	61
Formal training provided to some employees	80	65	48
Labour productivity monitored	77	70	62
Performance based pay for some	30	30	35
Specialist IR/HR manager at WP	68	39	26
Grievance procedures	82	58	29

*Source: ACIRRT, unpublished ADAM data*

*Differences in Communications Methods by OHS Type  
(percentage of workplaces)*

**Table 3.14: Communication Methods and OHS Activity in AWIRS**

<b>Practice</b>	<b>Comprehensive (%)</b>	<b>Limited (%)</b>	<b>None (%)</b>
Newsletter	75	57	42
Meetings (management-employee)	74	75	62
Daily walk around by senior manager	75	80	83
Joint Consultative Committee	32	18	9
Quality Circles	18	13	9
Suggestion Scheme	40	33	23

Source: AWIRS, 1989-1990

***Significance of the Findings***

The analysis of AWIRS has revealed that in terms of our OHS grouping of workplaces there are notable differences in the characteristics of comprehensive OHS workplaces and those that had no active OHS policies. In part, the differences in groupings reflect industry and employment size.

- Comprehensive OHS workplaces are more likely to be large employers, found in the public sector and in highly unionised industries such as Electricity, Gas & Water and Communications. These industries and workplaces are also likely to see more negotiations between unions and managers, more formal communications systems and more structured management approaches to employee relations.
- In terms of the typology of industrial relations the majority of workplaces that had a comprehensive approach to OHS also had a 'traditional' industrial relations environment in place, with active unions on the job, bargaining between management and union delegates and formal and structured management systems and practices. In contrast the vast majority of workplaces that had no active OHS policies and practices (85%) were either non-unionised or the union was largely inactive on the job, management was far less formalised and structured and there was no history of management-union bargaining at the workplace.

### **AWIRS Criteria and the Case Studies**

When the AWIRS criteria were applied to the case studies it was found that more than half had a comprehensive level of OHS activity. At the same time, it is important to note that the case studies were 'self-selected', in the sense that these companies and organisations were the ones who felt confident enough about their OHS approach and record to allow researchers to scrutinise their activities. They are likely, therefore, to represent some of the better examples. Even so, the following table suggests that even the better workplaces were not well placed to cope with the OHS implications of the changes which occurred under enterprise bargaining.

**Table 3.15: Recognition and Implementation of OHS**

Case Study	OHS Activity (AWIRS Criteria)	OHS Approach Before EBA	OHS Approach After The EBA	Recognition Of OHS Implications Of Changes In Agreements
ACE	Limited	Preventative	Preventative	yes
The Textiles Company	Comprehensive	Reactive	Reactive	Not completely
RC1	Limited	Reactive	Reactive	No
RC2	Comprehensive	Reactive	Reactive	Limited
The Bank	Limited	Reactive	Less reactive	Limited
The Insurance Company	Comprehensive	Reactive	Reactive	Limited
Lady Gowrie	Limited	Reactive	Preventative	Yes
CSO	Limited	Reactive	Reactive	Partial
Con1	Comprehensive	Preventative	Preventative	Partial
Con2	Comprehensive	Preventative	Preventative	Partial
The Manufacturing Company	Comprehensive	Reactive	Preventative	Yes
CTAL	Comprehensive	Reactive	Reactive	No

### **Significance**

Overall these findings, combined with the AWIRS and ADAM analysis and the recent findings from the Industry Commission suggest that the existing OHS approaches may not have left workplaces necessarily well-positioned to cope with enterprise bargaining.

There seems to be an inability on the part of many organisations to adequately implement their duty of care. *If organisations are struggling to meet their duty of care, this raises the possibility that while the convergence of OHS and enterprise bargaining at a workplace level may present opportunities for some companies, it is likely to present problems for others.*

Perhaps significantly, the case studies also suggest that those organisations which did indicate a more comprehensive level of activity were those where unions were not only present, but also active, and where there was a high level of senior management commitment and resources dedicated to OHS. These included Con 1, Con 2 and Lady Gowrie.

Those examples where either unions were active, but there was weak management commitment, such as at CTAL, the outcomes for OHS were likely to be less positive. Similarly, where there was management commitment but no trade union activity result for OHS were also less likely to be positive, such as in RC1. At the same time, Ace Embroidery, where there was no active union, but strong management commitment, appeared to be an exception to this trend and may reflect the size of the organisation and the sophistication of the technology used.

### **SUMMARY**

This section has highlighted the extent and pace of change as evidenced in the AWIRS, WBS, ADAM data and in the case studies. It highlights the following key trends:

#### **Nature and Extent of Workplace Change**

- Workplace change in general has focussed on issues of efficiency, increased productivity and enterprise performance.

- The objectives of enterprise agreements reflect a similar concern with improved competitive performance and the reorganisation of work, although improved communications and consultation is also high on the agenda.
- Major types of clauses in agreements include flexibility in hours, functional flexibility, performance indicators, training, consultative arrangements and grievance procedures and OHS.
- In general, the OHS implications of change issues have either been ignored or not recognised.

### **Significance of OHS Indicators in Agreements and Workplaces**

- The inclusion of OHS content in enterprise agreements will not be sufficient to guarantee positive OHS outcomes.
- OHS clauses in agreements may not reflect the actual level of activity, or lack of activity, around the issue.
- The inclusion of OHS clauses in agreements is no guarantee they will be implemented

### **Characteristics of Workplaces and Agreements Where There is High Level of OHS Content and Activity**

- The incidence of OHS content in agreements seems to be associated with a degree of organisational change around training, flexibility, consultation and technology.
- The level of OHS activity at a workplace seems to be associated with size, unionisation levels, formal communication systems, structured management approaches to OHS, and significant change in the previous two years.
- The link between OHS content in agreement, OHS activity at the workplace and a greater tendency to implement OHS practices and process seems to be associated with both trade union activity, resources and commitment and senior management commitment and dedication of resources

## **4. Specific Workplace Changes and Their Impact On OHS**

### **INTRODUCTION**

In this chapter we look more closely at some of the potential benefits and disadvantages of more specific types of changes that appear in ADAM enterprise agreements and the way these are implemented at a workplace level in the case studies. These are:

- functional flexibility
- flexibility in hours
- consultative arrangements
- productivity/performance recognition systems
- non-wage conditions
- marginalisation

Each of these issues is examined in broadly the following way:

- description
- extent of the change as expressed in ADAM and the case studies

- potential OHS benefits and disadvantages
- implications for OHS

Case study examples are outlined below as are industry trends that appear in Table 4.2.

## **4.1 FUNCTIONAL FLEXIBILITY**

### **Description of Functional Flexibility**

Functional flexibility is a generic term used to describe a range of strategies aimed at increasing and/or modifying the utilisation and range of skills according to the needs of the enterprise. The utilisation of employees' skills in this way increases employers' capacity to move labour more flexibly to a larger range of tasks. (Rimmer and Zappala, 1988:568).

More generally, functional flexibility can involve:

- employees doing an increased number and/or range of tasks
- production and maintenance functions being amalgamated, and limited maintenance functions undertaken by operators
- removal of demarcation barriers
- the introduction of new job classification systems
- an enhanced ability of employers to direct employees to carry out extra duties and tasks, the removal of 'restrictive' work practices
- multi-skilling associated with increased levels of training

### Extent of Functional Flexibility in Enterprise Agreements

- The ADAM data codes a range of variables that refer to functional flexibility. The most commonly occurring provisions in agreements in ADAM were open-ended. Typically, flexibility requirements were expressed as 'employees to carry out tasks within limits', or 'employees to carry out duties as directed'. Such clauses are sometimes associated with an overall increase in managerial capacity to use the skills of labour more flexibly.

**Table 4.1: Major Forms of Functional Flexibility Provisions in Agreements**

Major Forms Of Functional Flexibility Provisions As Coded In Agreements	Percentage Of Agreements
<i>All agreements which make some mention of the clauses relating to functional flexibility</i>	49
<i>Task flexibility includes:</i> <ul style="list-style-type: none"> <li>• production processes amalgamated</li> <li>• increase in flexible tasks</li> <li>• employees to carry out duties within limits</li> </ul>	32
<i>Team work provisions include:</i> <ul style="list-style-type: none"> <li>• work allocated on a team basis flexibility in operation</li> <li>• semi-autonomous work groups</li> </ul>	18
<i>Production flexibility includes:</i> <ul style="list-style-type: none"> <li>• preventative and limited maintenance undertaken by operators</li> <li>• trade qualified operators</li> <li>• production and maintenance functions combined</li> </ul>	8
<i>Demarcations removed</i>	6

Source: ADAM Data, February 1995. (Note: some agreements refer to more than one clause)

*Industry Trends***Table 4.2: Industry Trends in Functional Flexibility**

<b>Industry</b>	<b>Some Reference To Functional Flexibility %</b>	<b>Task Flexibility Provisions %</b>	<b>Teamwork Provisions %</b>	<b>Production Flexibility %</b>	<b>Demarcation Removed %</b>
Mining/ Construction	59	39	31	2	9
Food & Bev Manufacturers	54	34	16	16	6
Other Manufacturers	61	43	20	15	11
Metals Manufacturers	69	36	43	23	12
Public Utilities	38	21	13	7	3
Wholesale/ Retail Trade	47	29	14	6	4
Transport/ Storage	47	28	19	13	6
Finance Services	30	21	11	0	1
Public Admin	43	26	14	6	0
Community Services	29	21	5	0.8	0.8
Recreational Services	49	41	7	4	2.3
All Industries	49	32	18	8	6

- Mining/construction, food and beverage, metals and other manufacturing industries are much more likely to contain functional flexibility variables whilst community services and finance are less likely to have such provisions. This is the case across most of the different forms of functional flexibility. In mining and manufacturing industries this trend may reflect traditional skill divisions that have been more entrenched historically, whereas in industries such as community services there is likely to have been a significant degree of pre-existing task flexibility.
- The service sector industries are more likely to contain open-ended functional flexibility clauses. Manufacturing industries are more likely to contain clearly defined clauses associated with the removal of demarcations and the integration of production/maintenance functions.
- metals manufacturing and mining/construction dominate those industries with clauses related to teamwork.

### *Case Study Trends*

The case studies confirm that a complex relationship between increased functional flexibility and OHS exists. The relationship will not always be straightforward, and the importance of assessing the impact of specific changes to skill utilisation in the light of other organisational changes is strengthened. The following presents the kinds of provisions associated with functional flexibility undertaken by some of the case studies. The overall implications of these provisions are assessed in the context of other changes and organisational characteristics.

**Table 4.3: Case Study Trends in Functional Flexibility**

<b>Case Study</b>	<b>Change in Functional Flexibility</b>	<b>Overall OHS Implications of Functional Flexibility Combined With Other Changes In Agreements</b>
The Textiles Company	Multi-skilling specified but no definition given of 'multi-skilling'; requires machine operators to undertake basic preventative maintenance; new classification system introduced; training and skill development provisions to support multi-skilling	The training programme will be critical to guard against merely an increase in repetitive tasks. Without an adequate definition of multi-skilling the implications cannot be adequately assessed. The open-ended nature of the planned multi-skilling is of concern. Multi-skilling in conjunction with longer shifts may increase hazards associated with stress, fatigue and manual handling and exposure to hazardous substances.
RC2	Multi-skilling specified and has occurred as a result of work redesign in earlier award changes; multi-skilling so far limited to being able to operate a range of equipment, rather than increase the range of skills. Teams have been established but operate with limited autonomy.	Multi-skilling combined with reduction in staff numbers and an increased emphasis on competitiveness may result in work intensification
Lady Gowrie Child Centre	New classification system and establishment of a career path; progression based on in-service training or qualifications; promotion of involvement in management of programmes and payment for attendance at out of hours staff meetings.	Significant positive implications for OHS. Work related stress identified and dealt with through compulsory breaks from work and progressive leave provisions, and a classification system which recognised qualifications and competencies of staff

**Table 4.3: Case Study Trends in Functional Flexibility (continued)**

<b>Case Study</b>	<b>Change in Functional Flexibility</b>	<b>Overall OHS Implications of Functional Flexibility Combined With Other Changes In Agreements</b>
Con 2	Job redesign to enhance job satisfaction and productivity; establishment of work area teams which eliminate demarcations and are responsible for completing entire components of work; introduction of multi-skilling which is supported by a range of training initiatives.	Positive impact may arise from more varied work and reduction of hazards associated with manual handling; potential for greater employee control over hazards; on the other hand, pressures to work harder, more quickly, develop new skills with fewer workers creates job intensification.
The Manufacturing Company	Skill related career path established and training to allow progression; job rotation; performance of minor maintenance.	Employees not expected to perform work for which they have not been trained; increased competitive pressure may lead to repetition of tasks, speed-up of work, work intensification and increased stress.
The Bank	Although not addressed in the current agreement, work processes have been segmented into three streams and the capacity for multi-skilling has decreased and there has been an increase in less complex tasks being performed by casual and part-time workers	Fear among staff of a reduction in career path opportunities which may accompany reduction in skills required. Increase in repetitive and mundane tasks pushed onto certain workers. Also complaints about stress associated with increased workloads as a result of restructuring.
CTAL	Introduction of new classification system and career progression with guaranteed career progression; also broadbanding where workers also take on minor jobs in classifications below them.	Increased career opportunities considered to be a positive development by the union. However, reduced manning levels, the reduction of preventative maintenance program and increased utilisation of the terminal has resulted in speeding up of work, and greatly increased levels of overtime. Also evidence of dilution of First Aid function as a result of the new classification system

### **Potential Benefits and Disadvantages of Increased Functional Flexibility**

The relationship between changes in functional flexibility and their likely impact on OHS is not straightforward. Campbell (1994) points out that increased functional flexibility can produce different results. He argues that increased flexibility can be pursued for different reasons and may achieve different outcomes for the employees concerned. He also states that these differences have been poorly appreciated by writers in the area (p18). Moreover, the impact may not be immediately identifiable. Factors that will come into play include: the level of skill and types of tasks involved, the factors driving increased flexibility, the labour process, management systems, the bargaining power of the parties and the organisational environment.

#### ***Potential Benefits for OHS of Increased Functional Flexibility***

Positive OHS outcomes will be dependent on adequate and appropriate levels of training, and clear career path progression.

Functional flexibility is more likely to be beneficial for OHS if introduced within the context of *genuine* job redesign aimed at creating more interesting and diverse kinds of jobs that give workers greater job satisfaction and autonomy. This is largely dependent on appropriate training, effective consultative processes and ongoing monitoring and evaluation. These factors have been emphasised by Mathews (1989), and outlined by Teicher (1993).

The benefits which can accrue to employees of this occurs include:

- the elimination of repetitive and monotonous tasks being tied exclusively to particular jobs, which is important to reduce the risks of repetitive strain injury (RSI);
- a reduction in fatigue and boredom resulting from monotonous and unchallenging work (NIPG, 1990; Hopkins, 1989);

- the expansion of job skills and a commensurate increase in worker autonomy and decision-making;
- an increase in the growth of autonomous and semi-autonomous work groups;
- genuine widening of functions in conjunction with skills development (Campbell, 1994).

The case study examples illustrate the importance of adequate training, genuine job redesign and career path progression.

At *Lady Gowrie*, for instance, the new classification system allows for increased involvement in management of programmes, an emphasis on team work and communication of shared goals. The involvement in management of programmes opens the way for much greater empowerment of work which suggest that not only might workers have more control over their work, but that this control is also important for positive OHS outcomes.

At *Con 2*, increased functional flexibility has been the focus in an attempt to reduce reliance on sub-contractors and build up the skills base of permanent employees. Management undertakes a continuous analysis of job design and the aim is to enhance job satisfaction and productivity. The establishment of a Work Area team and the elimination of demarcations means that workers across a range of skill areas and types have responsibility for completing entire components of work. Multi-skilling is also supported by a range of training initiatives. The OHS implications here are primarily around the increase in skills base of core employees as a way of enriching the kind of work they undertake, and ensuring that this is accompanied by the provisions of ongoing evaluation and training.

#### ***Potential Detrimental Effects for OHS of Increased Functional Flexibility***

Work intensification may result if the primary focus of increased functional flexibility is improved productivity and cost cutting alone.

Where increased functional flexibility is introduced as a way of cutting costs or meeting production pressures, the result can be work intensification. This can especially be the case where functional flexibility involves primarily multi-tasking, or

an increase in the number and range of tasks undertaken. It can be further compounded where multi-tasking occurs in conjunction with decreased staffing levels, and the remaining workers are left with increased workloads and fewer staff.

Tomaney (1990) argues that while new management and team initiatives such as Just-in-Time<sup>1</sup> systems, and the 'stockless office' have the potential to enhance skill development, there is also the risk of work intensification. This is because the process of eliminating waste which often accompanies these initiatives can place enormous pressures on workers to comply with the rationalisation process (p36). The pace of work can quicken and staff levels rationalised to adjust to the demands of these systems. When this is combined with workers undertaking more tasks at a similar level it may merely result in increased workloads. This can be compounded where there is increased pressure to meet tight production or operational targets and excessive overtime is worked. The health and safety implications can be fatigue, stress, manual handling and RSI type problems.

#### *Stress and Illness from Functional Flexibility*

The negative OHS implications of functional flexibility are explored by Bradley (1989:505) who cites a study by Saari and Lahtlea which compared accident rates in companies matched by size, location, type of product. It was found that in the companies with higher accident frequency, the jobs and tasks of individual workers were more varied, less frequently repeated, less preplanned, more mobile and required assimilation of more complex information than those companies with low accident frequency.

Where functional flexibility is introduced as a response to staff reductions and employees are expected to take on an increased workload, or in an environment of inadequate training, this can lead to stress. James (1993:49) provides empirical evidence to suggest that where occupationally mobile workers - due to changing technology or disappearance of certain jobs - have to learn new skills on the job, they can run a higher risk of illness. She suggests that this may be because they

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<sup>1</sup> Just-in-Time is a production system which aims to provide component parts and materials only as they are required at a particular stage in the production process (Sutcliffe and Callus, 1994:103).

have received inadequate training when they entered the new role and are therefore exposed to a variety of hazards for which they have had little preparation.

Where employees are required to do more demanding, complex and constantly changing tasks, particularly under conditions of increased workloads, the potential for employee stress is great. Houben argues that the possibility of developing chronic stress is greater if the task demands are more complex, changing and difficult. He says that rapidly changing task contents and repeated (and often involuntary) task alternation which is generally the result of increased flexibility have barely been investigated (1991:314).

### Case Study Trends

Where increased functional flexibility has emerged as a response to cost-cutting and production pressures, and where it has been accompanied by decreased staffing levels, then OHS implications can go unrecognised, work can be intensified and the causes of and responses to stress personalised. Examples are *Rec 2* and *CTAL*.

At *Rec 2* the impact of Compulsory Competitive Tendering (CCT) will mean that business units such as RC2 will compete with outside parties to obtain work. This has resulted in restructuring into business units and in staff reductions. The way the work is organised is highly pressured. Workers do not have a required number of loads per day but must collect and process everything on their route for the day, which speeds up work. The workers are trained to perform all tasks within this process.

Multi-skilling occurred as a result of work and job redesign and workers are expected to perform as they upgrade their skills. To this point multi-skilling has been confined to being able to operate the range of equipment rather than increasing the range and types of skill.

There has been only limited recognition of the OHS implication of the changes to work organisation at *Rec2*. Employees only realised after the changes were implemented that they would have to work faster to meet the new requirement of their shifts. While the volume of work has reduced, the number of workers has also reduced dramatically. This has increased the pressure from team peers rather than management to complete the work allocated in each timetable. There is some recognition that now workers have to '*run rather than walk*' to get their work

completed within shifts. Other OHS implications may be fatigue, stress, exposure to hazardous substances and noise.

At CTAL enterprise bargaining was pushed along by the Waterfront Reform Process. A simplified classification system was implemented which allows for workers to up-skill for classifications above them but also requires that they perform some of the tasks in the classifications below them. For some workers this may mean the respite they once had from working machinery is now taken up with some clerical and cleaning work.

The EBA also resulted in staff reductions of 25% including a reduction of staff in the maintenance section. Employees have increased responsibility for checking and reporting faults and hazards on their machinery at the same time as the maintenance section has a reduced capacity to service faults. At the same time, there has been increased utilisation of the terminal.

The overall impact on health and safety has been a reported increase in near misses caused by increased congestion on the terminal, and increased levels of stress and fatigue experienced by workers. The fatigue is caused by increased overtime being worked, and the increased stress is partly a result of perceived pressure to continue working with faulty equipment rather than pull the equipment off the terminal. The simplified classification has also impacted on OHS in a deleterious way by diluting the responsibility for First Aid. Under the new classification system responsibility for First Aid is now attached to the lowest classification *level*, rather than to individuals and the Union has reported a decrease in attention and training allocated to First Aid.

Where functional flexibility involves primarily an increase in the number of less complex tasks (multi-tasking) the impact on OHS may be detrimental.

Despite the potential benefits of increased functional flexibility, it may merely increase the number of tasks performed by an employee. In other words, it may simply amount to multi-tasking, rather than genuine up-skilling involving an increase in the number of skills learned and utilised (up-skilling and re-skilling). Clearly, increased flexibility will not always have progressive implications for workers, nor

can it be assumed that an elimination of demarcations necessarily implies 'multi-skilling' (Tomaney, 1990:43, 47).

'Multi-skilling' can mean workers are required to take on a range of tasks, that are equally as deskilled and repetitive as before. It may mean taking on board tasks across, or even below the same skill level without any vertical skills or specialist development (Bramble, 1988:201).

Thus functional flexibility may mean job enrichment or may mean an *increase* in the number of tasks performed, resulting in increased repetition and work intensification.

### ***Case Study: The Bank***

The Bank operates in an economic environment characterised by change and increased competition due to deregulation of the finance sector. The industry has seen an increased recruitment of part-time and casual staff employed to meet peaks in the workload. Three quarters of these positions are filled by low-skilled female operators. Recent restructuring has greatly reduced career advancement. Technology has been introduced as a way of cutting costs and creating new delivery mechanisms. Technological change has seen a move away from multi-skilling, and towards the separation of more simple tasks from the more complex ones. It was also felt that career opportunities had diminished and workloads increased.

Overall, the less complex tasks are being performed by casuals and part-timers. Most part-timers are remaining at the lower clerical positions. Existing hazards include overuse injuries, soft tissue damage, stress, robberies and manual handling. Increased reasons for stress, which is treated somewhat sceptically, include changing job descriptions, work intensification, limited training for new positions, and perceptions that future advancement is limited.

The impact of the EBA itself on the trend towards multi-tasking is unclear. On the one hand, changes to flexible working time arrangements may alleviate pressure on staff by sharing the workload more evenly; on the other hand, staff may avoid working during peak time, placing pressure on those staff who - because of outside responsibilities - are locked into peak working times. This may exacerbate work intensification and stress for those workers whose tasks are increasingly being degraded. Another worrying trend was the tendency to view 'stress' as either a

natural outcome of working within a competitive industry, or as a reflection of personal weaknesses in the employee affected.

The implications of the removal of 'restrictive' work practices and demarcations may not be progressive for workers.

One of the aims of enterprise bargaining has been to aid the removal of 'restrictive' work practices which have allegedly built up unnecessarily over the years as part of the award system. However, James (1987:49) argues that restrictive work practices, such as the refusal to work in inclement weather, insistence on having a certain number of workers per piece of heavy machinery or refusal to work alone in particular circumstances and so on, have often evolved to protect workers, and that this is poorly understood. She further argues that when the elimination of restrictive practices is undertaken purely for productivity purposes it can inhibit workers' attempts to protect their occupational health and safety. This is because the primary emphasis may be on making changes designed to cut costs rather than making changes which improve both efficiency and working conditions.

When enterprise agreements replace awards, what may also be replaced are practices which have evolved to protect workers' safety. In the haste to 'simplify' conditions governing work there may be a tendency to throw out safe, albeit restrictive practices. What may be 'restrictive' for management may be proactive health and safety for workers.

There may not be a firm understanding of why these practices have emerged. There may not be an organisational or union 'history' where workers or union officials understand why certain practices have developed. Without such a history delegates and union officials may be prepared to 'trade off' such conditions in return for wage increases or other benefits. The full implications of the changes may not emerge until problems occur at a later date. Such an example is in the garbage collection industry where the introduction of automatic garbage collection trucks has led to the winding back of teams on the trucks and the introduction of one-person operators, most of which have been negotiated through enterprise agreements. This has

resulted in increased stress and safety hazards where drivers are operating large and sophisticated machinery alone<sup>2</sup>.

### *Removal of Demarcations*

There are similar issues which emerge with the removal of 'demarcations'. Demarcations are boundaries which can be maintained by unions in order to protect the jobs of their members (Sutcliffe and Callus, 1994:45). The removal of demarcations has been one of the key areas of attention in award restructuring efforts throughout the 1980s and early 1990s and was seen as one of the major obstacles to increased functional flexibility at a workplace level.

However, while the removal of demarcations can assist with improving workplace efficiencies, there can be some unanticipated implications for OHS. This is especially the case if the removal of demarcation barriers occurs as a response primarily to external competitive pressures to cut costs and reduce staffing levels, and happens without adequate training or evaluation of the implications. In this situation there may be an increased risk of accidents and heightened employee stress.

Problems may also occur where flexibility between traditional crafts is increased and the ability to be multi-skilled requires more than just extra 'on the job' training (Tomaney, 1990:46). This can be especially so where functional flexibility entails combining machine operation with maintenance and quality control responsibility (Tomaney, 1990:39). Problems can also occur where the issuing of restrictive licences which was recently highlighted by the Electrical, Plumbing and Allied trades Union (EPU) who recently collected statistics indicating an increase in accidents and fatalities caused by unqualified personnel undertaking maintenance on unfamiliar equipment. They attribute this to multi-skilling pressures without adequate training pushed along by enterprise bargaining.

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<sup>2</sup> This example is based on a recent incident in a suburban council where a garbage worker was involved in a traffic altercation with a member of the public in a car and was charged with negligent driving. After a series of protracted court cases the charges were dismissed. The judge commented that she was both previously unaware and concerned about the pressures placed on one-person operations and the health and safety risks associated with operating such large and sophisticated machinery alone. The reduction in personnel on the trucks had been negotiated through a series of enterprise agreements.

Campbell (1994:19) argues that if an increase in functional flexibility means merely a breakdown in demarcation barriers, it may only result in an unregulated increase reassertion of management's right to direct employees to perform work. This may not be accompanied by adequate anticipation or monitoring of the potential effects on health and safety.

While the above are issues which need to be taken into account, the case study examples in the construction industry are in fact examples of where many of these problems have been avoided. This has been achieved through the use of work teams, planned training initiatives and the close involvement of the trade unions. However, while many of the problems for the *core* workforce in these examples may avoid some of the problems associated with removal of demarcations, the situation for the subcontractors may continue to be less positive.

The gender implications of notions of skill and career advancement should be considered when implementing increased functional flexibility.

An assessment of 'skill' can be applied to certain groups of workers in certain ways, with some skills being more highly valued than others. For instance, full-time jobs are often considered more important than part-time and casual ones and appear suitable for 'enrichment', while part-time and casual position can be allocated the work which is being degraded through fragmentation or deskilling (Jenson, 1989:145).

Part-time and casual jobs may see a horizontal increase in tasks, while full-time jobs are targeted for extra training and up-skilling. Additional problems of fatigue and stress may arise if part-time and casual positions are allocated the equivalent of full-time workloads and expected to complete them without any increase in hours.

Given the increase in part-time and casual work, and the fact that it is primarily women who are undertaking such work, these trends have a gender aspect to them which has been explored by Jenson (1989). Functional flexibility may therefore not necessarily lead to job enrichment for all workers equally.

The finance industry examples highlight the problems associated with decreased career path opportunities and the danger of 'deskilling' that can emerge when work is restructured. Because of the structure of internal labour markets within the finance industry, women are more likely to be channelled into positions that are narrow in their range of skills and have limited career advancement. These fears were expressed in the insurance case study in particular. On the other hand, Lady Gowrie Child Centre is an example of where serious attempts were made to increase the autonomy and levels of responsibility in this female dominated industry. This was achieved through taking seriously the role of workers in management decisions and the creation of career paths based on a range of skills, training and experience.

## 4.2 FLEXIBILITY IN HOURS

### Description

One of the key aims of enterprise bargaining has been to introduce greater flexibility in the ways in which hours of work are arranged. The aims have primarily been directed towards increasing the capacity to use plant and equipment without interruption and for longer periods of time. In addition, the desire to enhance customer focus places pressure on organisations to extend hours of operation and services for clients. Even though flexible working hours can benefit employees, the focus in agreements has been primarily on increasing employers' capacity to utilise employees' working time in a way which appears to better suit the needs of the enterprise.

Increased flexibility in hours involves a vast range of changes to working time arrangements. Most of them are designed to either lengthen the normal working day over specified periods of time, to maintain continuous operations through formal shift work arrangements, or by better regulating breaks from work. Trends towards an increase in the length of the working week, as evidenced by an analysis of agreements on ADAM, confirm other trends towards longer working weeks in Australia overall.<sup>3</sup>

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<sup>3</sup> See Tracy and Lever-Tracy (1991) for a discussion of the polarisation of hours, with some men working longer hours and some not working at all. This confirms a trend towards work intensification for employees who are in work.

Moreover, the inclusion of provisions and clauses related to flexibility in working time arrangements is a growing trend in ADAM. For instance, in November of 1994 the percentage of agreements in ADAM which contained provisions related flexibility in hours was 62%, which had been an increase over the previous quarter. By February 1995, this figure was 70% of agreements. These more flexible and open ended strategies are also far more common than provisions related to more formal shift arrangements, the figure for which stands at 15% of agreements.<sup>4</sup> The following groupings represent some of the key issues addressed by provisions in the ADAM agreements.<sup>5</sup>

- **Flexibility in starting and finishing times:** These provisions have the overall effect of either increasing the length of the standard working day, or maintaining operations outside of a standard working day without attracting overtime payment. There are a range of provisions which can achieve this including, and these methods often appear in combination in agreements.
- **Averaging of hours** over a week, four weeks, six, months or a year. Here, for example, an employee may work an *average* of 40 hours per week so long as by the end of the specified period it has not exceeded an average of 40 hours per week. This arrangement might mean that during some periods the employee works 20 hours per week, while in others 60 hours, so long as at the end of the period the *average* worked had been 40 hours per week. This can result in the compression of hours over a period (for example 12 hours shifts could be extended without overtime), or conversely, shorter shifts over other periods.
- **Increasing the span of ordinary hours.** This means increasing the span of ordinary hours which do not attract overtime payments. For example, instead of an eight hours shift being worked between 8.00am and 5.00pm, the span of ordinary hours may widen to between 6.00am - 10.00pm span, or even a 24 hour clock within which employees may work their normal shift without

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<sup>4</sup> See Heiler (1994) for an overview of the way a combination of flexible working time arrangements can replace more formal shift arrangements.

<sup>5</sup> The ADAM data-base codes 44 clauses associated with flexible working arrangements and another 52 clauses associated with shift work provisions: in all 96 clauses which appear in agreements are associated with working time arrangements.

attracting overtime. While the length of the shift may be specified, it may be combined with other provisions to extend shifts after negotiation between employee and employer.

- **Changes to Rostered Days Off (RDOs):** RDOs are structured schemes which allow employees to accrue extra time worked and then take this time off as compensation this may result in an arrangement such as the nine-day fortnight for instance. Changes to RDOs on ADAM include abolishing RDOs, implementing RDOs, or agreeing to postpone the taking of RDOs to a time more suitable to the needs of the enterprise.
- **Flexibility in breaks, meal-time's:** This may include a range of minor, and some major adjustments to the ways tea breaks, meals breaks, and clean-up times are organised. It may mean abolishing a break altogether, or it may mean employees agreeing to stagger breaks so that they do not disrupt operations, or peak demand periods are able to be covered. Changes to these provisions are a common feature of concession bargaining.
- **Shift work provisions:** Changes here include more standard extended shift arrangements, introduction or changes to 12 hour shifts, rotating shifts, split shifts and so on.

### **Extent of Flexibility in Hours in Enterprise Agreements**

*As noted there are almost 100 clauses associated with flexibility in hours and shift work arrangements, and many of them are open-ended. This is to be expected with provisions designed to be 'flexible'. The following provides merely a snapshot of trends in the ADAM agreements.*

**Table 4.4: Flexibility in Hours Provisions in Agreements on ADAM**

<b>Flexibility In Hours Provisions</b>	<b>Percentage Of Agreements</b>
<i>All agreements which make mention of flexibility in hours</i>	70
<i>Flexibility in starting and finishing times including</i> <ul style="list-style-type: none"> <li>• increased span of ordinary hours flexi-time hours to be averaged</li> </ul>	66
<i>Changes to RDO arrangements including:</i> <ul style="list-style-type: none"> <li>• accrue RDOs</li> <li>• cancel RDOs</li> <li>• RDOs reduced</li> <li>• make up time outside work hours</li> </ul>	21
<i>Changing breaks, meal-time's including:</i> <ul style="list-style-type: none"> <li>• rest period not to interrupt production</li> <li>• meal times, tea breaks staggered</li> <li>• meal break delayed without overtime</li> <li>• abolition of tea break</li> </ul>	20
<i>Shift work provisions including:</i> <ul style="list-style-type: none"> <li>• rotating, continuous, intermittent shifts, flexible rostering 12 hour shifts</li> <li>• agreement on 12 hour shifts</li> </ul>	15

**Overall Trends in ADAM**

- As can be seen from the above, clauses associated with changes to starting and finishing times occur most often.
- More 'open-ended' clauses related to flexibility in hours occur much more often than do clauses associated with formal shiftwork arrangements.
- The next most frequent type of provision involves change to structured RDOs, traditionally arrangements management is keen to alter, since RDOs are perceived to add to operational inflexibility and costs, especially where a nine-day fortnight operates.
- This is followed by changes to meal and rest breaks within shifts, which may reflect the tendency of employees and unions to 'trade-off' these apparently minor conditions in return for wage increases.
- Finally are provisions related to changes in formal shift arrangements which, as can be seen, are less frequently included compared to more open-ended flexibility clauses.

## Industry Trends

**Table 4.5: Industry Trends in Flexibility in Hours in Agreements on ADAM**

Industry	Some Reference to Flexibility In Hours %	Flexibility In Starting and Finishing Times %	Changes to RDOs %	Changes to Breaks And Meal-time's %	Shiftwork Provisions %
Mining/Construction	85	82	34	24	10
Food & Bev Manufacturers	62	57	18	19	16
Other Manufacturers	67	60	29	31	23
Metals Manufacturers	64	57	31	35	15
Public Utilities	67	62	13	12	13
Wholesale/Retail Trade	81	77	17	20	20
Transport/Storage	69	66	31	27	18
Finance Services	86	82	21	8	12
Public Admin	51	51	14	9	9
Community Services	47	40	9	5	14
Recreational Services	78	72	9	24	16
All Industries	70	66	21	20	15

- **Flexibility in hours** clauses occur across all industries, ranging from mining/construction at 82% to community services at 40%. The high figure for mining and construction may be a function of change towards greater flexibility in these industries. In community services there is likely to have been a high

level of pre-existing flexibility in hours. Other industries which included such provisions more often included finance (82%) which may reflect deregulation and more client -responsive hours, and wholesale/retail (77%) which is another industry where the push for increased customer focus may have increased pressure for flexibility in hours.

- **Changes to RDO arrangements** are most likely to figure in mining/construction, metal manufacturing, transport and storage. This may be explained by the comparatively high levels of trade union membership in these industries which may have facilitated the historical growth of formal RDO arrangements which are now being altered or removed through enterprise agreements. Again, these provisions are less common in community and recreational services, possibly because there was not a pre-existing tendency for these industries to have structured RDOs, but were more likely to have more open-ended flexibility arrangements.
- **Changes to meal, tea and rest break arrangements** were most common in manufacturing, transport and storage industries. This may be because even short absences from production or operation in these industries are more critical and so greater control over them may be important. This is reflected in the low incidence of these provisions in community services, recreation and the public sector where short breaks away from work do not interrupt operations.
- **Changes to Shiftwork provisions** were most likely to occur in other manufacturing industries, wholesale/retail, transport and storage and recreational services. This may be because these industries are more likely to have seen increased pressure for longer hours of operation. An industry such as mining, where shiftwork arrangements were already in place, were less likely to contain new references to shiftwork. Interestingly, 14% of community services contained reference to shift work arrangements, suggesting an emergence of shiftwork in this industry.

Some key trends emerge from the ADAM data:

- Clauses related to flexibility in hours occur more often in ADAM agreements than traditional clauses related to shiftwork.
- Overall, these trends suggest that industries where more structured working time arrangements have been in place (such as manufacturing and mining/construction) are witnessing a shift towards more open-ended flexibility in hours.
- Those industries where pressure exists not to interrupt production (such as manufacturing, transport) are seeing changes to breaks in order to intensify and speed up operations.
- Those industries with a customer focus - such as service industries - are seeing both a sustained interest in flexibility provisions and also a tendency to include more formal shiftwork arrangements in order to formally lengthen the working day.

### **Case Studies Trends**

The majority of the case study enterprise agreements included some changes aimed at making working time arrangements more flexible. Only the major examples will be included here.

**Table 4.6: Flexible Work Arrangements Found in Case Studies**

Case Study	Major Change in Flexibility in Hours	Overall OHS Implications in Combination With Other Changes in the Agreements
RC1	Introduction of 'work to finish' and averaging of hours over a 52 week period. No paid overtime.	<ul style="list-style-type: none"> <li>• speeding up of work</li> <li>• fluctuation in hours caused by seasonal variations</li> <li>• apparent increase injuries and accidents since the introduction of the new system</li> <li>• individualisation of risk as workers assess the risks associated with speeding up; combined with a bonus system which rewards increased pick-up</li> </ul>
The Bank	Flexible hours and conditions; increased span of ordinary hours to 12 hours Monday to Friday; additional changes to working hours via 'mutual consent'; pilot in South Australia to annualise hours.	<ul style="list-style-type: none"> <li>• Unclear whether changes to working time arrangements will exacerbate or improve OHS. It may even out the workload, but may intensify work for those who cannot work as flexibly as others</li> <li>• Minimalist approach to OHS and responsibility is blurred due to the size of the organisation and limited OHS training</li> <li>• increasingly narrow tasks may increase problems of RSI and manual handling and stress</li> </ul>
Lady Gowrie Child Centre	Compulsory respite breaks from work	<ul style="list-style-type: none"> <li>• Should improve stress levels from workers as clear recognition is given of the need for respite</li> <li>• positive trend because it recognises stress as part of the work process rather than in individual coping mechanism of workers</li> </ul>
CSO	Structured RDOs; averaging of hours over a four week period, increased span of hours.	<ul style="list-style-type: none"> <li>• Structured RDOs look as if they will address some of the problems of over work</li> <li>• the problems of work stress persist and are badly personalised</li> <li>• OHS systems unstructured; resistance to employee complaints about the causes of stress</li> </ul>
CTAL	Staggered breaks, increased discretion to work double-headers (overtime), some capacity for shift extension after negotiation	<ul style="list-style-type: none"> <li>• Increased overtime worked in conjunction with increased utilisation pressure on the terminal</li> <li>• evidence of fatigue</li> <li>• increased reports of near misses combined with increased utilisation of the terminal</li> </ul>

## Potential Benefits and Disadvantages for OHS of Increased Flexibility in Hours

While the OHS of workers can be improved by an increased flexibility in hours, and employers too can accrue benefits from increased flexibility, the needs of the two groups may not always be the same. There are two groups - workers and employers - who can potentially benefit from increased flexibility in working time arrangements. Campbell (1993:12) states that, while the needs of both groups can converge, there are differences in the guiding principals behind the promotion of 'flexibility'.

The differences between the two types of flexibility are crucial for an understanding of how an increase in flexible working time arrangements might impact on OHS. In a positive way it can help both employer and workers, and aid in the alleviation of work related stress. Detrimental effects may include an increase in work intensification, increased fatigue from longer working hours and a tendency to personalise stress. Campbell points out that under this scenario, increased flexibility in hours can result in an increase in what he calls the 'time hegemony' of the employer and an encroachment of employer demands onto life outside of employment (1993:13). A more detailed overview of advantages and disadvantages is presented below.

### *Advantages in Flexibility in Hours*

Increased flexibility in hours can be beneficial to OHS if the arrangements are *clear*, and have been introduced primarily in response to the needs of *employees*.

The benefits of flexibility in hours are promoted by those who claim that the diversified working-time preferences of individual employees can be met by introducing flexibility to suit the *needs of the employees*. This may include an increase in employees' ability to stagger starting and finishing time, bank up hours and compress hours. Importantly, here, it is the enterprise (or the employer) who is meant to respond to the constraints and rigidity in employees' lives for example to meet family needs (Campbell, 1993:12).

The potential benefits for OHS of employees are clear:

- reduced stress levels because problems of home and work responsibilities can be better balanced
- empowerment of workers who may have increased autonomy over how and when they work
- capacity to use hours to help alleviate work organisation problems
- real benefits for parents who are trying to juggle the care of children with work in the context of the constraints of often inflexible childcare arrangements
- employers, too, may benefit from a more stable and reliable workforce, and reduced levels of staff turnover.

Under this scenario, the needs of both groups will converge, and benefits will accrue to both parties.

#### *Case Study Examples*

Some of the case studies highlight the ways in which flexibility in hours can be used to address both the needs of the employee and the needs of the workplace. However, it should also be noted that even within the same case study, there may be both progressive and negative examples of the use of flexibility in hours.

Agreements can be used as an opportunity to change working time arrangements in a way which responds to the need of workers to control work-related stress. In large part, however, this is contingent on there being a recognition that stress is *work related* rather than *worker-related*.

Such an example is *Lady Gowrie Child Centre in Tasmania*. Here, the enterprise agreement was used to try to address stress. Management recognised that stress was an occupational hazard caused by the organisation of work. Consequently changes to the organisation of work were needed and the agreement provided for compulsory fifteen minute respite breaks away from the children every two hours. This is reminiscent of the old 'smoko' which is being removed as a 'restrictive' work practice from other agreements, and in this regard Lady Gowrie may be against the trend. Other initiatives included:

- up to three days special leave for reasons including work or non-work related stress
- up to five days leave for workers with family responsibilities
- entitlement for long service leave at five rather than ten years.

Another interesting example was the case of *CSO (Community Services Organisation)*. Prior to the enterprise agreement this organisation had quite open-ended flexible working time arrangements which had created two sets of problems for the organisation. First, staff were working excessive amounts of overtime and were unable to take this time off in lieu. In addition, it was costing the organisation to cover for staff who were able to take time off. There was a recognition that excessive overtime was creating problems of stress for some staff and problems for management who had to maintain staffing levels in order to provide a service for their clients. Their solution was to introduce a more structured RDO system, have an approved overtime system, but build flexibility into this for permanent staff. In this way it was hoped that flexibility would be retained at the same time as staff would have a better capacity to place a limit on their hours. At the same time management would have greater predictability in staffing levels in a service oriented organisation. The organisation also made stress and mental health problems legitimate reasons for taking leave.

However, the recognition that stress was associated with work organisation was partial only. For while management recognised that stress could be alleviated by placing limits on the amount of overall overtime worked, at the same time they introduced an increased span of ordinary hours to 24 per day, and averaged contract hours over a four week period. While this enabled a degree of flexibility there was inadequate recognition that the employees' ability to compress hours over a four week period could also create problems of extended working hours and stress and that this would need to be carefully monitored.

### ***Potential Disadvantages of Increased Flexibility in Hours***

Campbell (1993:13) argues that while flexibility in hours which responds to the needs of employees can have progressive implications for workers, that flexibility

which primarily is in response to the *needs of the enterprise* can have detrimental effects. He argues that the focus of the 1990s reforms has been on the increased flexibility of the individual employee who is expected to be flexible in response to the constraints and needs of the enterprise. This involves flexibility in hours designed to make optimum use of capital equipment and so to operate on a 24 hour basis. There may be a need to respond to the growing and sustained call for 'client and customer focus' by extending shopping and service hours. Fluctuations in demand or production may require the length of the working week to vary, it may require the staggering of breaks or the changing or abolishing RDOs. There are a range of potential problems which can emerge for OHS. The following list is not designed to be exhaustive but indicative of the sorts of issues which can arise.

Open-ended flexible working time arrangements may lead to *work intensification*.

- **Existing power imbalances at the workplace may place pressures on workers to work longer hours:** One of the benefits of increased flexibility in hours is meant to be the open-ended nature of the arrangements. However any assumption that open-ended arrangements will always benefit workers, or that arrangements will not be exploited by management ignores the power imbalances which exist at the workplace. This imbalance, compounded by economic pressures on organisations, can generate subtle pressures on workers to work longer and more flexible hours even if this is inconvenient for them. It can also make it difficult for workers to raise objections to requests to work longer hours, or to complain about workloads which mean they have to work extra hours. Indeed, for these more flexible arrangements to work, employees must be able to control their workloads and ensure that workloads are realistic and that employees have the ability to raise objections if things get out of hand. This set of circumstances may break down and create potential OHS problems.
- The move away from clearly defined working time arrangements and standard working weeks increases flexibility, but leaves the way open for negotiations over working hours to become personalised and much more exposed to differing, bargaining power within the workplace. This can especially be the case where open-ended working time arrangements are combined with open-ended termination provisions which allows for dismissal on the grounds of

'unsatisfactory attitude or performance'. The example outlined below is from a registered NSW non-union agreement in a furniture making company.

### *Termination*

'Termination of employment by the employer shall be at the sole discretion of the company and may happen without prior warning or counselling. Termination may arise from but may not be limited to:

- unsatisfactory attitude
- unacceptable quality of work
- lack of work
- unsatisfactory work proficiency

### *Hours*

- Ordinary hours of work shall be a maximum of 40 per week, averaged over a 52 week period
- The ordinary span shall be 6.00am to 6.00pm
- Where an employee works more than 40 hours in any one week, those hours worked over and above 40 shall be offset against time not worked in the previous 8 weeks or the following 8 weeks.
- Work intensification is more likely to arise where there has been a **combination** of flexible and open-ended working time arrangements, workloads which are ill-defined and unclear and shifts in the balance of power between the parties at the workplace. This can also occur when there is an implicit or explicit 'work to finish' mentality where the responsibility for completion of work lies with the employee, rather than with management to ensure that there are realistic workloads

- **Open-ended hours may lead to 'open-ended' workloads.** One of the problems with flexible working hours is that there may be a tendency for workloads to increase over time as employees expand and contract their working hours. Having structured working hours may be inflexible in some ways, but can act to keep a lid on the amount of work employees are expected to take on. Having open-ended working time arrangements may make it more difficult to monitor and thus control workloads.
- **Open-ended hours may lead to 'short-staffing':** Having the ability to extend the hours of work of existing employees combined with pressures on organisations to run 'leanly' may lead to under-staffing. It may often be cheaper to extend the hours of work of existing employees, particularly if open-ended hours arrangements are combined with the abolition of penalty rates and paid overtime, than to employ more staff. This could easily lead to increased workloads and work intensification.
- **Existing staff may be used to cover fluctuations in workload levels** which could lead to periodic work intensification. The flexibility afforded by open-ended working hours may lead to temporary fluctuations in workload being covered by existing staff. Thus the introduction of flexible working hours and staffing levels which were made on the assumption of certain workload levels may need to be reconsidered in the light of changed circumstances. If this is not done, the result may be extended working, an increased risks of accidents, manual handling problems and stress.

The above factors suggest that:

Increased flexibility in hours of work should be accompanied by initial and continuing workload assessment to avoid risks associated with work intensification.

The *CTAL case study* highlights the ways in which more flexible hours of work can intensify work, particularly when workloads increase. At CTAL, the enterprise agreement made it possible to increase the number of 'double-headers' or overtime which could be worked. This was based on a certain utilisation level at the time. However, utilisation of the terminal increased dramatically, and instead of employing additional permanent staff management wanted to employ casual staff. This was

resisted by the union and existing staff continued to work additional overtime. This had led to problems of fatigue, and an increased risk of near misses and accidents.

Increased flexibility in hours which are too open-ended may increase worker stress.

The open-ended nature of flexible working time arrangements may lead not only to work intensification which can generate worker stress, but also to levels of uncertainty, unpredictability and reduced worker autonomy which might impact on stress levels.

- **Unpredictability:** stress can arise from working hours being extended without adequate notice, or increased expectations to work at weekends and at night. Having open-ended arrangements implicitly places expectations on workers that they will adjust to the demands of the enterprise for flexibility. These more short-term expectations may not take into account personal commitments, family responsibilities and other limitations such as child care hours which make it difficult to re-schedule arrangements at short notice. The anxiety which can be created by trying to meet tight deadlines or by trying to re-organise child care arrangements at the last minute should not be underestimated. Flexibility for the employer may not mean flexibility for the employee in the same way, unless consideration of the employee's capacity to be flexible is taken into account.
- **Respite from work:** Stress can also arise if adequate respite from work is not taken. Information passed on to ACIRRT<sup>6</sup> in recent times suggests a growing tendency for employees to undertake unpaid work at work, to take work home without payment and to come into work on weekends in an effort to 'catch' up. This hidden extension of hours is almost impossible to document or prove conclusively but if it is as extensive as it appears to be, this represents a serious

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<sup>6</sup> For example, informal discussions with officials from unions from the finance industry, the public sector and hospitality industries suggests an increased expectation on the part of some managers and employees that employees will perform work in their own time both as a response to increased workloads, but also as an expression of commitment on the part of employees. One union official explained that she had received complaints from members that they had been pressured to start work at 8.00am but to write on their timesheets 9.00am.

encroachment on the personal and family life of workers. There is the real possibility of increased levels of stress if open-ended working arrangements reduces the level of respite away from work employees are able to secure.

Moreover, there is a recent suggestion that worker stress increases as the individual perception increases that work time has encroached on time which workers' consider to be theirs<sup>7</sup>. There may be a concurrent increase in stress as there is an increase in the encroachment of work into the personal, family and recreational time of employees.

- **Personalisation of stress:** the more 'open-ended' nature of the working time arrangements may also result in more open-ended workloads being pushed onto workers. If working hours are open-ended it becomes hard for workers to assess what an appropriate and reasonable workload is. This leaves workers more exposed to a level of work intensification and for which they feel personally responsible. It becomes much easier for workers to blame themselves for not being able to prioritise properly or to manage their workloads when working hours are open-ended. This may result in the personalisation of stress associated with over-work.
- **Blurring of boundaries:** the 'open-ended' nature of these working time arrangements may blur the boundaries between work and the personal time of employees. When work commences and ends becomes harder to establish and workers may feel pressured to take work home. This is particularly the case where work can be undertaken on home computers. The ability for employees to leave work behind may add to the stress of open-ended workloads.

The *RC1 case study* example highlights some of these problems. RC1 was a non-union workplace where hours were originally a 40 hour standard week with paid overtime. Under the EBA, and with the motivation to reduce the amount of paid overtime, RC1 moved to a 'work to finish' situation, combined with the averaging of hours over a 52 week period. Workers also gave up paid overtime, public holiday penalty rates and holiday leave loading in return for a \$40 per week pay increase.

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<sup>7</sup> This notion of stress being linked to encroachment into personal time was put forward by Yossie Berger from AWU-FIMEE at a recent seminar into the effects of shiftwork organised by Worksafe Australia's Short Course Programme held in Canberra on 9.6.95.

These changes resulted in shorter hours of work being worked during the winter months, but much longer hours being worked during the summer months. According to the workers and confirmed by management, the pace of work quickened because the primary motivation for workers became the completion of work in the quickest time. Reports from the workers indicate that short-cuts were taken (such as swinging on trucks and running on the road) and that there was an increase in slippages and falls. Workers put this down to the speeding up of work while management considered it to be more of a problem of 'carelessness'. OHS arrangements at RC1 were essentially reactive rather than preventative, and despite a stated commitment on the part of management, there were only very informal OHS arrangements in place. Perhaps also because of limited resources within what was a small company, the OHS implications of changes to work practices were not recognised.

Increased flexibility may be detrimental to OHS if it leads to unregulated extended working hours which produce 'shift-work' like hours of work

- **Because extended hours is introduced under the mantle of 'flexibility' this often assumes the effects will be progressive for workers, and thus the OHS impact may go unrecognised.** The notion that 'flexibility' in hours is usually progressive for workers has underpinned the support for its introduction, particularly for workers with children who clearly require such flexibility. However, there is a lack of recognition that extended working hours which occur under flexible working time arrangements can attract the same problems as those normally associated with formal shift work arrangements.

Indeed, much of the concern about the potential impact of changes to working time arrangements under enterprise bargaining has tended to assume that the major problem would emerge in the form of extended hours of work introduced via formal shiftwork arrangements. Trends in agreements on ADAM suggest that while there has been some movement in the area of traditional shift arrangements, that the real increase has been in the form of flexible working time arrangements which increase hours of work in more subtle but no less significant ways. Techniques such as increasing the span of ordinary hours

combined with averaging of hours over a period may produce shiftwork-like hours of work, but which are not called 'shift work'.

Under traditional shiftwork arrangements the working day may be organised around rotating shifts, 12 hours shifts, split shifts and so on.<sup>8</sup> While the problems associated with these more traditional shift arrangements can be significant, their effects can be mediated to some extent by ensuring that there is careful planning, rostering, adequate break, rest periods and so on. Workers may also have elected - to some degree - to work these arrangements with forewarning about their duration and frequency. They may also have been paid compensation for working these shifts in the form of shift allowances, penalty rates and overtime rates for working at odd hours, on weekends or for longer than typical working day. There may also have been some consideration given to the appropriate length of the shift in relation to the type of work undertaken.

Thus the extension of working hours, whether introduced using *flexibility provisions* or more traditional shiftwork arrangements will have implications for OHS. Some of these include:

- **Health Effects of Extended Working Hours and Shift Work.** While the potential benefits to workers of shift-work have been explored, including increased leisure time and the ability to better juggle work and family responsibilities (*Work and Family*, 1995), other potential disadvantages have been stresses. Mathen (1994) for example, points out that the health effects of shift work fall under the following categories: effects on sleep, fatigue, occupational stress, gastrointestinal disorders, cardiovascular disorders, effects in pregnancy, exacerbation of existing disorders and exposure to physical and chemical agents.

Smith (1993:116) argues that the key issue associated with shift work and extended working hours work is *stress*, both physiological and emotional. Smith argues that workers' ability to cope with stress is dependent on biological and psychosocial resources. Using empirical study data, he notes that night workers are affected by malaise, aches and pains and infections; that is,

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<sup>8</sup> See the most recent edition of *Work and Family* (1995) for an overview of issues associated with shiftwork.

biological stress (1993:117). He does note, however, that the psychosocial effects of shift work including the impact on relationships and families may be negative, they are at times accompanied by advantages such as increased leisure time (p119). However, there is also debate about the supposed benefits in increased leisure time, as the quality of this leisure time may be compromised due to the aforementioned health effects.

Williamson (1994) argues that the working of extended shifts, particularly at irregular hours, will always result in fatigue, because humans do not physiologically adjust to disrupted sleep patterns, even over an extended period. She therefore argues that if extended shifts are to be introduced, attention must be given to the types of work suited or unsuited to extended shifts, and the need for initial and ongoing evaluation and monitoring. She states that extended shifts (or flexible working arrangements which results in longer shifts) must be governed by the following principals:

- a) If they are introduced they **MUST** be continually evaluated;
- b) Longer shifts must be balanced by adequate rest periods during shifts and between shifts;
- c) Hazardous or critical activities may need to be scheduled early in the longer shifts, especially during night work;
- d) Longer shifts must **NOT** be extended by overtime.

As can be seen by the above guidelines proposed by Williamson, extended working hours will have less of an OHS impact if they are organised, preplanned and monitored. While this is not impossible under more open-ended flexibility arrangements, one of the characteristics of flexibility in hours is the capacity to respond at short notice to changes and demands within the enterprise. This may mitigate against the kind of preplanning required to guard against the worst effects of shiftwork.

- **Standards:** There are a range of potential health and safety implications of changes to work time arrangements. For example, it has been noted by both Worksafe (1994) and the ACTU (1994) that exposure levels for hazardous

substances like chemicals, or to situations like noise, computers and so on are generally based on eight hour shifts rather than extended shifts. Thus increased flexibility in hours which even sporadically extends shifts beyond these spans need to be monitored.

At a more general level, the impact of fatigue on work performance and machinery operation and the increased susceptibility to accident proneness is similarly well documented (Folkard and Monk, 1985 cited in Smith, 1993).

Consideration also needs to be given to the tendency to increase the span of hours without also implementing job redesign. Thus any increase in hours needs to take into account the changed needs of workers to withstand longer shifts. For example, the Textile, Clothing and Footwear Union described particular problems in situations whereby workers undertaking assembly work were being asked to stand for ten hours shifts without there being any standard or understanding of the ramifications of changes such as these. The increased shift length had been introduced with an enterprise agreement. The Union also described particular problems with fatigue associated with longer shift spans.

Rewarding sustained and excessive working hours may individualise risk and represent a new form of 'danger money'.

While rewarding employees for working additional hours from time to time is legitimate, and the tendency to remove penalty rates and overtime rates is regressive, the practice of rewarding workers for sustained and excessive extension of hours could be equated with the paying of 'danger' money. The assumption with the old 'danger money' was that that individual workers had the right to decide whether they would undertake hazardous work under the condition they were paid a 'premium' for it in the form of extra money. However, employers who place workers at risk of accident or ill-health are of course breaching their obligations under a duty of care which are non-negotiable.

The often long term and more insidious hazards associated with work intensification and stress make it easier to personalise the stress and individualise the risks. But the effects of working excessive overtime do potentially create OHS risks which employers have a duty to remove at their source, not to just deal with the effects.

The overall impact of increased flexibility on OHS of trading off 'restrictions' associated with working time arrangements may not be recognised or understood.

One of the outcomes of increased flexibility in hours may be to intensify the work effort across the day by strategies such as removing breaks, staggering breaks, abolishing meal breaks or ensuring that rest breaks do not interrupt production. While the impact on OHS of the removal of restriction on how time is organised will depend on the kind of work undertaken and the labour process involved, the result for workers' health can be: increased fatigue, an increase in repetitive tasks without a break, increased exposure to SBE screens or chemicals, and a sense of loss of autonomy over work. The overall effect may be to intensify the work effort.

At the time of negotiation of the agreement these may appear to be minor parts of overall conditions that can be easily surrendered in order to achieve a wage increase. The tendency to trade off conditions will increase where there is an expectation that productivity improvements are made in return for the increase, and the surrender of these conditions appear to be minimal at the time. It may also be more likely to happen when negotiations are undertaken on behalf of workers by full-time union officials who may not have a good understanding of the implications of removing breaks from work. Recent union amalgamations have meant an increased span of work for officials and a greater drain on the resources of officials to cover increasingly diverse workplaces. These officials may not have detailed knowledge of the workplaces and will have to rely on the skills and knowledge of workplace delegates.

- **Isolation:** Increased internal numerical flexibility can involve an enhanced capacity to change internal staffing levels in particular situations. This may involve reducing the number of workers overseeing a particular task or working in a particular situation. This can have OHS implications in two major ways.

First, serious safety implications can arise where workers who would typically work together in potentially hazardous situations - such as maintenance of lines, overseeing machinery, irrigation channels etc are found working alone because of pressures to cut staffing levels. Recent discussions with the ACTU confirmed that problems had arisen with employees working in 'isolation' due to

changes in staffing levels negotiated under enterprise agreements. In a recent example, a Sydney water authority was fined for breaching safety standards for allowing employees to work alone on reservoirs as a cost-cutting measure.

Second, employees who work either alone, or who work flexibly may not be able to develop relationships and support networks within a work environment because they are working alone, or are working so irregularly or erratically that they do not see co-workers enough to establish networks and relationships. This acts against both the development of informal support systems which have been shown to be important for the emotional well-being of workers, and against the development of a collective voice with which to raise issues associated with OHS. This can be of particular concern in industries such as Finance where workers who have outside responsibilities - primarily women - are brought in to cover peak periods such as lunch hours. These workers may not receive a break and may have to rush home to collect children.

Particular working time arrangements are adopted when work-related stress is seen as a personal problem.

One of the more worrying trends across a number of the case studies was a tendency to locate the cause of work-related anxiety and stress within individual workers. Thus problems associated with excessive workload, lack of resources and lack of management support within organisations were often identified by management as being the result of inadequate coping strategies among individual workers. This was also more likely to occur within service sector industries with a focus on 'caring'.

In *CSO* for example, a community sector organisation which delivered a range of 'crisis' services to clients, there was a concern to control the amount of overtime being worked. The problem was identified by management as being one where workers were overly committed to 'the cause' and so self-exploited. The solution was seen to be a combination of relationship, stress and time management strategies as well as a staff counsellor. The EBA was also used to implement more structured RDO working time arrangements combined with an approved overtime system as a way of controlling excessive overtime. So on the one hand there was a recognition that open-ended working time arrangements allowed excessive overtime to be worked and that by clearly delineating working hours this may help to control the problem. However, at the same time, management introduced working time

arrangements which also *increased* the span of ordinary hours to 24 hours per day, and allowed for the averaging of hours over a two week period. There was little recognition on the part of management that this would allow the compression of hours into a shorter period, theoretically allowing for consecutive 12 hours shifts. So while on the one hand there was a recognition that stress was associated with work organisation and had to be *structurally limited*, there was little understanding that the compression of hours over a two week period could potentially cause as many stress related problems. This was possibly because management expected individual workers to monitor and control both their workloads and the stress associated with it, rather than to look at the systemic work related issues at the workplace.

### 4.3 CONSULTATIVE ARRANGEMENTS AND EMPLOYEE PARTICIPATION

#### Definition

While quality consultation and employee participation is in many respects pivotal to both positive enterprise bargaining and OHS outcomes, there is no clear cut definition of either. Different parties will have different perceptions of what constitutes adequate consultation, about who should be involved and of what constitutes quality outcomes. This renders the issues of consultation and employee participation complex. In an attempt to overview some of the issues involved the following structure will be adopted in this report. Again, this overview is meant to be indicative rather than definitive.

- Different interpretations and forms of consultation and employee participation
- The scope of consultative arrangements in AWIRS and ADAM and the case studies
- The importance of consultation and employee participation for OHS outcomes
- Issues which affect the quality of consultative outcomes.

### ***Different Forms of Consultation and Employee Participation Interpretations of Consultation***

In a report commissioned by the Federal Department of Industrial Relations (DIR), *consultation* is defined as involving

' . . . where possible, employees being given the opportunity of discussing and making known their views *before* a decision is taken' (Taylor 1982:4: original emphasis). This is differentiated from *communication*, which is considered to be where: 'management views consultation with employees before the taking of a decision as either impracticable or harmful to the organisation. In these cases management would inform employees as soon as possible *after* the decision, and disclose as much as possible of the rationale for the decision' (Taylor 1982:4: original emphasis).

Thus consultation implies discussion *prior to* major decisions being made rather than just having decisions communicated to them. However, consultation does not assume that workers will have any formal rights to veto decisions even if they are consulted prior to the event. Whether workers are formally empowered to influence outcomes will depend largely on any legal rights and on bargaining power.

#### *Forms of Consultative Arrangements*

The difficulty with trying to capture the myriad of forms which consultation over both IR and OHS take is that it is not necessarily consistent in form or over time. The shift towards enterprise bargaining has complicated matters further. In addition, there are different state and federal guidelines which govern consultative and representative arrangements, as well as a range of informal and semi-structured arrangements. The combinations are almost endless and the way they interface is complex.

For instance, in a workplace there may have been no pre-existing formal structures for either IR or OHS (for instance RC1), but the advent of enterprise bargaining has seen the development of a works committee as defined by state legislation in a non-union workplace in NSW. In another workplace, there may have been a pre-existing OHS committee and a pre-existing JCC which became the forum for enterprise bargaining (such as at CSO), while the OHS committee had no input at all to the EB

process. In another example we may see highly structured consultative forms for both IR and OHS (such as at CTAL), and joint membership of both committees, but no necessary formal interface between the committees over OHS. In Victoria the primary form of consultation and participation is through HSRs who may or may not have been included in the enterprise bargaining process. Finally, sometimes trade unions are involved and sometimes they are not; sometimes consultative forums pre-dated enterprise bargaining, sometimes they emerged as a forum for it. Overall, however, the following forms capture some of the most common forms of consultation:

- Joint Consultative Committees (established under old SEP and involves unions, employees and management but has no formal no legal status)
- Works committees in non-union enterprises in NSW
- OHS committee (in workplaces with over twenty employees (eg. NSW))
- OHS representatives (eg. Vic)

The most common avenue for consultation of registered enterprise bargaining, which is the primary focus of this study, is some more formal, structured avenue, usually joint consultative committees (JCCs), made up of managers and either employees and/or trade union representatives. While JCCs do not have any legal status, they may be recognised within an agreement, award or else through some memorandum of agreement between an employer and trade union. JCCs arose as a result of the consultative requirements within the second tier and award restructuring processes of the late 1980s and early 1990s, and many have either survived or become a consultative model to the present.

#### *Interface Between Different Committees*

Policy makers have given little thought as to how these various forms of OHS and IR consultative forms currently interface or how they should optimally interface in order to achieve the most positive outcomes. This is particularly the case with the ways in which OHS committees and JCCs and works committees interface. There has also been a lack of attention given to the role of trade unions in this process and

the ways in which their involvement impacts on OHS outcomes. These issues will be explored further below.

### **The Extent of Consultative Arrangements in ADAM Agreements**

Whilst evidence from recent surveys suggests that workplace consultation is becoming more prevalent, it is far from being a ubiquitous feature of workplace industrial relations.

**Table 4.7: The Extent of Consultative Arrangements in ADAM Agreements**

<b>Consultative Arrangements Provisions in Enterprise Agreements</b>	<b>Percentage of Agreements</b>
All agreements which make some mention of clauses relating to consultation	64
Formal Consultative arrangements including: <ul style="list-style-type: none"> <li>• consultative committee</li> <li>• facilities made available to JCC</li> <li>• regularity of meetings</li> <li>• JCC to be used in the change process</li> </ul>	49
Union participation in consultative committees including: <ul style="list-style-type: none"> <li>• peak union representative on the committee</li> <li>• union rep on committee if majority agree</li> <li>• union official may attend CC meeting</li> </ul>	10
OHS committee including: <ul style="list-style-type: none"> <li>• OHS committee/sub-committee present</li> <li>• participation in decision-making in OHS</li> </ul>	8

## Overall Trends

- Formal consultative arrangements are a common feature of agreements. This is not surprising given that one of the aims of enterprise bargaining is negotiating changes to wages and conditions of work. There is a presumption that consultation be an ongoing feature of workplace relations. In this light, it may be surprising that 36% of agreements are silent on consultation.
- Only 10% of agreements overall specify how unions are to be involved in consultative arrangements. This does not mean of course that unions have not been present or will not continue to be involved, but that the agreement itself does not include formal mention of their involvement. It is difficult to know whether this reflects a similar trend outlined in Chapter 3 of this report, that is, that management is the primary driving force behind enterprise bargaining.
- The relatively low occurrence of OHS committee involvement with other formal consultative arrangements (8%) reflect the continuing poor interface between OHS and industrial relations. It may also help to explain why while 38% of agreements made mention of OHS, and for the most part the clauses lacked detail and substance.
- 100% of agreements which had OHS committee involvement in formal consultative committees also had health and safety content in the agreement. However, only 20% of agreements where there was no OHS committee interface with other committees, was there OHS content. While this is a trend only, it may mean that *where there is OHS interface with formal consultative committees, there is a better chance OHS will be included in agreements*

**Table 4.8: Industry Trends in Consultative Arrangements Found on ADAM**

Industry	Some Reference to Consultation at the workplace %	Consultative Committee present %	OHS Committee present %	Union participation in consultative committee %
Mining/ Construction	75	59	19	37.0
Food & Bev Manufacturing	73	66	5	10.1
Other Manufacturers	79	61	11	7.3
Metals Manufacturers	80	67	11	12.1
Public Utilities	57	39	5	4.9
Wholesale/ Retail Trade	53	43	7	0.0
Transport/ Storage	55	43	4	6.0
Finance Services	59	36	4	7.0
Public Admin	74	57	3	0.0
Community Services	41	28	7	4.0
Recreational Services	58	41	4	9.0
All Industries	64	49	8	10.0

- Provisions about **formal consultative arrangements (49% overall)** appeared more often in some industries than in others. Well over 60% of metal manufacturing, other manufacturing, and food and beverage manufacture included mention of formal consultative arrangements while only 28% of community service industry and 36% of finance sector agreements included

mention of such arrangements. This is likely to reflect both the strong tradition of consultation, and strong trade union involvement in manufacturing sectors and the poor tradition of both in community services and finance.

- The industry trends for **OHS committees (8% overall)** were even stronger. For instance, mining and construction agreements (19%) were *six times as likely* to mention OHS committees as public sector agreements and recreational services industry agreements, and almost five times as likely than finance, transport and storage agreements. Other manufacturing and metal manufacturing also record higher than average tendencies to include provisions related to OHS committees. This may reflect a strong tradition of negotiating around OHS in mining, construction and manufacturing, and a low tradition in the other sectors. The overall low figure of 8%, however, possibly reflects an overall low recognition of the role of OHS committees in the enterprise bargaining process overall.
- Industry trends for **formal trade union participation in consultative committees (10% overall)** were more pronounced still. Of these 107 agreements, 37% were to be found in mining/construction, while none were found in public administration or wholesale retail. Only 4% of community service and 5% of public utility agreements included formal provisions specifying trade union involvement in consultative committees.
- While consultative arrangement provisions are fairly common in agreements, there are very strong industry differences which indicate that some industries have a strong tradition of consultation (such as mining and manufacturing) while others are persistently under-represented (such as community services and finance)
- OHS consultative patterns reflect similar industry differences
- There may be a relationship between the existence and interface of OHS with other consultative mechanisms and the inclusion of OHS in agreements

### AWIRS Trends

- An overview of the AWIRS data confirm a number of these trends. According to Marchington, there is 'little doubt' that there has been an apparent growth in the existence of consultative committees since the late eighties (1992:536). However, he did find that they were not widespread, being largely confined to large, highly unionised workplaces, particularly workplaces in the public sector and that more organised workplaces tended to focus on issues concerning working conditions, health and safety, and award restructuring (Marchington 1992:542-43).
- A secondary analysis of the AWIRS data undertaken by Pragnell (1994) highlights the following key trends with regard to OHS committees. Pragnell found that on average 45% of workplaces throughout Australia have OHS committees. In NSW by industry, highly unionised, and public sector workplaces are more likely to have OHS committees than private sector. He also found that while a majority of committees nationally met quarterly, a sizeable proportion met either infrequently or not all. Finally, he found that increasing levels of union and industrial relations activities are closely tied to OHS activities including the existence of committees (p27)

To sum up, the AWIRS data suggest that:

- Consultative committees are not widespread, but their incidence appears to be increasing
- OHS committees are much more common than Consultative Committees
- Both consultative committees and OHS are more likely to occur in large, industrially active and/or well unionised workplaces
- There was a relationship between the existence of OHS committee and other types of OHS activity

## Case Study Trends

**Table 4.9: Consultative Arrangements Found in the Case Studies**

Case Study	IR Consultative Arrangements and EBA Bargaining Processes	OHS Consultative Arrangements	Interface Between the Two Committees or Input of OHS Structures Into EBA Negotiations
ACE	Informal/NA	Informal	N/A
Textiles Co	EB Negotiating Committee established as a result of the EBA	Longstanding OHS committee	None, but some input via the union, for example the OHS clause
RC1	Works committee formed late in the EB process.	None	None, but some OHS input from the owner
RC2	No formal mechanisms	OHS committee but used as a last resort	None
The Bank	State IR structures with the FSU and other joint committees	State OHS structures	None, but OHS input from the Union
The Insurance Company	Staff/management meetings, EBA implementation groups	HRS and OHS committees in place	None
Lady Gowrie	No formal IR structures but an EB negotiating committee established	No formal structures	None, but OHS input from the Union
CSO	JCC	OHS but inoperative	None
Con1	State and project consultative committees	OHS committees and HSR	Yes
Con2	State consultative committee	OHS committee and HRS	Yes, and Unions the driving force
The Manufacturing Company	Largely informal but consultative committee established for the EBA	Longstanding OHS committee	Both committees shared common members
CTAL	Highly structured: site, state and national union and management representative negotiations	OHS committee and site union committee	Both committees shared common members

***Some Key Trends Emerge from the Case Study Evidence:***

- The case studies confirmed that there exists a wide range of different IR and EBA consultative arrangements in the case studies. In some cases, such as Lady Gowrie and the Manufacturing Company, there had been informal IR and/or OHS arrangements prior to the EBA process, and the EBA process itself generated greater formality and structure. In others, such as CTAL and the construction industry, arrangements were already very structured.
- The case studies also confirmed a generally *patchy interface* between IR and OHS structures, except in the cases where there was long standing structures for both and active trade union involvement, and direct employee representation, such as at CTAL and in the construction industry examples.
- OHS outcomes are likely to be more positive where there is direct employee representation in the form of HSRs, as was the case in both of the construction company case studies.
- The cases also suggest that where there is lack of structured consultative arrangements but interest in OHS, management commitment and input from an active union, that OHS can at least be placed on the agenda. Such cases included Lady Gowrie, The Bank and the Textile Company.

**The Potential Benefits of Consultation and Employee Participation for IR and OHS Outcomes**

There is broad theoretical support that consultation is necessary in order to adequately address workplace health and safety. Indeed, Robens-style legislation was predicated on employee participation and consultation as a cornerstone of good OHS outcomes.

The literature on consultation notes that there are a number of benefits to be gained by organisations that formally implement consultative processes. Marchington (1992:534) and Taylor (1982:9-10) for instance, suggest that some of the broad benefits will include:

- *improved communication* between management and the workforce

- *improved productivity* where the knowledge of employees can be accessed through consultation to improve work organisation.
- *improved employee morale and promotion a commonality of interests* between management and employees. By making employees aware of broader organisational objectives and constraints their commitment and motivation may be enhanced.

Consultation is widely acknowledged as also being crucial to workplace health and safety not only as a mechanism to assist in the effective management of OHS but also as an integral part of enhancing productivity and quality at the workplace (Quinlan 1994:9). According to Quinlan the involvement of workers in decision making over OHS has four general benefits for management in addressing workplace health and safety:

- it enables management to tap the store of employee knowledge in identifying and addressing hazards.
- employee knowledge enables them to suggest effective OHS solutions that may be cost effective.
- by including employees in OHS they become 'stakeholders' in the implementation effective OHS management.
- it provides feedback which will assist in a critical assessment of an OHS programme (Quinlan 1994:4).

More generally, but no less importantly, Biggins (1991:139) advocates the need for the implementation of OHS consultation as the democratic principal that people have a right to be involved in decisions affecting their health and safety at work.

Biggins et. al. (1991) argue that worker participation is essential to the effective implementation of legislative reforms in the area of health and safety (p138). They cite a range of benefits to be gained from a participatory approach such as improved industrial relations, better design of new technology and increased economic viability (p140). They do acknowledge, however, that very little research has been undertaken on the functioning of committees and representatives (p140).

Pragnell (1994) argues that workplace OHS committees in NSW for example, are critical for pro-active OHS practices and policies, especially given that the legislation makes no requirement for OHS representatives as it does for Victoria and South Australia (p5). Arguably, their existence may be equally important to ensure that changes proposed under enterprise bargaining are considered. Their absence or inadequate functioning could therefore compromise the potential enterprise bargaining has to address OHS issues.

Creighton (1986:119) argues that while there are jurisdictional differences between the functions and powers of health and safety committees and representatives there is an accepted role - however limited - for workplace committees and representatives in the consultative and advisory process associated with the operation and implementation of OHS systems at a workplace level (Creighton, 1986:119). The principal of consultation in OHS issues and processes is premised on the notion that employees have a right and employers have a responsibility to participate in an area of work which so directly impacts on health and welfare.

Given that employees have a right to be involved in consultation about OHS, the literature and evidence from the case studies has revealed that *direct representation* in the form of health and safety representatives is the most effective form of consultation and the one most likely to produce positive effects under enterprise bargaining.

### Consultation in Practice

While the above benefits of effective consultative structures are not disputed, there is an underlying assumption that the presence of formalised consultative processes and structures may be enough to achieve these benefits. This, however, ignores issues associated with the quality of consultative processes and structures, the potential unevenness of the outcomes and the factors which impact on the outcomes. Indeed, a synthesis of the case study and other data sources suggested a much more complex relationship. We found that:

There was a complex empirical relationship between the existence of consultative processes and structures and more positive OHS outcomes. The mere existence of formal consultative structures - such as committees - did not ensure heightened recognition of the OHS implications of work changes, nor implementation of OHS initiatives. Both recognition and implementation was more likely where there was direct employee representation.

The data, and particularly the case studies suggested there were a number of factors involved in achieving the particular OHS outcomes in the enterprise bargaining process. These were viewed as critical indicators of OHS outcomes that were likely to be more positive for employees:

- *recognition* of the OHS implications of work changes as way of demonstrating that hazards had been identified at their source, and
- either actual *implementation* or strong likelihood of implementation of OHS initiatives proposed which demonstrated that there was a greater chance that the OHS would actually improve for employees

#### ***Organisational Factors Associated with Positive OHS Outcomes***

The factors which we found to be strongly associated with the above outcomes, and which we have termed '*bargaining capacity*' included, but were not limited to, the existence of formalised consultative structures were:

- formalised and effective OHS and/or enterprise bargaining processes and structures *and*
- active and informed trade union involvement *and*
- committed and informed senior management willing and able to dedicate resources to OHS *and*
- active and informed employee involvement and representation *and*

- industrial relations environment conducive to and supportive of genuine employee empowerment in OHS

The case studies revealed that if one or more of these key ingredients was missing or compromised in some way, then OHS outcomes in terms of recognition and implementation were likely to be less positive. The following case study examples encapsulate the types of consultative arrangements found in the case studies and their implications for OHS.

*Scenario 1: Case Study Example RCI*

- NO formalised OHS structures; EB works committee ineffective
- NO trade union involvement
- Committed management but unable to dedicate resource
- Neither active nor informed employees
- IR environment paternalistic and not conducive to employee empowerment

*OHS Outcomes of enterprise bargaining*

- No recognition by management of the OHS implications of changes to work organisation
- Patchy implementation of the OHS content in the agreement
- Overall detrimental OHS implications for employees in the form of work intensification

The example of RC1 highlights how inadequate formalised bargaining structures - in this case a NSW works committee - can be in the absence of these other factors. At RC1 employees received no training in OHS, there was no history of trade union involvement and no experience in formalised bargaining. Workers also complained that despite the Works Committee, they did not understand the meaning of the changes in the agreement. While management had made an attempt to address OHS in the agreement they lacked both the training and the financial resources to make changes and were under considerable pressure to cut costs.

### *Scenario 2: Case Study Example: CSO*

- Formalised but ineffective OHS structures; JCC for enterprise bargaining
- Trade union presence but generally inactive at a workplace level
- Committed but not informed management
- Informed but not active employees
- Industrial relations environment supports an attitude of 'self sacrifice' not conducive to employee empowerment

### *OHS Outcomes*

- Patchy and narrow recognition of OHS implications of work changes
- Implementation of many initiatives
- Improvement for some workers but unlikely that sources of stress will be addressed
- Personalisation of stress

The CSO case study revealed that the mere existence of OHS consultative structures will be meaningless if they are inactive, as was the case at CSO. It also shows that the mere presence of trade unions on a JCC will also be ineffective if that presence is not well informed about the industry, does not have a strong shopfloor presence, nor

is backed up by informed and active shopfloor delegates. Similarly, management at CSO were committed to improving conditions for their employees, but had a narrow and personalised view of the sources of stress which led to the personalisation of stress and the individualisation of risk.

### *Scenario 3: Case Study Example: CTAL*

- Formalised, active but not effective OHS committee; highly structured IR and bargaining structures
- Trade union presence very active and informed at a workplace level
- Some commitment from senior management but low trust and not willing or able to dedicate resources to OHS
- Active employee involvement but IR environment makes employee participation and empowerment very contentious

### *OHS Outcomes*

- Patchy recognition of OHS implications of work changes
- Patchy implementation of OHS content compromised by hostile IR environment and pressure on resources led to work intensification and increased fatigue
- OHS outcomes for employees compromised by work intensification and increased near misses

CTAL highlights how merely having consultative structures for both OHS and IR and an extremely active trade union will not guarantee optimum OHS outcomes for employees. CTAL highlights how the industrial relations environment within which enterprise bargaining takes place and OHS is managed will impact significantly on outcomes. The absence of an environment conducive to co-operating around these issues, and resource pressures on the terminal all compromised OHS outcomes, despite highly structured and formalised consultative process for both IR and OHS.

***Scenario 4: Case study example: Con 2***

- OHS formalised, strong, active OHS committees and HSRs; strong and informed trade union presence
- Strong commitment from senior management; willing and able to dedicate resource to OHS
- Employees supported and encouraged to be active and involved; direct representation and empowerment through HSRs.
- IR environment conducive to and encouraging of employee participation and empowerment.

***OHS Outcomes***

- Strong recognition of the OHS implications of work organisation and positive, systematic responses to issues of sub-contracting, team work and multi-skilling.
- Implementation well underway
- Overall improved outcomes for employees, heightened chance of job security through commitment to increase direct employment. Cost pressures may continue to mitigate against OHS improvements for sub-contractors.

***Factors Which Affect the Quality of Consultative Outcomes***

The above examples provide an overview of the types of factors associated with the types of consultative arrangements more likely to produce positive OHS and IR outcomes. This section presents an overview some of the factors which may compromise the quality of consultative arrangements and thus the outcomes for OHS. Again, these issues have been developed from both the literature and the case study material.

### *Effectiveness of the Committee Structure*

The existence of an OHS committee alone will not guarantee that OHS issues associated with enterprise bargaining will be recognised, or strategies implemented.

While there is broad support for the principle of OHS committees as an important underpinning of a co-regulatory approach to OHS, less is known empirically about their effectiveness. What the literature does indicate, is that while OHS committee activity may not indicate OHS quality, (Pragnell, 1994; Biggins et. al.; 1991) it is associated with an 'active' level of overall bargaining at a workplace level. Pragnell found in his analysis of the AWIRS data that a strong relationship existed between workplace industrial relations activity, especially industrial relations structures, and the existence of workplace committees (p31). Moreover, he found that the existence of committees coincided with other OHS activities (p32). Workplaces with committees were more likely to have written policies on OHS, to keep injury records and to have a person who was responsible for OHS. This being said, there remain concerns about the effectiveness of committees which cast doubts about their role in enterprise bargaining.

Indeed, where work has been undertaken on the extent and effectiveness of OHS committees on OHS outcomes (eg. Walters, 1991; Pragnell, 1994; Frick 1990) some concerns have been raised about factors which act to limit the extent and effectiveness of the OHS committee structure. This is of concern since in many states, such as NSW, OHS committees are the main vehicle for consultation around OHS and should theoretically have an important role to play in the enterprise bargaining process. There are a vast range of factors which can mitigate against the effective operation of OHS committees in the enterprise bargaining process. Only some of them will be touched on here.

- **Effectiveness and extent of committees questioned.** For instance, Brooks (1987:230) argues that workplace committees in New South Wales - because of a range of flaws including the lack of obligation on the part of the employer to take notice of any recommendations of committees and the absence of health and safety representatives - are essentially valueless as a mechanism for enhancing the regulation of OHS in NSW. Similarly, Pragnell (1994) in an analysis of AWIRS data found that only 45% of workplaces throughout

Australia have OHS committees and these workplaces tended to be large and well unionised. Even where there were committees they did not meet regularly.

Dwyer (1991:75) notes that given the wide variety of forms of workplace consultative structures which can be implemented to facilitate health and safety initiatives, and the variable levels of effectiveness of these structures, it is difficult to generalise about their effects. He also adds that while these forms of 'interventions' in the workplace have found justifiably wide support, there is little research to indicate if and how they achieve their goals. He raises the cautionary point that while OHS committees can be highly effective in contributing to the reduction of accidents by calling attention to sources of danger, they may, in some situations, also act as a 'smokescreen' by inducing a general perception that all relevant dangers are being taken care of. Again, this was confirmed by a number of the case studies, such as CSO where there was a perception among management that the convening of an OHS committee meant that the issues of OHS had been dealt with. Similarly at CTAL, while the OHS committee was active and informed, there was an assumption that the committee was taking care of matters when in fact the hostilities at the workplace mitigated against many of the OHS recommendations being followed through.

- **Commonality of Interest Between the Parties Should Not Be Assumed.** Dwyer (1991:76) argues that the operation of workplace committees often presupposes common agreement between management and employees over the grounds for discussion on OHS. It also assumes that there exists the potential for employees and management to concur over specific health and safety issues. However, Quinlan (1993) correctly points out that health and safety issues often encroach on areas of managerial prerogative and that this limits the room to move over issues like work redesign, hours of work and so on.

While there may be hostilities between members of the committee, as was the case with the CTAL example, it can also be the case that a commonality of interest between committee *members* may work against the best interests of employees. For instance, Leopold and Beaumont (1982) argue that, within a British context, employee and management representatives on committees had more in common with each other than with the rest of management or with the

rest of the employees (p265). They also argued that because of the specialist and technical knowledge associated with health and safety, that employee representatives tend to rubber stamp decisions made at the committee level (p274). Dwyer, in a similar vein, argues that because of the technical and medical parameters within which health and safety is conceived and discussed, the terms of reference at a committee level can lose their social and industrial context and the recognition that many hazards have their source in work organisation and management systems not appreciated.

It also ignores the dependence of workers on management in a situation of high unemployment in which employees, especially semi-skilled and unskilled, lack adequate bargaining power. In this context, consultation effectively translates into consent in which employees have little alternative other than accept the conditions being offered (Bennett 1994:198, 202). Further, even assuming that employees are in a fairly favourable position to negotiate, as in the case of skilled workers, the legislation assumes employees possess the requisite skills in order for them to negotiate effectively. In the absence of training in negotiation skills, neither the legislative requirement to consult or the inclusion of consultative clauses in enterprise agreements are likely to produce effective mechanisms for workers to voice their concerns.

The above problems strengthen the support for HSRs and their involvement on OHS committees. Their involvement will help to alleviate the problems associated with lack of expertise, unequal bargaining power of employees and the conflict of interest.

- **Artificial Divide Between OHS and IR Issues and the Fear of 'Trading Away' OHS.** Biggins et. al. (1991:157) stress the need for a 'reintegration' of OHS and industrial relations issues, since the separation of IR and OHS can cause OHS issues to be 'depoliticised' amidst the rhetoric of consultation and participation.

However, there exists a real concern among many trade unionists and management that OHS issues and IR issues should be 'kept separate', for fear that OHS conditions may be 'traded off' in return for wage increases, used as a bargaining tool or marginalised in negotiations. This was certainly a fear among union officials at the CTAL case study who explained that OHS should not be

included in an EBA because once finalised, the EBA gets '*pigeon-holed and safety goes to bed as well*'.

Management tends to fear that trade unions will use OHS as a bargaining tool to coerce management into granting conditions. Thus in some workplaces there is deliberate attempt to keep OHS committees and issues *out of* bargaining negotiations.

However, what this ignores is that once issues such as hours, functional flexibility, performance indicators and the like are drawn into bargaining negotiations, OHS is, by definition, implicated. This is because of the OHS implications of changes to the way work is organised and these issues cannot be kept separate. The risk of keeping OHS out of committee negotiations is that hazards associated with work changes are not able to be dealt with at their source; inserting OHS clauses into agreements after the fact is too late.

- **Poor Interface Between OHS and IR Committee and Other Structures.** OHS committees may have an important role in enterprise bargaining if the committee has input to bargaining negotiations. However, our case studies revealed that there is generally poor interface between the various OHS and IR committees. Often the bargaining committees did not consult with or even think of consulting with OHS personnel or committee members. In the few examples where there was some level of interface, such as in construction, outcomes were generally much more positive for OHS.

### ***The Role of Trade Unions***

There is a relationship between the presence of trade unions and OHS activity at a workplace which is likely to be significant for enterprise bargaining.

The role of trade unions in both the OHS and EB consultative processes appears to be significant. Williams (1993:77) for example, argues that there are two processes involved in the enforcement of industrial rights associated with OHS - a legal framework for OHS, and strong union organisation. Similarly, Biggins and Phillips

(1991) found in a study on Queensland committees and Health and Safety representatives that shop stewards were significantly more active on health and safety matters than other health and safety representatives (p284).

This is further supported by an analysis of AWIRS data (Pragnell, 1994), where in NSW workplaces with committees were more likely to be unionised (p29). Workplaces with committees were also more likely to have experienced industrial action in the form of a strike or go-slow. The data further indicated that workplaces with committees were also more likely to have some kind of workplace bargaining structure and employer-union agreements (p29). In addition, the incidence of committees seemed to be associated with the level of union density, with only 14% of non-union workplaces having committees compared with 59% of those workplaces with 51%-100% union density (p30). On the basis of this data, then, there appears to be a strong relationship between OHS activity and the presence of trade unions.

Trade union presence and activity raises the likelihood of OHS issues being included and OHS implications of work changes recognised in bargaining negotiations.

Not only is trade union presence associated with OHS activity, but there is some evidence that their presence and activity is also more likely to ensure that OHS is raised as part of enterprise bargaining negotiations. While writers such as Taylor (1987) posit a complex relationship between levels of unionisation and workplace safety, there is justification for postulating that the absence of trade union representation may have implications for workers in terms of their need for information, organisation, consultation and advocacy. Biggins (1993:227) has argued that positive OHS outcomes are underpinned by appropriate levels of consultation and trade union activity. For instance, trade unions provide their members with information about hazards, employ professional staff who develop educational material, and train local and regional safety representatives as well as organisation committees (Brown, 1985:69). Thus the role of trade unions in this regard will be equally important under enterprise bargaining. The absence of trade unions from the bargaining process may therefore compromise the quality of resources workers will be able to draw on.

The positive role trade unions can have for heightened recognition of OHS was confirmed by the case study examples. In examples such as The Bank, Lady Gowrie, and The Textile Company, the union had an extremely important role in ensuring OHS was on the agenda and, in the case of Lady Gowrie, was instrumental in changing attitudes and approaches within the organisation.

However, while active and informed trade unions can have an important role in consultative processes, there are a range of factors which can limit their role and compromise the quality of outcomes.

- It should not be assumed that just because unions are present in consultative processes, that this will ensure that the interests of all members are being represented. For instance, scarce union resources and the increasing complexity of workplaces may limit the ability of unions to have a full understanding of their members' work practices. This is likely to have been compounded by recent union amalgamations which have created unions which now cover many industries.
- Scarce union resources may also limit a union's ability to be active at a shopfloor level which may further compromise their ability to represent their members during consultations.
- It cannot be assumed that the union understands the specific needs of the employees for that organisation. With the growth of enterprise bargaining union resources are likely to be spread ever more thinly across innumerable organisations with a multitude of idiomatic arrangements. The extent to which unions will be able to understand the implications of the various work and employment practices of each workplace will not only depend on the level of resourcing of the union but also on the knowledge and awareness of the delegates. Further still it cannot be assumed a priori, that the interests and intentions of the unions will be congruent with those of its membership. This is especially so in the current context in which unions also see it as their role to improve organisational performance.
- Dwyer (1991:76) suggests that the increased bureaucratisation of unions, and the changed nature of union activity, demands that officials be equipped with skills appropriate to treat complex legal, technical, economic issues. He argues

that the time required to do so takes the union's focus away from workplace realities. It may be argued that the same may occur with the enterprise bargaining process; that negotiations over bread and butter issues like wages and employment security may render the issue of OHS as less important in the bargaining process. This lessened emphasis on health and safety may also be because gains from improved health and safety are not as **immediately** visible to the rank and file as wages improvements (Dwyer, 1991:76).

- **Marginal Workers:** Consultative forums may be structured around full-time, permanent staff, and the meeting agendas may reflect this. Casual, part-time and contract workers may not be represented on committees and their special needs not advocated for. For example, part-time, casual and other irregular workers may not be able to attend union meetings or may not have common meal and rest breaks which would enable all workers to participate and be informed by trade unions about bargaining or OHS issues. In other words, the proliferation of part-time and casual work in the absence of trade unions and OHS activity is highly likely to compromise OHS outcomes.

However, Lever-Tracy argues that it has not been the growth of part-time and casual work *per se* that has undermined conditions and compromised consultative processes for these workers, but the failure on the part of unions to preserve wages and conditions and adequately advocate on their behalf (p231). This is also the case for other marginalised workers, including women, workers from a non-English speaking background, and employees with 'irregular' employment status as it is likely that their needs may vary significantly from the bulk of the full time workforce.

While joint consultative arrangements provide for a theoretically sound consultative process, union officials may not necessarily be as in touch with the implications of specific changed work practices as the members he/she is representing. The quality of input from the full-time official may be very much dependent on the quality of OHS knowledge of the workplace delegate<sup>9</sup>. Thus if the workplace itself does not have a tradition of OHS involvement and activity, the trade union may not be able to fully represent the needs and interests of the members in the bargaining process. Thus it may be the case that

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<sup>9</sup> Thanks to Linda Cowan (ACIRRT) for her input to this section.

while workers have formal representation on consultative committees, this of itself does not guarantee *informed* and quality representation.

#### 4.4 PRODUCTIVITY / PERFORMANCE RECOGNITION SYSTEMS

##### Definition

Analysis of the ADAM data revealed that there is a complex range of systems which reward or recognise worker effort in some way. The main types to be explored in this report include:

- **wage increases/bonuses linked to productivity/performance:**

**individual:** objective criteria (output, piecework, commissions)

subjective criteria (merit pay, involving ,annual performance evaluation) or

**group:** objective criteria (output, productivity bonuses, profit sharing, gainsharing, employee stock options)

- **productivity and performance targets and indicators** which do not specify wage increases or bonuses. While recognition may be given of improved performance and productivity, this may not be accompanied by redistributive activities. Thus the recognition is more symbolic, or has become part of overall expectation of improved organisational performance. However, there may be mention of measurement which may include:

inputs such as overheads, administration;

outputs such as the number of rejects, employee turnover, lost time due to industrial disputes

ratio indicators such as material per product, overhead per product.

- **Indicators of safety** which are associated with improvements in safety performance. These are often assessed on a group basis and include reductions in:

number of injuries

lost time injuries

absenteeism

workers compensations premiums

**Table 4.10: Major Types of Productivity/Performance Recognition Arrangements in Enterprise Agreements**

<b>Major Types of Productivity/Performance Recognition Systems in Enterprise Agreements</b>	<b>Percentage of Agreements</b>
All agreements which include some mention of productivity/performance recognition systems	49
Performance/productivity indicators not linked to wages: <ul style="list-style-type: none"> <li>• ratio based indicators</li> <li>• input indicators</li> <li>• output indicators</li> <li>• productivity improvement monitored</li> </ul>	39
Wages linked to productivity/performance: <ul style="list-style-type: none"> <li>• wages linked to productivity increases</li> <li>• performance payments</li> <li>• gainsharing</li> <li>• piecework</li> <li>• appraisal;</li> </ul>	27
Indicators of safety: <ul style="list-style-type: none"> <li>• Reduction in workers' compensation premiums</li> <li>• continuous improvement in safety</li> <li>• reduction in lost time injuries</li> <li>• number of injuries</li> </ul>	13
<ul style="list-style-type: none"> <li>• reduction in absenteeism</li> </ul>	10

### Overall Trends in ADAM

- Almost half of all agreements make some mention of systems or procedures designed to measure, recognise, or reward performance and/or productivity. This should not be surprising given that the one of the key aims of agreements is to raise enterprise performance and productivity.
- While 39% of agreements include some kind of indicator of performance, only 27% specify that wages are linked to improvement in performance/productivity. This suggests that while improvements in enterprise performance are a focus in agreements, not all agreements have necessarily devised or implemented structured systems and they may be statements of intention to this point.
- When all the minor safety indicators are grouped, including a reduction in absenteeism levels, it can be seen that an improvement in safety is a not insignificant feature of agreements.

**Table 4.11: Productivity/Performance Recognition Arrangements in Enterprise Agreements on ADAM**

<i>Industry</i>	Productivity/Performance Recognition Systems % of Agreements			
	Some Reference To Productivity/ Performance	Performance Indicators Provisions	Safety Indicators Provisions	Wages Linked To Productivity/ Performance
Mining/ Construction	57	39	37	28
Food & Bev Manufacturers	58	47	32	28
Other Manufacturers	61	47	26	27
Metals Manufacturers	75	70	46	26
Public Utilities	59	44	13	43
Wholesale/ Retail Trade	50	40	21	24
Transport/ Storage	52	38	18	26
Finance Services	55	30	13	42
Public Admin	54	46	31	34
Community Services	21	17	7	9
Recreational Services	33	19	14	27
All Industries	51	39	23	27

### Industry Trends

- **Productivity and performance indicators in general** are more likely to occur in metal manufacturing, other manufacturing, mining and construction, public utilities and finance. Those less likely to have such indicators include the service sector industries such as community services and recreational services. This difference may be due to the heightened exposure for industries such as

manufacturing and food and beverages, while in the public sector it may reflect the increasing pressure on government bodies.

- **Performance indicators not linked to wage increases** appear most commonly in community services, recreational services, financial services and agriculture. They appear less frequently in metal manufacture. This may not mean, of course, that these industries may not also have other indicators linked to wages, but that they also have non-wages linked indicators. The differences may reflect the perceived difficulty in measuring performance and productivity in areas such as community services, but it may also reflect the reduced bargaining power of workers in these industries to secure wage increases for improved enterprise performance.
- This becomes clearer when we examine **where wage increases are linked to improved performance**. The industries where wage linked performance is more common also include finance (which suggests a high level of both kinds of indicators), public utilities and public administration. This may reflect an increase from a low base in these industries of wages linked performance and a move away from seniority based pay. However, community services and agriculture appear well below average at only 10% and 11% respectively in wages linked performance, perhaps reflecting the very poor capacity for workers in these (often small) enterprise to secure wage increases for improved performance.
- **Safety indicators** occur far more commonly in mining and construction, food and beverage manufacture, metal manufacturing and public administration. They rarely appear in community services agreements (7% only compared to a high of 46% for metal manufacture). This is despite community services being a large and diverse industry employing a wide range of occupations. This trend is likely to reflect the traditionally high profile of OHS in well unionised areas such as metals industry and the public sector, and the very low profile of OHS in community services. The comparatively low figure for public utilities of 13% may reflect comprehensive OHS procedures elsewhere.

## Potential Benefits and Disadvantages of Performance/Productivity Recognition Systems

### *Potential Benefits*

Many commentators, from the trade union movement, employer associations and academics have noted that performance measurement is a key element in bringing about more productive workplaces. These commentators all see the establishment of performance measurement systems in a co-operative, inclusive environment such as enterprise bargaining as the best way to achieve good and workable outcomes.<sup>10</sup> If properly implemented, performance measurement can be a key element in fostering a regime of continuous improvement and improved work practices throughout the organisation.

More recently, performance measurement has been seen less as a crude means of rewarding employees than as an integral means to performance improvement. In all of the major recent approaches to quality and performance improvement (TQM, CI and benchmarking for best practice), proper measurement of performance is a critical element to allow for improvements in quality and performance. In this sense, performance measurement is 'holistic', aimed not merely at determining monetary rewards for employees but as a means of improving overall work performance.

Little research has been conducted on performance and productivity based recognition systems<sup>11</sup> in Australia due to their relatively recent appearance in labour management practice. Recent research notes that while not totally unknown, trade union resistance and the practice of setting wage rates in awards restricted the ability of employers to widely introduce wage linked reward systems (Wright, 1994).

It is claimed that there are potential benefits to be derived from linking rewards (especially wage rewards) with performance. It is argued that by linking reward

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<sup>10</sup> Max Ogden (1993) *Towards Best Practice Unionism*, Leichhardt: Pluto Press, p33. Patrice Murphy (1993) *Bargaining for Best Practice*, North Sydney: MTIA. Johnanna Macneil, Johnathon Testi, John Cupples and Malcolm Rimmer (1994) *Benchmarking Australia*, Melbourne: Longman Cheshire.

<sup>11</sup> These systems are often known as Pay Based Reward Systems (PBRS) or Performance Rewards Systems (PRS).

with effort and performance, employees will strive to improve their work performance and identify more closely with the fortunes of the enterprise. This in theory will allow for better containment of labour costs by matching effort with output. In many respects, this lies at the heart of what enterprise bargaining aims to achieve. Employees, it is argued, will be more directly rewarded for their effort and commitment and will be tangibly rewarded for their individual effort or team effort and improvement. This is the case whether the aim is to improve productivity, output, performance or safety.

### ***Potential Disadvantages***

There have also been a range of potential implications of performance/productivity recognition systems for OHS. Some of these include:

The use of performance/productivity recognition systems increased the risk of stress.

- Individual systems of rewards, particularly commission work or piecework, run the risk of increased levels of stress and burnout. As noted in their research on commissioned insurance salespeople, Knights and Morgan (1991) note that while performance pay (such as commission) brings about the expected levels of high performance among the workforce, it also results in high levels of stress, burn-out and turnover. They note that it is not surprising that life insurance salespeople have a turnover rate of 25% and those within the industry note that many salespeople rarely make it past 4 years (p230). Knights and Morgan trace this situation back to pressure and self-exploitation among salespeople as generated by the nature of commissioned sales work.
- Individual reward systems can also have the effect of pitting worker against worker and setting up levels of competition which may be detrimental to the emotional well-being of workers. Theoretically, collective concern for health and safety requires that employees and workers have a shared interest in ensuring safe systems of work, not outdoing each other to reach targets.

- Moreover, not all workers will be well placed to lock into such a systems of rewards, and this is especially the case where additional **time** may be required to achieve targets. Workers with family responsibilities may not be able or want to work the excessive hours often required to achieve sales or get through work.

Performance/productivity recognition systems may lead to the speeding and hence intensification of work

- Where bonuses are tied to achieving certain targets over a period of time (such as container movements per hours at *CTAL*) there is the risk that workers will cut corners in order to meet production targets. This is increased where group targets are set and co-workers place pressure on each other to speed up work. There is also the risk here of overlooking obvious hazards if it means stopping production. Such systems would need to build in mechanisms for ensuring that rewards are not given for ignoring hazards. This was the case initially at *CTAL* where the setting of production targets acted to speed up the pace of work which resulted in fatigue and work intensification.

Open-ended reward systems may both intensify the work effort and lead to an increase in managerial prerogative

Where rewards are far less defined, or where there are pressures for 'continual improvement' there is the real risk of work intensification and increased managerial prerogative. If targets are not clear and the aim is to constantly improve, workers may not understand when their work effort is sufficient or adequate. It also means that staff appraisal can be used to reward and punish for the wrong reasons. It also sets up and reinforces the climate whereby work intensification and ever-increasing work effort is part of the landscape of work. Objecting to this on the grounds of fatigue or stress can act to single out workers and personalise stress.

The problems of open-ended reward systems were highlighted in the *RCI case study*. Here a complex bonus system was introduced which the workers did not understand but which promised to deliver significant rewards. However, feedback from employees suggested that they did not understand the system and that unacceptable hours of work would be required to meet the targets.

Safety indicators can lead to under-reporting of accidents.

Attaching financial rewards to improvement in safety can run the risk of under-reporting and peer pressure not to report injuries and accidents. This can in effect displace the problems of ill health onto individual workers or onto the community at large in the form of ill-health which the public health systems covers.

Some of the concern about the impact of enterprise bargaining on OHS has in fact focussed on the inclusion of performance indicators for OHS within agreements. These are often known as 'safety incentives'. Smith (1993) argues that while initially money incentives for safety may seem like a good idea, commentators fear that it could mean a return to the days of 'danger money, under-reporting and poor working conditions' (p29). He also notes that there is an increased pressure on employers to reduce workplace injury statistics, because a reduction in accident claims will translate to lower workers compensation claims.

There is a range of concerns which can be raised about linking financial incentives to safety improvements or Lost Time Injuries. Citing a range of OHS professionals, Smith raised a number of issues. For instance, he argued that by basing incentives on outcomes there is the potential to hide basic safety issues such as hazards and procedures; that LTI statistics may be a reflection of luck or corruption; that incentives schemes encourage under-reporting, and that by offering money for improved safety performance, employers are 'devaluing' the health of workers. There is widespread agreement among OHS practitioners that linking financial incentives to safety is not an appropriate measure of the OHS performance and may indeed be detrimental to the health and safety of workers by encouraging under-reporting.

*Overall, performance indicators were not a prominent feature of the case studies, but their popularity within the ADAM data suggests that more work needs to be carried out on the potential impact of these reward systems on OHS.*

## 4.5 NON-WAGE CONDITIONS

### Description of Non-Wage Conditions

Non-wage conditions refer to conditions of work other than wages which govern arrangements associated with sick leave, annual leave and other types of leave. While changes to non-wage conditions do not dominate enterprise agreements they can have important OHS implications in that changes to non-wage conditions can impact on the overall well-being of employees and their long term health.

Two major types of changes to these non-wage conditions can be identified in agreements:

First, *employee-focussed non-wage conditions* which are designed to improve upon standard leave provisions and enhance the conditions of work of employees by responding to their diverse needs for flexibility. These may include:

- family leave provisions
- leave to look after a sick relative or a significant other
- legitimising sick leave for mental health and stress reasons
- recognition of ethnic national holidays
- paid parental leave

Second, *enterprise-focussed non-wage arrangements* designed to improve flexibility for the enterprise. These may include:

- employee to swap worked holiday for another day
- the taking of annual leave to be influenced by business cycle
- buying out of annual leave
- changes to sick leave provisions

**Table 4.12: Extent of Non-Wage Conditions in ADAM**

<b>Non-Wage Conditions In Enterprise Agreements</b>	<b>Percentage Of Agreements</b>
All agreements which make mention of changes to non-wage conditions	17
Enterprise focussed non-wage conditions including: <ul style="list-style-type: none"> <li>• employee to swap worked holiday</li> <li>• annual leave influenced by business cycle</li> <li>• part of annual leave paid out</li> <li>• annual leave loading abolished</li> </ul>	11
Employee focussed non wage conditions including: <ul style="list-style-type: none"> <li>• family leave</li> <li>• family sick leave</li> <li>• additional leave</li> </ul>	8%

### Overall Trends

- Overall, 17% of agreements made some mention of non-wage conditions in agreements. The majority of these involved changes associated with increasing flexibility for the enterprise by having employees operate more flexibility with regard to leave conditions.
- 8% of agreements included provisions which were employee-focussed non-wage conditions. these included family and more flexible sick leave provisions.

## Industry Trends

**Table 4.13: Industry Trends in Non-Wage Conditions in Enterprise Agreements**

Industry	Non-Wage Provisions % of Agreements		
	Some Reference To Non-Wage Conditions The Workplace	Enterprise Focused Non-Wage Conditions	Employee Focused Non-Wage Conditions
Mining/Construction	12	5	8
Food & Bev Manufacturers	15	11	3
Other Manufacturers	26	24	5
Metals Manufacturers	14	11	3
Public Utilities	18	7	12
Wholesale/ Retail Trade	17	16	4
Transport/ Storage	12	7	6
Finance Services	17	6	11
Public Admin	9	6	6
Community Services	24	12	15
Recreational Services	21	16	12
All Industries	17	11	8

- The industries in which reference to changes in non-wage conditions occurred most frequently were other manufacturing, community and recreational services.
- Enterprise-focussed provisions were more likely to occur in other manufacturing, wholesale and retail trade and recreational services. This may be explained by the greater impact and cost associated with covering employees who are on leave in industries where operations and productions are needed to be maintained.
- Employee sensitive provisions were most common in community services, public utilities and recreational services. The higher than average figure for community services may be explained by the nature of the industry where stress is often an issue and the use of non-wage benefits is used to address the special needs of workers. It may also be explained by the fact that organisations in this industry have less capacity to award wage increases, because they are tied to fixed levels of government funding. Thus more flexible non-wage conditions can be used as a form of reward.

## Case Study Trends

Table 4.14: Case Study Trends in Non-Wage Conditions

Case Study	Change in Non-Wages Conditions	Overall OHS Implications in Combination With Other Changes in the Agreements
The Textiles Company	An entitlement to unpaid leave of up to three months after five years of service. Paid family leave is also provided for as part of sick leave entitlements.	The OHS implications of the leave provision in the agreement were positive. The provisions aimed to address the needs of workers with family responsibilities, especially those of NESB workers. This is likely to have benefits in relation to stress and absenteeism.
RC1	As part of the trade off for the extra \$40 per week and a performance related pay scheme, the agreement removed the right to accumulate sick leave or to have it paid out at the end of the service. Taking of annual leave between 16 December and 7 January was prohibited. All leave loading and public holiday loadings were abolished.	Stress and fatigue are likely to be compounded because: (a) the value of leisure is marginalised, as the monetary entitlement of annual leave is reduced thereby diminishing a community standard; and (b) sick leave entitlements have been reduced whilst at the same time there has been an intensification of work.
The Insurance Company	In relation to sick leave, where illness was prolonged, the employer agreed to pay: a) 100% of salary for at least four weeks (and a further period of absence for which accumulated sick leave is available); plus b) a minimum of 75% of salary for the balance of absence to a maximum of one year in total. Other improved leave entitlements included family and personal leave on full pay up to two paid days for death of each close relative and up to two days per year to attend other family and personal emergencies. Three additional days per year are available without pay for these purposes. Employees can apply for unpaid leave of up to one month for reasons such as care of an ill dependant, study or travel.	The personal emergency and unpaid leave options were additional to award provisions and are a significant development in providing better conditions. However, there has been a slight increase in the number of sick leave days taken by staff in some areas. Management believed this reflected staff morale which in turn can be viewed as an indicator of the overall impact of the agreement on workers health, in particular stress levels. However, being able to legitimately take time off work to provide better care to one's family and one's own health does not mitigate the impact of work intensification arising from the new agreement.

**Table 4.14: Case Study Trends in Non-Wage Conditions (continued)**

<b>Case Study</b>	<b>Change in Non-Wages Conditions</b>	<b>Overall OHS Implications in Combination With Other Changes in the Agreements</b>
Lady Gowrie	Flexible leave arrangements for parental and/or family responsibilities including 5 days leave per year; special leave of 3 days for reasons including stress; flexible working arrangements for workers with family responsibilities; provision of a 'family space' for non-contagious sick children of contact staff; the capacity to work from home for non-contact staff; entitlement to long service leave after 10 years of service compared to 15 years.	Work related stress was identified as a significant occupational hazard and is partly dealt with through the changes to the leave provisions and opportunity to break from work. The provision of an area for sick children of contact staff is a major consideration and avoids staff having to use their own sick leave to look after their children.
Con 1	Agreement including portable long service leave, superannuation, redundancy payments, project induction training, and journey cover for accidents to and from work; during inclement weather training and consultation is to be carried out.	The agreement primarily maintains existing award conditions because it is not the main vehicle for change on Con 1's building sites. However, as a general point, the ability of workers to share breaks and so build up informal social support networks is an important component of the job. To the extent that staggered breaks acts against this it may represent a problem.
CSO	Flexible working time arrangements have been replaced by an RDO system based on a 9 day, 70 hour, fortnight in an attempt to cap the amount of overtime full time staff can work; the right to use stress and mental ill health as legitimate reasons for sick leave; maternity and domestic leave for workers caring for significant other.	Overall structured working time and leave provisions will alleviate stress associated with personal responsibilities; However, the intended effect of these provisions is likely to be limited by the ability to average hours across a fortnight thus making it possible to compress extended hours into consecutive days. Care needs to be taken by management to ensure that workers are not able to work more than three consecutive 12 hour shifts and that adequate breaks are taken.

### Potential Benefits of Changes to Non-Wage Conditions for OHS

The inclusion of flexible leave provisions in agreements which are responsive to the needs of *employees* will be beneficial to their OHS, particularly in terms of their well-being.

It is implicitly recognised that working conditions and non-wage benefits such as sick leave, paid holiday pay, long service leave and parental leave all help to contribute to the overall health and well-being of employees by affording them:

- legitimate respite away from work which does not constitute a financial burden, as is the case with unpaid leave;
- ability to take time away from work if they are ill;
- the ability to care for ill or injured members of their families or partners;
- reduced stress by being able to open about the need to care for sick relatives or partners;
- legitimacy of leave for stress and mental health reasons.

For employers, the benefits can be lower staff turnover, and rested and invigorated employees. This can help to retain valued employees, to cut costs associated with staff turnover and to improve motivation levels of staff.

The willingness of employers to be both generous and flexible in leave provisions also sends out strong signals to current and prospective employees that the company considers the emotional and personal needs of their staff to be important and legitimate issues for inclusion into enterprise bargaining agreements. This also signals that employers are not just taking a cost-cutting approach to enterprise bargaining.

The case studies included a wide range of examples where improved and more flexible non-wage conditions were included in agreements as a recognition of the needs of employees. For example, Lady Gowrie included flexible leave provisions for parental and/or family leave, and special leave for reasons including stress. Importantly at Lady Gowrie, the provision of sick leave areas for sick children of

contact staff is a major acknowledgment of the problems associated with caring for sick children. In another major sense, it also acknowledges that merely allowing workers to take their sick leave to care for their children erodes their own sick leave and reduces their capacity to take sick leave when they themselves are ill.

### ***Potential OHS Disadvantages of Changes to Non-Wage Conditions***

If casual and contract staff are excluded from non-wage conditions, the OHS for these workers - often women and low paid workers - is likely to be detrimental.

As outlined above, increased flexibility in non-wage benefits can be advantageous to both employees and employers. Often, however, these benefits are provided for permanent staff only, not for casual staff and sometimes not equally for staff on short-term employment contracts. In many organisations, part of the enterprise bargaining process has seen an increase in casualisation or an increase in the use of short-term contract labour. Given the concentration of casual workers in low paid, secondary labour market jobs (Romeyn, 1992), the implications of missing out on these conditions may be more serious. This will especially be the case where these workers also have childcare responsibilities. If these workers - often women - are not provided with paid leave provisions, the capacity for these workers to be able to *afford* unpaid leave is likely to be limited. When these workers require leave for their sick children they may be forced to use up their own sick leave, thus compromising their own health when they themselves are ill, or forced to take unpaid leave which may impact on them financially.

Thus any increase in the employment levels of casual or contract staff in workplaces without commensurate non-wage conditions being attached to these positions is of concern. This is also of concern because the risks associated with the absence of conditions which alleviate the juggling of home and family responsibilities are borne by individual employees, thus intensifying the personalisation of stress associated with the lack of these conditions.

Common family and social time may be compromised if restrictions are placed on leave provisions.

Part of the overall well-being and health of workers is associated with both adequate respite from work, and being able to share common family and social time. In this way workers have time to build up and draw on resources outside work, as well as insure that adequate and quality respite from work is obtained. Thus any changes to leave provisions which place overly rigid limits on when and how workers take their leave may compromise the rights of workers to spend common leisure time with family and friends.

For example, the RC1 case study illustrates the way in which enterprise agreements may be used to place restrictions on annual leave opportunities. In this example there was a restriction placed on the taking of annual leave. It was specified in the agreement that leave could not be taken in the period 16 December and 7 January. This period is often one of the few times of the year when families have an opportunity to spend time together, when children are on holidays. While the majority of the workforce at RC1 was male, this is still a somewhat onerous restriction - especially if highly inflexible - to be placed on employees.

## 4.6 MARGINALISATION

### Definition

The concept of 'marginalisation' is used to describe employees or contractors who are other than full-time or part-time permanent employees. There are three major groups that fall within this broad definition and this also reflects the way the ADAM data has grouped these workers. As noted earlier in Part 2 by Creighton (1994) there are many grey areas associated with the definition, employment status and legal rights of these types of 'marginal' workers. The groups can be defined as follows:

- First, are those workers who have 'employee status' but not permanency, and are designated as 'casual'. The employment of these workers may be regular or erratic, but the key point is that they do not in most cases, enjoy the non-wage benefits which permanent staff enjoy. These include benefits such as paid sick

leave, paid holiday leave, paid or unpaid parental leave, and long service leave. While most organisations may employ casuals on short and/or long term basis, others have limits on the length of time casuals can be employed before they revert to permanent or contract status. Examples from the case studies include casual staff in the finance industries and the casual runners at RC1.

- Second are workers who are on short-term or fixed term contracts where the length of service is specified and often agreed upon. While contracts may be renewed these employees can have no expectation that once their contract expires their contract will be renewed. These workers may receive some pro-rata non-wage conditions such as sick and holiday pay; they will generally be excluded from conditions which require length of service such as parental and long service leave. These types of fixed term contracts proliferate among research staff in universities, and in the community services industries where employment is often tied to discrete and fixed term funding grants.
- The third group are known as 'contractors' or 'sub-contractors' who are not direct employees of the principal company or organisation for whom they are undertaking work. These workers are either employees of another firm -such as is common in the construction industry, or may be self-employed and have their services contracted, as is the case with consultants. In both cases, the principal contracting company is not responsible for any non-wage benefits for these workers and the responsibility lies either with the individual self-employed, or the owners of the contracted company. The case studies where this arrangement prevailed included RC1 where both the owner drivers were sub-contracted by RC1, who in turn was contracted by the local council. In the construction industry case study there were the direct employees, often the project managers and administrative staff, and the teams of sub-contractors who would come onto the jobs to perform particular types of work such as bricklaying, plumbing and concreting.

## Extent of Marginalisation in Enterprise Agreements

**Table 4.15: Extent of Marginalisation in Enterprise Agreements**

Marginalisation Provisions in Agreements	Percentage of Agreements
All agreements which make some mentions of clauses relating to increased marginalisation	35
Casual employment provisions including: <ul style="list-style-type: none"> <li>• employment is casual only</li> <li>• minimum number of hours for casuals</li> <li>• increased use of casuals</li> </ul>	28
Increased used of contractors	10
Increased use of short-term and seasonal labour	7

### *Trends in ADAM*

- 35% of agreements on ADAM make some reference to the increased use of marginal labour or an intention to make changes to how these workers are paid or deployed.
- 28% of agreements make some reference to the way casual employees are deployed, or the number of casuals to be used. While the odd agreement made reference to decreased use of casuals, most referred to increased use of casuals.
- 10% of agreements made reference to the increased use of contractors while 7% of agreements made reference to increased use of seasonal and short term (presumably contract) labour.

*Industry Trends***Table 4.16: Industry Trends in Marginalisation in Agreements on ADAM**

Industry	Marginalisation Provisions % Of Agreements			
	Some Reference to Marginalisation at The Workplace	Casual Employment	Increased Use of Contractors	Increased Use of Short Term and Seasonal Labour
Mining/ Construction	35	16	24	5
Food & Bev Manufacturers	33	28	5	7
Other Manufacturers	38	30	11	7
Metals Manufacturers	25	21	13	9
Public Utilities	30	16	20	10
Wholesale/ Retail Trade	30	29	1	4
Transport/ Storage	42	33	10	8
Finance Services	34	27	4	7
Public Admin	31	14	6	11
Community Services	38	35	3	5
Recreational Services	52	51	9	5
All Industries	35	28	10	7

Industry trends found in agreements on ADAM:

- Marginalisation was more likely to be mentioned in recreational services, transport and storage and other manufacturing. However, recreational services at 52% of agreements was statistically higher than any other industry, probably reflecting the push in these industries for longer opening hours and thus the need for more flexible utilisation of staff.
- This was reflected in the figures for casual employment. While the average was 28%, recreational services recorded a figure of 51% of agreements which referred to the utilisation of casuals compared to the low figure of 16% for mining and construction. Significantly, recreational services are large employers of female labour.
- In comparison, increased use of contractors was highest in the mining and construction, public utilities and community services industries, reflecting on the one hand the tradition of sub-contractors in mining and construction and the intention to increase the use in public utilities and community services.
- Public utilities and public administration recorded the highest figure for the increased use of short-term and contract labour.

**Table 4.17: Marginalisation Trends in Case Studies**

Case Study	Marginalisation	Overall OHS Implications in Combination With Other Changes in the Agreements
Insurance Company	The maximum number of hours a business area may employ persons on a casual basis is 600 hours per calendar year per person. This has increased from the 400 hours as provided in the award.	Given the internal labour market of the finance sector, an increase in casual labour is likely to mean an increase in the use of female casual labour. The problems of casualisation of the work are those associated with core-periphery issues such as poor career path opportunities, work intensification if workers are used to cover peak periods only, isolation and low morale.
RC1	RC1 is under contract to the local council who is the principal contractor. In turn, RC1 contracts out the less profitable paper-recycling service to owner drivers. The principal contractor (the council) has never enforced contract conditions regarding OHS nor checked on the activities of RC1. RC1, increasingly pressured to cut costs, has neither the expertise nor the resources to adequately address the OHS conditions of its own workers, let alone the owner drivers. The activities of RC1	The 'tiered' sub-contracting arrangements highlights the range of problems associated with core-periphery workers. The council garbage workers enjoy excellent wages and conditions, while the employees of RC1 do not enjoy these conditions or attention to health and safety. Conditions among the owner drivers are likely to be poor. This example stresses the failure of the principal contractors to meet their obligations under the act and the need for them to become involved in enterprise bargaining negotiations to ensure OHS conditions can be maintained under any changes.
Con 1	The agreement reinforces the capacity to use casual labour to deal with peaks and troughs of workload. Also reinforces commitment to maintain employment of direct employee workforce. However the agreement does specify conditions under which subcontractors will be used. Con 1 is obliged to give preference to subcontractors who have or are negotiating an EBA. Subcontractors will also have access to the skill enhancement programs on site.	If the OHS management of subcontractors can be effectively addressed through productivity and quality improvement and improved selection criteria, then OHS performance on sites will consequently improve. However, the ability to award contracts on the basis of this criteria is subject to cost considerations which may mitigate against the encouragement of improved conditions for sub-contractors. There is the danger that excellent conditions for core staff will prevail over poor conditions for sub-contractors.

**Table 4.17: Marginalisation Trends in Case Studies (continued)**

<b>Case Study</b>	<b>Marginalisation</b>	<b>Overall OHS Implications in Combination With Other Changes in the Agreements</b>
Con 2	The agreement does not substantially change existing industry arrangements relating to casual labour hire. It specifies that all employment is under the weekly hire provisions of the National Building & Construction Award, except for casuials. Supplementary labour may be employed at peak times after this need is identified by a consultative process. Supplementary labour may also be used to finish off a job so that regular workers can move on. Supplementary labour is to be sourced from union approved labour hire companies which follow the award.	Even though casual labour hire practices have not been significantly altered, Con 2's aim to establish a core of multi-skilled workers means that the organisation is less likely to depend on casual labour.  The greatest potential benefit of the agreement is the reinforcement of management's statutory OHS obligation to ensure that subcontractors follow OHS policies and procedures. However, this is likely to be problematic if contracts are awarded on the basis of cost rather than on the basis of effective management practices.
The Manufacturing Company	Use of casuials becoming more common and viewed as an acceptable strategy for dealing with peaks and troughs of workload. Work conditions for casuials governed by the relevant awards. Agreement does not specifically refer to use of contractors.	Reinforcement of core and peripheral workforce. The nature of work performed by casual employees does not differ significantly to work performed by permanents. However, casuials are primarily used to deal with periods of increased workload. The negative implications of this may be compounded by the lack of employment security. To counteract these issues the company provides extensive training to casuials.

It is important to note that most of the other case studies also made some mention of marginalisation of some kind. For instance The Textiles Company increased the level of casuials; CSO utilised casuials although it had a limit on the length of time they could hold casual status; the CTAL agreement included the commitment that conditions of supplementaries would not undermine those of permanent staff. The above examples, however, were the most significant in terms of highlighting key trends in the data.

## **Implications of Increased Marginalisation Types for OHS**

The increase in marginal employment of the type described above is likely to have significant implications for the OHS of employees. While many of the issues for the different groups of marginal employees may be similar, some of them will impact differently on different groups, particularly with regard to the implications for OHS.

### ***Sub-contracting***

As outlined above, sub-contracting arrangements arise where part of the firm's work is put out to enterprises or individuals who are not bound by that firm's contract of employment. The increased trend towards sub-contracting is not a result of enterprise bargaining alone, but enterprise bargaining can result in attempted improvements in the OHS conditions of sub-contractors, or can inadvertently further compound poor OHS conditions for sub-contractors. There is a range of reasons why sub-contracting arrangements under enterprise bargaining may prove to be detrimental for OHS and some of them are overviewed below.

The ways in which changes to work processes and conditions facilitated by enterprise bargaining impact on the OHS conditions of sub-contracting companies have not been acknowledged and are poorly understood.

There is generally little known about how enterprise bargaining in large firms impacts on smaller sub-contracting firms, how decisions to increase sub-contracting levels impacts on remaining workers or how enterprise bargaining in sub-contracting firms interacts with changes and pressures elsewhere. Several of the case studies undertaken by this study involved sub-contracting arrangements of various types and levels of complexity. While not all of these questions can be answered, some key trends are outlined below.

If principal contractors do not fulfil their duty of care towards sub-contractors generally, or as part of the enterprise bargaining process, the implications for OHS in the contracting companies may be detrimental.

Principal contractors have a duty of care under state OHS legislation to ensure that OHS conditions and standards in companies they sub-contract to are upheld. They cannot 'contract away' their duties. Thus any changes undertaken either in the principal contracting company or in the sub-contracting company under enterprise bargaining should be similarly monitored for OHS implications. This is also because OHS standards and processes in sub-contracting companies are known to be generally inferior to those in the principal contracting company or organisation. This is a result of a number of factors which need to be considered throughout the enterprise bargaining process.

- The OHS standards and process of sub-contractors are more difficult to monitor than those of the principal contracting company or organisation. The companies are often smaller, the workers more itinerant and there may not be existing systems, resources and procedures to monitor and check. Polk et. al. (1993:253) for instance, argues that while the core company has the primary responsibility and resources to implement safety systems, smaller sub-contracting companies may not. Therefore an understanding of the source of accident incidents and OHS processes must extend *outside the core companies* to analyse activities in the smaller sub-contracting companies.
- The workers in the contracted companies are often in a more vulnerable labour market position which makes the reporting of hazards more difficult. For instance, Nichols (1986:199) argues that the shift away from direct employment renders these workers more vulnerable to poor health and safety. Nichols argues that indirect employment makes inspecting sites and work situations more difficult, and that there is a lack of information provided to outside contractors. In a study of British sub-contracting firms, Nichols argues that official reports suggested that workers in these industries were frightened of losing their jobs, receive inadequate levels of training and supervision, and lack union organisation (p200).

- Johnstone and Quinlan (1993:2) suggest that sub-contractors and outworkers are often not in a position to report injuries or to eliminate hazards at a workplace level (p5). They say that these problems can be compounded by the inability of these workers to obtain information about insidious hazards and the stigmatisation of certain kinds of injuries such as RSI (p5).

This situation was mirrored in the case study example of *RC1*. In this company the local government was the principal contractor, but they did not fulfil their duty of care obligations under the legislation to ensure - as the principal contractor - that OHS standards and processes were adequate within *RC1*. Indeed, they had never visited the operations, nor did they take any interest in whether the changes under *RC1*'s enterprise agreement, despite the fact their own contract with *RC1* stipulated that both OHS and wages and conditions met satisfactory standards. The workers in *RC1* were highly vulnerable, being largely unskilled, high levels of NESB workers, and poor literacy and numeracy levels. Moreover, it was a non-union workplace which rendered the workers even more vulnerable.

If cost reduction is the primary imperative behind sub-contracting the OHS implications in the contracted firm are likely to be detrimental and can act to create a 'core-periphery' workforce.

- **Cost-reduction:** If cost reduction is the primary reason for the use of sub-contractors, this places pressures on the contracted companies to drive down their costs of operations. This may compromise OHS standards in these companies. Nichols (1986:198) argues that the restructuring of employment relations in Britain towards increased use of subcontractors and casuals is a way employers derive cost benefits by being able to slim down their own operations or tighten the price for brought in goods or services. Robinson (1988:241) also suggests that firms have a tendency to try to minimise wage and non-wage differentials they must pay workers in hazardous situations by assigning these jobs to undesirable job ladders or sub contracting them to secondary labour market firms.
- **'Core-periphery':** Johnstone and Quinlan (1993:2) confirm that the legal construction of the employment relationship provides avenues of advantage for

some employers for using non-employee categories of labour - such as sub-contractors - and that this differentiation has OHS implications. Primarily, this involves shifting the costs of either hazardous work or inferior wages and conditions onto the sub-contractors, producing a 'core-periphery' workforce.

- This can create a '**core-periphery**' workforce where the 'core' consists of usually directly employed workers who enjoy wages and conditions of often a superior standard. The 'periphery', however, is made up of sub-contractors and casual workers, and, depending on the situation, part-time workers who experience poorer wages and lesser working conditions. Because these workers are often employed by smaller companies with fewer resources and under greater competitive pressure, OHS standards may also be inferior. This was highlighted in the case of *RC1* which was contracted by a local council to provide a recycling service. The direct employees of the council who undertook garbage collection enjoyed high wages and excellent conditions; the employees of *RC1*, however did not enjoy the same wages and conditions. This represents a classic 'core-periphery' workforce situation.
- **Competitive tendering:** The pressure to award tenders to contractors on the basis of cost (rather than quality, safety etc) may also compromise safety standards. This was highlighted in the *RC2* case study where the introduction of local government compulsory competitive tendering placed enormous pressures on workers to intensify the work effort and compromise health and safety standards merely to retain their jobs.

While enterprise bargaining can be a tool to try to improve the OHS standards of sub-contractors, cost pressures continue to act to mitigate against these more positive trends.

- The construction case study examples highlighted the ways in which enterprise bargaining was used by both the unions and management to try to tighten and improve the OHS standards and behaviour of sub-contractors. The CFMEU has noted in recent discussions that the contract and sub-contracting nature of the building and construction industry makes the enforcement and regulation of OHS extremely difficult. This officer confirmed that given the structure of the industry, and the proliferation of sub-contractors, that enterprise bargaining offered some potential to provide greater overall regulation of OHS within a

highly fragmented industry. However, he also cited problems such as lack of information about safety processes among smaller contractors, that cost pressures on sub-contractors offered no encouragement to make a commitment to safety systems, and the short term nature of most site contracts which made enforcement of OHS difficult.

- The case studies illustrate a range of strategies that were used to try to improve the problems of OHS and sub-contractors. For example, in Con 2 the aim was to establish a core of multi-skilled workers in order to lessen the dependence on sub-contractors. The agreement also strengthened the employer's statutory OHS obligations to ensure that sub-contractors follow OHS policies and procedures. However, it was noted that there was continued pressures to award tenders on cost rather than quality. Similarly in the Con 1 example, there was an attempt to improve the OHS management of subcontractors through productivity and quality systems and improved selection criteria of the tenders. However, like Con 2, there was a fear that cost pressures would act to mitigate against the encouragement of improved conditions for sub-contractors.

### *Casualisation and Short-Term Contract Work*

The expansion of casual, part-time and short-term contract work is associated in large part with the increased labour market participation of women. It often involves a move away from full-time work towards a mix of part-time workers, increasing the ratio of part timers to full timers, changing and increasing casual status, and increasing the capacity to engage contract staff (DIRETFE, 1993:18). While there is an understanding of the profile and reasons for the growth in part-time and casual work (Romeyn, 1992), what is less clear are the workplace implications. This is particularly the case with respect to OHS implications.

If pro-rata conditions are awarded to part-time and casual staff the more detrimental effects of marginalisation can be alleviated.

The capacity to increase the mix of workers of different status is often seen to be advantageous to employers who need to more flexibly adjust the size and mix of their workforce in response to market demands. The capacity to respond flexibly to

new and less predictable conditions is viewed as being contingent on the removal of 'rigidities' and other impediments to labour deployment (Rubery, 1992/3). The ability to work flexibly is seen as having a range of benefits for some workers as well, particularly those who are juggling family and childcare responsibilities. The enhanced ability to combine domestic responsibilities and paid work is seen to have expanded paid work opportunities for women in particular (Lever-Tracy, 1988:213).

Several of the case studies referred to increased casualisation. In the *CSO case study*, possibly because of proactive work employment policies associated with part-time and casual work, and the high number of these workers within the organisation, there was a genuine attempt to ensure that conditions were equitable. For instance there was a policy contained within the agreement that casual staff could only work for a period of a month before they converted to permanent part-time or contract positions. In this way there was an attempt to avoid the entrenchment of casualisation within the organisation.

There are clear benefits for some workers who wish to work less than full time, and this work can be undertaken in ways which enhance the conditions and flexibility of workers as well as employers. However, there also exists the potential for the introduction of changes to part-time, casual and contract work which have the capacity to undermine the position of these workers and have more detrimental effects for OHS.

The concentration of casual work in often low paid, narrowly skilled, gender segmented workplaces is likely to increase the detrimental OHS effects of this type of work for women and other industrially weak workers.

The characteristics of casual work and the gender-segmented nature of this work is significant for OHS. First, there appear to be differences between casual and permanent part-time workers, with casuals tending to be low skilled, attracting little training and limited career prospects, while permanent part-timers seem to be better placed in these areas (Romeyn, 1992); second, women account for the majority of both part-time and casual workers, and the growth of new jobs has been primarily of a less than full time nature and filled mainly by women; third, women tend to find themselves in part-time and casual work because it fits with existing domestic

responsibilities (Walby, 1989:138); fourth, there are high levels of casualisation in workplaces with relatively low levels of award coverage and low levels of unionisation (Romeyn, 1992).

It is important to keep in mind that trends towards increased internal numerical flexibility within enterprise agreements are likely to reflect trends associated with labour market restructuring and the segmented growth in female employment. It also means that workers who are most likely to be plugged into new numerically flexible jobs may already be in a relatively disadvantaged bargaining position.

This means that the processes involved with enterprise bargaining are going to have different outcomes for workers who are already over-represented within the secondary labour market and who are significantly disadvantaged because of their segmented position within the peripheral workforce (Walby, 1989:131). This is compounded by the tendency for these positions to attract inadequate wages and conditions and little job security.

This was highlighted in the case study of *The Insurance Company*, where the growth of casual employment in low-skilled, and increasingly deskilled jobs was a possibility as a result of restructuring and increased levels of casualisation. Many workers feared work intensification and loss of career path progression. Similarly, the tendency in *The Bank* case study to use casuals - again primarily women - to fill in during peak time is likely to lead to work intensification and problems such as RSI.

Marginal workers may be excluded from consultative processes around both enterprise bargaining and OHS and may not have their interests represented.

It is recognised that effective OHS outcomes are partly predicated on effective consultative, training and information systems being in place at a workplace level (Brooks, 1988; Quinlan, 1993, Quinlan and Bohle, 1991). This is equally true with respect to enterprise and decentralised bargaining (Hall, 1988; Robertson, 1992). Thus arguably, any factors which inhibit or exclude certain workers from fully participating in and being informed about these processes may compromise and undermine outcomes. Similarly, if the changes are introduced by trade unions or

works committees who do not understand fully the work processes and job content of those workers /positions affected the OHS implications may not be picked up.

Robertson (1992) argues that many workers - in particular women- can be left out of consultative processes associated with enterprise bargaining for a range of reasons. These same reasons impact on their capacity to be fully involved with OHS committees. Conflicting responsibilities outside of work may exclude them from out-of-hours meetings; limited time at the workplace may mean they do not have time to attend meetings or become involved in regular committee work. This was the case in the *CSO example*, where many workers complained of an inability to attend meetings and become involved in forums due to inadequate time. It was also reflected in the fairly low voter turnout which was explained by the absence of many part-timers at the time of the vote on the agreement.

Not only may they be excluded from involvement in normal consultative processes, but issues which impact on part-time and casual workers may not be fully represented in the bargaining process dominated by full-timers or people unaware of the content of the work. In addition, the impact of decisions which may be made on the basis of the interests of full-time staff may in fact be different for part-time and casual staff (Tully, 1992:2). This may also be the case for OHS issues which may (or may not) emerge within the enterprise bargaining process.

The point that employment status and irregular working hours can undermine the efficacy of health and safety committees finds support in a study by Hall (1988). She found that in the health industry - because of the mobility of the staff, and the predominance of casual, part-time and shift workers - workers found it difficult to organise meetings, sustain interest and get involved (p6). In the steel industry, similar problems were expressed about the difficulty of organising shift workers to attend meetings. Thus changes which increase the number of casual, part-time and seasonal workers will need to acknowledge and make provision for the restricted ability of these workers to become involved in consultative processes.

A gender and ethnic dimension to marginalised work may develop.

The second issue relates to the extent to which flexibility may become 'gendered' or biased in other ways (Jenson, 1989:144). For example, if only certain types of workers become more 'flexible', for instance if part-time and casual, seasonal work is

predominantly done by women or people from non-English speaking backgrounds, there is the risk that pre-existing inequalities will act to marginalise these workers in consultative processes.

This is significant because it has been recognised that 'gendered' and ethnocentric constructions of injury and disease (Williams, 1992:153) leads to hazards being overlooked or injuries and illness being under-reported. For example, Williams (1992:153) notes that the official statistics for women are lower than the actual rates of injury, and that this is compounded by a tendency for women to under-report. In addition, because the emphasis of workers compensation has been on traumatic one-off injuries, workplace hazards and injuries which are less visible and associated with typically 'female' occupations such as office and cleaning work may be obscured. Thus enterprise bargaining processes which exclude or marginalise women or non-English speaking workers runs the risk of under-representing certain OHS risks.

Lever-Tracy (1988:227) notes that there is no inherent reason why part-time work should be marginalised along the lines of gender and ethnicity, but that part-time work reflects rather than shapes pre-existing inequities and marginalisation of workers. She argues that part-time work can serve different interests and functions and take desirable or undesirable forms (p228).

Alcorso and Hage (1994:43) argue that compared to the on-going debate about the impact of enterprise bargaining on women, little attention has been given to issues for people from non-English speaking backgrounds. Citing the few studies which do exist they found issues such as communication barriers, the reliance on traditional industrial relations structures which marginalise NESB workers, the poor level of understanding among NESB workers of workplace reform processes and the inadequacy of trade union representation. All these factors were found to potentially compromise the capacity of these workers to be fully involved and represented in the bargaining process and to have their interests represented. In addition, NESB workers tend to be over-represented in manufacturing, and further segregated by sex into particularly vulnerable sectors of manufacturing industries (p59). In particular this made these workers vulnerable to pressures on these more internally exposed sectors of the economy.

Cattermole's (1994) work supports these findings. She argues that NESB migrants are concentrated in those sectors of their occupation with '... the worst physical working conditions, the lowest pay and they persistently do the dirtiest, least skilled, most menial tasks' (7). Moreover, they are clustered in the most hazardous industries (p7). The combination of these factors place NESB workers, and particularly NESB women in an extremely poor position to have their interests represented under enterprise bargaining. Their ability to understand what might be complex and subtle changes in agreements but which nevertheless have the capacity to impact strongly on working conditions may be compromised by low literacy levels in English and poor verbal communications skills.

The unpredictable nature of much casual and short-term work can lead to OHS problems

Lever-Tracy (1988:221) raises another issue with regard to casual work and job insecurity. She notes that what may be 'flexible' for employers may not be flexible for workers. For instance when casual or self-employed workers are on call or have fluctuating but inadequate work, they must keep themselves available and wait by the phone, and they cannot refuse work lest it be offered to someone else. Thus while flexibility may assist the employer to utilise resources in response to market demands, for workers it may mean periods without any work at all, interspersed with short on-call deadlines. This raises real problems for trying to plan for childcare and other arrangements.

Indeed, in recent work on the relationship between job control and stress, Houben (1992:314) has noted that workers are more likely to experience stress if they have limited control over their work, or where little allowance is made for their welfare and/or needs.

Thus changes within enterprise agreements which promote more 'open-ended' arrangements related to work status (such as casual or short-term contract work) may inadvertently increase stress levels experienced by workers as a result of the perceived increased insecurity of their employment. It is also the case that uncertain employment security places greater bargaining power in the hands of the employer, particularly in a climate of high unemployment when worker mobility is much reduced. This is especially the case for workers who possess few formal

qualifications and skills which might enhance their market position and so increase their bargaining power.

## 5. Overview of Major Findings and Recommendations

### THE CONTEXT FOR CHANGE

Recent industrial relations reforms at State and Federal levels have shifted Australia's industrial relations system towards enterprise bargaining. The Industrial Relations Commission (and its state counterparts) are increasingly restricted in their ability to place conditions on the certification of agreements. Greater responsibility now rests with the industrial relations parties themselves to determine reward systems, the conditions of work and the utilisation of skills. As outlined in the report, this shift has been characterised by a gradual winding back of externally imposed rules which enable the workplace participants - within a legislative framework governing minimum wages, conditions and processes - to negotiate almost every feature of work organisation. This shift in industrial relations mirrored a similar shift towards co-regulation for OHS which commenced in the early 1980s. For both industrial relations and OHS the *workplace* is now the level at which wages, conditions and - increasingly - the organisation of *work systems* are now perceived to be best negotiated and managed.

### Economic and Political Pressures for Change

Increased domestic and international competition facilitated by the removal of tariffs and the deregulation of the financial sectors is perceived to have necessitated the push for 'reform' of Australia's industrial relations system. There has been a contention that improved productivity and enterprise performance and increased

profits are possible only if firms introduced new and more responsive systems of work organisation better equipped to deal with the economic challenges facing Australia into the next century. This was most strongly articulated in the Business Council of Australia's 1989 Report entitled *Enterprise-Based Bargaining: A Better Way of Working*, which made recommendations about the state of Australia's industrial relations system.

Underpinning this push for industrial relations reform was an assumption that the existing system of more centralised determination of wages and conditions was inflexible and had developed rigidities based on outmoded and overly complex external regulations governing wages and conditions. With support from Federal and State governments, employers and sections of the trade union movement, legislative reform was undertaken which redefined many of the external rules governing both the framework of conditions and the operation of trade union and industrial relations institutions.

Enterprise bargaining is increasingly perceived as the only legitimate route to wage increases for workers via demonstrated improvements in *productivity and flexibility*. Increased flexibility in the determination of wages, conditions of work, and work organisation is now seen as the solution for a whole range of problems confronting Australia's businesses in the era of increased international competition.

The objectives of enterprise bargaining - expressed in Federal and State policy and detailed in the objectives of written agreements - have focused on improved enterprise performance, productivity, profitability, and increased flexibility in work organisation. The ADAM and AWIRS analysis revealed that improved enterprise performance, reduction of costs and increased flexibility in operation were the most commonly stated aims of enterprise agreements. This was illustrated in many of the case studies, where increased exposure to competition and a difficult economic environment also acted as external drivers for the agreements. The case studies highlighted the complex range of factors which are driving enterprise bargaining, ranging from the aforementioned economic pressures, to labour market changes such as the increased participation of women in the workforce which placed pressures on organisations to increase the level and quality of services.

One of the key aims of enterprise bargaining has been to achieve a *better 'fit'* between worker effort and enterprise performance, less constrained by the perceived

inflexibilities of centralised industrial relations systems. Unlike the workplace reform initiatives of the 1970s which aimed to improve employee wages, conditions and work environment, the 1990s workplace reforms are concerned with benefits to be gained by the enterprise. There is an implicit acceptance that while there may be short-term costs to employees, in the long term all parties will benefit because of the improved economic health of the enterprise and the nation.

Moreover, there is an often unchallenged assumption that the workplace parties - employees, managers and trade unions - are all ideally placed and have the *bargaining capacity* to negotiate successfully around these issues. Any inequalities in bargaining position are viewed as being potentially levelled out by the retention of a core of minimum standards governing wages and conditions.

As outlined in Part 2 of this report, this set of circumstances has a number of potential implications for occupational health and safety.

### **The Implications for OHS**

While there has been some recognition of the potential problems associated with workplace change and enterprise bargaining<sup>1</sup>, the focus of much of the public discussion has been around the *potential for improving OHS* which might be achieved through enterprise bargaining. Organisations such as the ACTU (1994), Worksafe Australia (1994), and commentators such as Mathews (1990) have argued that the enterprise bargaining process can *provide an opportunity* for improving OHS systems and practices. Some of the case studies reveal that under certain circumstances, enterprise bargaining can be a means by which wages and conditions for employees can be improved, such as in Lady Gowrie. According to the advocates, achieving positive OHS outcomes through workplace reform is seen as potentially improving both the health of individual workers, and the economic health of the firm through improved OHS and economic performance.

However, studies from the UK (Dawson et. al. 1988; James, 1992) suggest that increased levels of competition can act to undermine OHS at a workplace level. Importantly, Dawson et. al. argue that in such an environment '*the infrastructure which supported effective health and safety seemed to disintegrate*' (p258). James

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<sup>1</sup> For example, Bennett (1994).

suggests that increased competition creates 'organisational disincentives' towards safety, where companies may not see investment in or attention to OHS as critical if it is not seen as adding to the bottom line profitability of the firm.

Overall, this study found that the economic pressures on organisations, the agenda within which change is being promoted, the inadequacy of existing OHS arrangements at a workplace level and the continuing narrow OHS focus of the bargaining agents all contributed to a lack of recognition of the OHS implications of changes facilitated by enterprise bargaining. It has also made recommendations about how some of the more detrimental effects on OHS can be addressed. The more specific trends and associated recommendations are overviewed below.

1. There is inadequate recognition and acknowledgment of the OHS implications of changes to work processes and arrangements under enterprise bargaining.

Despite the promoted potential of enterprise bargaining to facilitate improvements in OHS, this study did not find evidence that enterprise bargaining is leading to greater recognition of, or commitment to OHS at workplaces. What the study has found is that while *in theory* there may be a potential to improve OHS through enterprise bargaining, *in practice* this potential is being compromised by a complex interaction of economic and political factors. This is evidenced by the following:

- The OHS **content of most enterprise agreements is not comprehensive**. The quality of OHS indicators in agreements on ADAM is largely **content-based** and often concerned with worker behaviour, or the provision of safety clothing and equipment. This suggests a narrow approach to OHS. There is very little evidence of a more integrated approach to the recognition of the OHS implications of workplaces changes.
- Changes to work practices such as the extension of working hours, reduction in staff levels and increased functional flexibility have attracted little attention in terms of the recognition and acknowledgment of their OHS implications. This lack of recognition and acknowledgment was also replicated in the case study examples.
- There is **differential implementation of OHS clauses in agreements**. Even where agreements appeared on paper to be comprehensive, in many cases OHS clauses were implemented in a limited way, the implementation was delayed, or there was no implementation of the OHS content at all. The reasons for differential implementation varied. Sometimes there was a lack of capital and human resources to effect the changes promised; sometimes the systems were not in place to facilitate change.

The inadequate recognition of the OHS implications work changes in enterprise agreements at their source leads to the following recommendations.

***Recommendation 1a***

There needs to be the promotion of much greater recognition of the OHS implications of changes to work practices *at their source*. This must be undertaken *at the time* of negotiating enterprise agreements. The inclusion of a separate clause about OHS in an enterprise agreement must be accompanied by careful consideration of the OHS implications of other changes both in the agreement and at an organisational level.

***Recommendation 1b***

The Industrial Relations Acts at a State and Federal level need to be amended to ensure that Federal and State Industrial Relations Commissions have a role *at the time* of registration of an agreement to vet the agreement in terms of the OHS implications of changes contained within the agreement.

***Recommendation 1c***

Worksafe Australia has a role in generating information for the bargaining parties about the likely implications of changes to work practices, and how to avoid these implications which can be used at the time of negotiating agreements. The state authorities can then access this information to use on a regional and local basis.

***Recommendation 1d***

Worksafe Australia has a role in facilitating discussions between the states in order to arrive at a nationally determined interpretation of how the duty of care obligations apply under enterprise bargaining in each state. In this way information and guidelines generated by WSA will be seen to have relevance to state OHS legislation.

2. The agenda for enterprise bargaining in the 1990s is primarily about economic performance and concession bargaining, not about OHS. The primacy of this agenda has meant that issues such as OHS become of secondary importance in the bargaining process.

There is a range of reasons why there has been little recognition of the OHS implications of work changes in the bargaining process, and poor implementation of OHS strategies where these have been included in agreements. The reasons emerge from a complex interaction of economic and political factors which include the following:

- **The primary focus of enterprise bargaining in the 1990s on improved enterprise performance, productivity improvements and cost-cutting may act to subordinate concern for OHS throughout the bargaining process.** OHS issues and implications of work changes may be either overlooked or subordinated to the primary goals of achieving improved enterprise performance. For example, in the RC2 case study, workers' primary emphasis was on winning contracts under the newly introduced Compulsory Competitive Tendering system in Victoria. For the workers here, the primary emphasis was on securing the contract and thus saving their jobs; the emphasis was not on OHS. Even in the examples where there was strong commitment to OHS throughout the bargaining process, such as in the construction industry, pressures to select sub-contractors on the basis of cost threatened to compromise OHS initiatives.
- **The philosophy of 'reform' in the 1990s accepts that workers bear some of the costs associated with change.** There appears to be an implicit acceptance among management that workers will bear some of the costs associated with workplace change. In some cases workers also accept that part of the cost of workplace reform should be borne by them. This is exacerbated by an economic climate which reduces the bargaining strength of workers because of high levels of unemployment and related fears of job insecurity. This may also make workers more accepting of workplace change and less able to object to changes which may disadvantage them. For instance, workers in the Textile Company knew that the choices for them were to improve performance or risk seeing the company move off-shore. Similarly, the workers at RC1 were made to understand that the changes proposed in the agreement were essential for the

company to survive increased competition. Workers may therefore accept some of the costs associated with workplace change if they believe that there is an economic imperative driving the change. This is likely to be heightened where there is also a fear of plant closure or unemployment.

- **Concession bargaining tends to create an environment where it is acceptable to 'trade off' conditions which may have OHS implications.** The pressure to prove productivity improvements in return for wage increases can lead to a form of concession bargaining where working conditions are traded off for wage increases. This also acts as a disincentive to raise objections to changes which may appear minor at the time but which impact in a negative way on OHS.

### ***Recommendation 2a***

Worksafe Australia and the Federal Department of Industrial Relations need to develop training material for key parties in the bargaining process - unions, employer organisations and employers on how to ensure that OHS is not subordinated in the bargaining process, and that the implications of changes to work systems such as hours, functional flexibility, sub-contracting are recognised. This training can be delivered through the ACTU and the ACCI.

**3.** The overall impact of enterprise bargaining, combined with other changes occurring at an organisational level, has been work intensification.

- Evidence from the ADAM database and the case studies points to an intensification of the work effort. This has been facilitated by a combination of factors including: an overall increase in the amount of work being undertaken, an increase in the length of the working day, a speeding up of work - as was the case in RC1 and CTAL, increased use of productivity targets, or a reduction in the number of staff at the same time as an increase in output - as was the case in The Textile Company.

- Work intensification often occurred as a result of a convergence of changes in enterprise agreements, **in conjunction** with other organisational level changes such as restructuring, staff reductions, change in ownership, and enterprise growth. This is significant, because the potential for work intensification to occur may not be easily detected by assessing the changes in enterprise agreements alone; other organisational level change needs to be taken into account. For example, at CTAL the changes in the enterprise agreement would not have immediately suggested work intensification. The problems at CTAL emerged when changes to the amount of overtime worked converged with a reduction in staff levels and increased utilisation at the terminal.
- Work intensification may also result from a combination of enterprise bargaining changes and social and demographic pressures on organisations. For example, some of the pressures on Lady Gowrie emerged from the increased workforce participation of women and the pressure to provide affordable, quality childcare; similarly in CSO there was pressure to increase the level and quality of services in response to an increased demand for their crisis services.

### **Recommendation 3b**

The Federal and State IRCs should ensure that any formal assessment of the potential for changes in enterprise agreements to lead to work intensification and therefore have OHS implications should take into account other organisational changes which may compound the impact of changes in agreements.

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| <p>4. Because the hazards created by workplace change may be harder to discern and easier to ignore, enterprise bargaining may reinforce the individualisation of risks.</p> |
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One of the aims of enterprise bargaining has been to encourage workers to identify with the fortunes of the company and to increase their personal work effort. This encourages workers to take greater personal responsibility for both work performance and the economic health of the firm. The work intensification which can result from this creates hazards which are more likely to be seen as individually caused. This can lead to:

- a reluctance among workers to agitate for improvements to OHS because they identify with the fortunes of the enterprise to the extent that **they fear draining organisational resources**. This was highlighted in both of the community services case studies where workers who were cognisant of the pressures on resources felt 'guilty' about complaining about conditions which had resource implications. For example, in CSO, because of limits on organisational resources, the high needs of clients and a high level of commitment on the part of the workers, there was a reluctance to ask for hazard control measures which were seen as taking expenditure away from clients.
- the tendency to take individual responsibility for work performance can reinforce pre-existing perception that OHS risks are a result of **individual behaviour**. Hazards such as stress come to be seen as the result of inadequate personal coping strategies; excessive overtime may be seen as a result of worker greed rather than misallocation of workload, or poor management. For example, in RC1, the workers were encouraged to understand the link between their personal work effort in terms of the speeding up of work and the long term viability of the company; on the other hand increased accidents were seen as a result of work carelessness. Similarly at CSO, worker stress was perceived by management to be the result of an inability to prioritise work, or too great a commitment to 'the cause' despite workers' claims that the source of their stress was primarily organisational and management related.
- **The OHS hazards likely to be caused and exacerbated by work intensification are also those most likely to be seen as individually caused.** For example, stress, anxiety, fatigue, manual handling, accidents can both be caused and exacerbated by work intensification. These types of problems are easily attributable to inadequate personal coping strategies. Unless the OHS culture in workplaces moves away from individualisation, these hazards will not be dealt with effectively. Stress will continue to be seen in terms of inadequate coping skills, rather than a reaction to an inadequate work system or working environment.
- The hazards associated with workplace change sometimes have their origins in changes **to work systems** rather than in the creation of physical or mechanical hazards. Thus the implications of change such as increased flexibility in hours

and increased functional flexibility may take the form of work intensification. This may manifest itself in worker fatigue, stress and anxiety all of which can be harder to detect without a sophisticated approach to OHS. The tendency to overlook the impact of these types of hazards may be reinforced by a prevailing medical/technical tradition within OHS which de-emphasises the importance and impact of work organisation and work systems. For example, the decision to introduce a work to finish system in RC1 caused a speeding up of work which created greater potential risks of accidents. However, because there was no immediate blow-out in the accident rate, and because the nature of the injuries was minor, the impact of changed work system was not immediately noticeable.

5. Positive OHS outcomes are being compromised by inadequate *bargaining capacity* of the workplace parties to cope with the new demands of enterprise bargaining and OHS.

Positive enterprise bargaining and OHS outcomes are predicated on the assumption that employees, management and trade unions have the bargaining capacity to ensure that all parties participate and understand the implications of the changes likely to effect them. However positive outcomes require time; OHS and IR knowledge and some expertise, resources and a willingness to involve *all* parties in the bargaining process, and commitment from unions, workers and senior management. The ADAM and AWIRS data and the case studies revealed that in many cases, one or all of these ingredients was missing or that pressures on the organisation acted to compromise OHS outcomes.

- Both the AWIRS and WBS data revealed that management is driving workplace change and that in the majority of cases change is not negotiated. This trend militates against workers and unions having genuine knowledge and understanding of OHS implications of changes.
- In some cases the bargaining capacity of employees was limited because of lack of education and training, lack of trade union representation and because they were not empowered to advocate in the area of OHS. At RC1 this was the situation, and, despite management commitment to OHS, the lack of resources

and knowledge on the part of both workers and managers compromised OHS outcomes.

- In other cases the trade union was active but there was a lack of senior management commitment as in The Textile Company. The example of The Bank also highlights that, despite trade union involvement, senior management reluctance to establish systems compromised OHS outcomes.
- Even where there is senior management commitment to OHS in the bargaining process, such as in the manufacturing Company, the existence of aging plant and equipment, and, the inability to invest in new technology limited the potential for positive OHS outcomes.

6. The most positive OHS and IR outcomes of enterprise bargaining are likely to occur where there is both active trade union, employee and senior management involvement and commitment. The growth of non-union bargaining may therefore potentially compromise OHS outcomes.

In the three cases where enterprise bargaining held some potential for improved OHS and industrial relations outcomes for employees and the enterprise as a whole, there was evidence of strong trade union activity and involvement, senior management commitment and allocation of resources.

For example, at Lady Gowrie, even though there had not been a structured tradition of OHS at a workplace level, the enterprise bargaining process saw active involvement by the trade union, increased employee participation and strong interest and commitment by senior management. This led to a number of innovative initiatives in the agreement, a greater focus on OHS, a recognition that worker stress is linked to work organisation. The agreement is now likely to be the model for the industry.

### ***Recommendation 6a***

Given the important role of trade unions in securing more positive OHS outcomes, the State and Federal IRCs may need to carefully scrutinise and consider non-union agreements in terms of their impact on OHS.

### **LIMITATIONS OF THE REGULATORY FRAMEWORKS FOR ENTERPRISE BARGAINING AND OHS**

Underpinning the regulatory framework for both Robens-style OHS legislation and enterprise bargaining arrangements are assumptions about the willingness and capacity of the workplace parties to negotiate around these issues. There is also a contention that in an environment of trust and cooperation and with the retention of a framework of a protective framework governing minimum wages and conditions, that the normal trade-offs between profitability and safety can be avoided.

However, this study has found that there are weaknesses in the regulatory framework for both enterprise bargaining and OHS which cast serious doubts on the capacity of both systems to anticipate and cope with the challenges posed by enterprise bargaining.

### **Implications for OHS**

- 7a.** The absence of any strong legislative requirement under the Federal *Industrial Relations Reform Act* 1993 for the Commission to *preserve*, rather than just take into account the state and territory OHS general duties, regulations and standards could potentially lead to the undermining of OHS standards. This weakness in the legislation is serious in the light of recent evidence that many workplaces are probably not well placed to anticipate the OHS implications of workplace change.

**7b.** There is no requirement that the Federal Commission, in the process of *certifying* an enterprise agreement, act to preserve the duties, regulations and standards which may be undermined by changes to work practices and conditions. This is particularly serious given the often insidious nature of many of the changes being undertaken with enterprise agreements.

By virtue of omission, enterprise bargaining legislation at federal and state levels does not look for, nor require the parties to consider OHS at the time of registering the agreement, nor within the life of the agreement in order to preserve existing OHS standards. The OHS implications of work changes, except within the context of the overall reduction of conditions governed by the 'no disadvantage' test, are not therefore not considered. The failure to assess OHS issues at the time of formal registration is especially serious for a range of reasons:

- changes to work organisation are the very types of changes which enterprise bargaining is designed to facilitate. It is therefore critical that the legislation compels the parties to recognise and takes steps to address the potential impact of such changes on OHS.
- evidence from AWIRS, the case studies and the Industry Commission Inquiry suggest that many employers are not meeting their obligations under the duty of care requirements and may therefore not be well placed to anticipate OHS issues independently of any formal compulsion to do so.
- as outlined above, the bargaining capacity of the parties may be limited, and the resources of trade unions stretched.

This situation leads to a number of strategic recommendations:

#### ***Recommendation 7a***

- The legislation governing the registration of enterprise agreements should require the parties to demonstrate that the OHS implications of changes to

work organisation have been considered at the time the changes are made, and monitored throughout the life of the agreement. In doing so the parties need to ensure that existing State and territory OHS general duties, regulations and standards are preserved. This is especially critical where the OHS safety implications of changes may manifest themselves over time.

- Consequently, the bargaining parties should have to demonstrate that they have built in monitoring and evaluative mechanisms to assess changes over time.
- The members of the Industrial Relations Commissions at a state and federal level need to understand the types of potential OHS implications which may arise as a result of changes to work systems. This educative role could be undertaken by Worksafe Australia and the state OHS institutions such as Workcover in NSW

8. There does not appear to be strong recognition of the short and long term OHS implications of changes to work organisation among employees' and employers' formal representatives in the bargaining process - trade unions and employer associations.

There was a range of evidence which suggests that there is a need for greater awareness about the likely OHS implications of changes introduced in enterprise agreements among the formal bargaining parties.

- the high proportion of agreements which contain substantive changes to work organisation but which do not contain any evidence of the recognition of the likely impact of these changes either initially or over time.
- little case study evidence that employers' associations in particular are not taking a strong role on the bargaining process, at least not in terms of assessing the implications of changes in agreements.
- case study examples which suggest that even where trade unions are involved in bargaining, they may not have the knowledge or resources to understand or address the potential implications of changes such as increased flexibility of hours. This may be because officials do not have adequate training in OHS,

because they are unfamiliar with the industry or because they do not have the time and personnel resources to interface adequately with employees.

### ***Recommendation 8a***

Trade unions and employers representatives need to more effectively resource and support their members in order to ensure that OHS issues are addressed at their source. This may be in the form of increased training for officials, workplace delegates and other officials involved in the bargaining processes. This could then be facilitated through the ACTU and the ACCI.

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| <p>9. Poor interface between IR and OHS structures and organisations at a workplace and an institutional level.</p> |
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This is evidenced by:

- OHS professionals at a workplace level are not becoming involved in enterprise bargaining negotiations
- OHS committees and EB committees often do not have any formal interface
- OHS and IR committees sometimes not sharing information and resources
- Philosophy of keeping IR and OHS separate for fear of 'trading away' health. There is a subsequent lack of recognition that OHS is integrally involved once negotiations cover issues such as hours, functional flexibility, performance indicators and so on.

### ***Recommendation 9a***

OHS professional, practitioners and representatives need to be more actively involved in the enterprise bargaining process at both a workplace and policy level. They should also be more involved in discussion within their own professional organisations, employer associations and trade unions.

**Recommendation 9b**

Worksafe Australia has a role in promoting the better interface of OHS and IR structures by disseminating information about the benefits and disadvantages of artificially separating IR and OHS in the bargaining process. The focus has to shift away from the inclusion of clauses into agreements and onto the early identification and assessment of risk associated with workplace change.

- 10.** The bargaining processes allowed for under both state and federal legislation do not ensure that workers fully understand the implications of the changes in enterprise agreements. This is likely to be more serious where there are poor levels of literacy, high numbers of workers from non-English speaking backgrounds and workers in a weak bargaining position.

Evidenced by:

- Concentration of these workers in the 'peripheral' workforce, for example in the finance and construction industries
- reduced capacity to become involved in the bargaining process due to time constraints
- Poor literacy and numeracy levels will mitigate against a full understanding of the changes and their implications
- Weak bargaining capacity will reduce ability of these workers to advocate on their own behalf.

**Recommendation 10a**

The state and federal IRCs need to be more vigilant in their assessment of the differing impact of work changes on women, workers from an NES background or weak bargaining positions. This is because the implications of work changes may be different for these workers than for workers who are well unionised and highly skilled.

**Recommendation 10b**

*Registering bodies need to ensure that where trade unions are not involved in the bargaining process, that workers - particularly those from NES backgrounds, those with poor literacy and numeracy levels and in vulnerable bargaining positions, fully understand what they are agreeing to.*

11. The tendency towards 'concession' bargaining, whereby conditions are 'traded off' for wage increases has potentially serious implications for the downgrading of conditions for workers in a weak bargaining position which are often women workers and workers from NESB.

- Concession bargaining is encouraged within the legislation because of the requirement that workers demonstrate productivity improvements in order to justify wage increases. While this may not be immediately serious for workers on above award conditions, it is particularly serious for workers who enjoy only minimum award conditions. In these cases there is pressure to trade off conditions of work and structured working time arrangements which could lead to an overall intensification of the work effort and ensuing OHS problems.

**Recommendation 11a**

The bargaining parties, and particularly the trade unions need to develop training and information packages for their members highlighting the potential OHS problems associated with 'concession' bargaining.

**THE OHS IMPLICATIONS MORE SPECIFIC WORKPLACE CHANGES**

The major push behind specific changes in enterprise agreements has been for increased flexibility as a way of improving productivity and increasing the flexibility of the employees in response to the needs of the enterprise. The case studies illustrated that while there were some opportunities to use EBAs to improve flexibility for employees, that for the most part the focus was on increased flexibility for the enterprise. The summary of key trends associated with more specific work

changes and associated recommendations are outlined below. They should be read in conjunction with Part 4 of Volume 1 of the report.

### **Functional Flexibility**

- Positive OHS outcomes will be dependent on adequate and appropriate levels of training, and clear career path progression.
- Work intensification may result if the primary focus of increased functional flexibility is improved productivity and cost cutting alone.
- Where functional flexibility involves primarily an increase in the number of less complex tasks (multi-tasking) the impact on OHS may be detrimental.
- The implications of the removal of 'restrictive' work practices and demarcations may not be progressive for workers
- The gender implications of notions of skill and career advancement should be considered when implementing increased functional flexibility.

### **Flexibility In Hours**

- Increased flexibility in hours can be beneficial to OHS if the arrangements are *clear*, and have been introduced primarily in response to the needs of *employees*.
- Open-ended flexible working time arrangements may lead to *work intensification*.
- Increased flexibility in hours of work should be accompanied by initial and continuing workload assessment to avoid risks associated with work intensification.
- Increased flexibility in hours which are too open-ended may increase worker stress.

- There is a 'new language' of 'flexible' working time arrangements emerging in enterprise agreements. These new 'flexible' provisions are leading to unregulated extended working hours and 'shift-work' like arrangements.
- Rewarding of sustained and excessive working hours may individualise risk and represent a new form of danger money.
- The overall impact of increased flexibility on OHS of trading off 'restrictions' associated with working time arrangements may not be recognised or understood.
- Particular working time arrangements only prevail because stress is seen as a personal problem.

### **Consultation and Employee Participation**

- Given that employees have a right to be involved in consultation about OHS, the literature and evidence from the case studies has revealed that *direct representation* in the form of health and safety representatives is the most effective form of consultation and the one most likely to produce positive effects under enterprise bargaining.
- There was a complex empirical relationship between the existence of consultative processes and structures and more positive OHS outcomes. The mere existence of formal consultative structures - such as committees - did not ensure heightened recognition of the OHS implications of work changes, nor implementation of OHS initiatives. Recognition was more likely where there was direct employee representation.

The study found that in order to achieve:

- *recognition* of the OHS implications of work changes, and
- either actual *implementation* or strong likelihood of implementation of OHS initiatives proposed

The following factors increased the bargaining capacity of the parties to achieve recognition of OHS implications and implementation of proposed OHS initiatives:

- formalised and effective OHS and/or enterprise bargaining processes and structures *and*
- active and informed trade union involvement *and*
- committed and informed senior management willing and able to dedicate resources to OHS *and*
- active and informed employee involvement and representation *and*
- an industrial relations environment conducive to and supportive of genuine employee empowerment in OHS

The case studies revealed that if one or more of these key ingredients was missing or compromised in some way, that OHS outcomes in terms of recognition and implementation were likely to be less positive. The study found that:

- There is a relationship between the presence of trade unions and OHS activity at a workplace which is likely to be significant for enterprise bargaining.
- Trade union presence and activity raises the likelihood of OHS issues being included and OHS implications of work changes recognised in bargaining negotiations.

### **Performance/Productivity Recognition Systems**

- The use of performance/productivity recognition systems increased the risk of stress.
- Performance/productivity recognition systems may lead to the speeding and hence intensification of work
- Open-ended reward systems may both intensify the work effort and lead to an increase in managerial prerogative

- Safety indicators can lead to under-reporting of accidents

### **Non-Wage Conditions**

- The inclusion of flexible leave provisions in agreements which are responsive to the needs of *employees* will be beneficial to their OHS, particularly in terms of their well-being.
- If casual and contract staff are excluded from non-wage conditions, the OHS for these workers - often women and low paid workers - is likely to be detrimental.
- Common family and social time may be compromised if restrictions are placed on leave provisions.

### **Marginalisation**

- The way in which changes to work processes and conditions facilitated by enterprise bargaining impact on the OHS conditions of sub-contracting companies have not been acknowledged and are poorly understood.
- If principal contractors do not fulfil their duty of care towards sub-contractors generally, or as part of the enterprise bargaining process, the implications for OHS in the contracting companies may be detrimental.
- If cost reduction is the primary imperative behind sub-contracting the OHS implications in the contracted firm are likely to be detrimental and acts to create a 'core-periphery' workforce.
- While enterprise bargaining can be a tool to try to improve the OHS standards of sub-contractors, cost pressures often undermine these more positive trends.
- If pro-rata conditions are awarded to part-time and casual staff many of the detrimental effects of marginalisation can be alleviated.

- The concentration of casual work in often low paid, narrowly skilled, gender segmented workplaces is likely to increase the detrimental OHS effects of this type of work for women and other industrially weak workers.
- Marginal workers may be excluded from consultative processes around both enterprise bargaining and OHS and may not have their interests represented.
- Marginalised work may develop a gender and ethnic dimension.

### CONCLUDING REMARKS

This report has sought to explore and document the range of potential and actual OHS implications of the shift towards enterprise bargaining in Australia. The major OHS findings and recommendations outlined above are the result of two years of intensive research. While many of the findings of the impact of enterprise bargaining paint a somewhat negative picture, the message has not been about irresponsible employers deliberately trying to downgrade the conditions of employees, or ill-informed employees willing to trade off OHS conditions.

Rather, the message of this study is that both employers and employees are currently under intense resource and competitive pressures which are driving change at a workplace level. These pressures are subordinating the importance of OHS and making it difficult to comprehend or recognise what the OHS implications of this change may be. This has resulted in a range of implications for OHS - many of them potentially extremely detrimental - which have been poorly understood by the workplace and institutional parties.

The outcome of this study should therefore be that increased emphasis is placed on assisting the bargaining parties to understand the implications of changes to work practices and work systems *at their source*, that is, at the time of negotiating these changes. There are two major strategies required to achieve this:

- first, greater institutional intervention in the enterprise bargaining process. This can take two forms. The **State and Federal IRCs** have a greater role in vetting agreements to ensure that OHS implications of changes have been identified and assessed and that state and territory OHS general duties, regulations and standards are preserved. **OHS authorities** have a role in intervening to ensure that employers are meeting their duty of care in terms of

recognising and preventing the OHS impact of changes to work systems under enterprise bargaining

- second, the **bargaining capacity** of the parties - managers, employers, unions and employees - needs to be strengthened substantially. They need to be better informed, better trained and better resourced.

These strategies will, in combination, help to ensure that the OHS implications of the shift towards enterprise bargaining in Australia are positive rather than negative.

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# Appendices

## APPENDIX A

### **ACTU Policy: Employee OHS Representatives Rights and Functions**

Health and safety representatives should have definite rights and functions in the workplace which allow them to properly represent their fellow workers. These rights and functions should be:

- to inspect all or part of the workplace
- to have access to all health and safety information relating to the workplace
- to call in a government inspector and to accompany that inspector during any visit to the workplace, and receive a copy of any report made
- to initiate prosecutions through the union, in respect of breaches of regulations, where the government inspectorates fail to act
- to stop work and order workers and others at risk out of areas where an immediate threat to health and safety is suspected (with no loss of wages) pending the arbitration of an inspector
- to initiate improvement notices on any plant or process

- 
- to be informed of any accident of hazardous event immediately, and to carry out an emergency inspection of the site before anything has been disturbed, and to be given copies of any reports prepared by the employers relating to the occurrence
  - to represent workers in health and safety disputes or internal enquires after accidents or incidents
  - to be consulted by the employer on all changes to the workplace which may have implications for the health and safety of the workers they represent
  - to perform all their activities on paid time, and to have adequate facilities for performing them
  - to call in consultants or advisers to the workplace at any time, after notifying the employer, and at the employers expense
  - to be able to carry out their duties without incurring additional legal responsibility
  - to be able to perform these duties during working hours without loss of pay or other entitlements.

**APPENDIX B****ACTU Policy: Functions of OHS Committees**

A joint health and safety committee may be a useful means of establishing a permanent forum for communication between workers and management on health and safety issues. The role of a joint health and safety committee is to complement the activities of health and safety representatives.

The functions of a joint OHS committee should include the following:

- consider aggregate accident and disease statistics for the workplace to identify problem areas and make recommendations for corrective action;
- consider results of all environmental and personal monitoring carried out in the workplace;
- investigate causes for unacceptably high risks to employees in the workplace and consider recommendations for their elimination or reduction;
- consider aggregate results of all medical monitoring carried out on employees in the workplace and recommendations arising from these results;
- consider all available data on new chemicals, physical agent, installations or processes which are proposed to be introduced into the workplace, evaluate their potential health and/or safety effects on employees, and determine whether, or with what modifications or safety procedures, they should be introduced into the workplace;
- develop policies for preventive and control strategies for all workplace hazards recognising existing regulations and codes of practice as the minimum standards;
- consider selection of and engagement of consultants to inquire into and make recommendations on workplace hazards;

- monitor and review compliance with general duties imposed on the employer under legislation; and
- consider matters raised by any member of the committee.

**APPENDIX C**

**OHS And Workplace Change Protocol and Case Study Interview Format**

ORGANISATION: \_\_\_\_\_

INTERVIEWEE: \_\_\_\_\_

DATE: \_\_\_\_\_

**Documentation**

**A. General**

Organisational profile and chart

Ownership details

Details of activities undertaken

Market of the organisation including the clients

Membership of employer organisations

Demographics of the organisation (no, gender, employment status)

Unions with coverage, membership details

Award coverage/ copy of award

Enterprise agreement or other relevant agreements

Mission statement

**B. OHS and Training**

Turnover statistics

Absenteeism

Workers Compensation

Sick leave patterns etc

Training policy

Rehabilitation policies/programmes

OHS training policies/activities

Appraisal and job evaluation techniques/policies

OHS committees, terms of reference, regularity of meeting, decisions made, decision-making processes, membership.

Examples of job descriptions

Performance indicators to measure, evaluate OHS and general organisational performance.

### **Interview questions**

#### **A     *Bargaining***

Bargaining arrangements prior to 1991

Bargaining arrangements since/who initiated it/objectives

Key aims/outcomes

Who involved and how (ie employer/management, unions, employees, others)

How smooth was the process?

Are bargaining arrangements linked to organisational improvement strategies? How?

**B OHS**

Key OHS issues within the company

Processes for identifying and dealing with OHS issues

OHS integrated within management systems? How/ What priority given to OHS by management/workers?

**C OHS and Bargaining**

Why/how was OHS included in bargaining and who was involved?

Who initiated the inclusion of OHS? Why?

How were OHS clauses negotiated? Who determined their scope?

How are OHS clauses related to other clauses?

What performance measures included (if any) Why/How?

How has OHS legislation and regulations and codes of practice been included/allowed for within the bargaining process/agreement?

What role have state agencies played (eg Workcover, Worksafe ACTU etc)

What advantages/disadvantages have flowed from inclusion/non-inclusion of OHS?.  
Would you now do it any differently?

How are written OHS policies translated into practice at a workplace level? Are they translated? Monitored? How?

**D Economic and Social Environment**

Effect of the recession/recovery. Increase/decrease in workforce?

If workforce reduced how has remaining work been allocated? Redesigned? Was this part of the bargaining process?

To what extent has organisational restructuring preceded or accompanied enterprise bargaining?

What is the market outlook for your organisation? How is this likely to impact at a workplace level?

What have been the general driving forces behind enterprise bargaining?

What has been the impact of organisational restructuring (or takeover) on OHS roles, decision-making and activities?

What proportion of your costs are labour costs? Is this taken into account when considering OHS systems/processes etc?

### ***E Workplace and Organisational Change***

What are the significant workplace or organisational changes which have occurred?

Significance in terms of their impact on staff, or the way in which staff undertake their jobs

What prompted these changes?

What impact have these changes had on OHS?

Why did you undertake enterprise bargaining? How did the award not suit your needs? Was OHS included in the award? Was this replicated in the agreement?

What workplace and organisational improvement strategies have been introduced (eg TQM, benchmarking etc)

Has OHS been incorporated or considered in conjunction with these changes/ Why How?

What OHS changes/ improvements have occurred? What prompted these changes?

Were the implications of workplace or organisational change on staff/OHS considered? Dealt with?

Which has been the primary - OHS or workplace change? What has been paramount?

### ***F Workplace Changes: External Flexibility***

How is the level and utilisation of casual and part-time labour decided? Have there been changes to level? Why? In what context? (eg part of bargaining?)

What are the benefits/disadvantages for these workers? For the company? Have they been evaluated? How?

How are PT and casuals involved in consultative processes for bargaining? For OHS?

What opportunities for involvement in training, meetings, union activities, informal support networks etc?

How are OHS issues for PT and casuals identified and dealt with?

### ***G Internal Flexibility***

What major changes concerning working time arrangements have been introduced? In what context?

What are benefits/disadvantages? For workers? For the company?

OHS implications considered? How? Why? Were they dealt with in the agreement?

Who was behind the changes?

What OHS outcomes? Stress, manual handling, improvements etc

### ***H Functional Flexibility***

Demarcation barriers removed? Restrictive work practices? Who initiated these? What form did it take? How was the removal decided?

Has work redesign/ job redesign been undertaken? On what basis? OHS considered?

Training for multi-skilling?

Has multi-skilling been narrow? (within skill level) or broad (across skill and task)  
Were OHS implications considered?

OHS problems reduced/increased? Not considered

### *I Sub-contracting*

Increase in sub-contracting included in enterprise bargaining? Why?

How has the OHS performance of subs been monitored? Has it affected OHS?

Is OHS taken into consideration in the tendering process? How?

### *J Mediating factors*

What has been the role of trade unions in the change process? Why their involvement? Why not?

What power do the relevant unions have in relation to OHS? Stop work, intervene etc

What has been the involvement of the unions in OHS issues? What involvement have they had in putting OHS issues on their agenda?

What is the attitude of management towards OHS issues? Is there a commonality of interest? What are they?

Is OHS seen as an IR issue? If not, how are they different?

What has been the role of health and safety reps and OHS committee in the workplace change and enterprise bargaining process?

Why was an OHS committee established. Did the committee arise from OHS activity or did the committee spur on OHS activity?

How does the committee operate? Relationship between the committee and the JCC? Which came first?

What has the committee contributed to management? To the workforce?

How is the effectiveness of the JCC OHS Committee evaluated? Waste of time? Effective? benefits? Problems?

Describe the key features of the OHS management system.

What is management's role and responsibilities with regard to OHS?

What are the workers roles and responsibilities with regard to OHS?

**K**      *OHS and Outcomes of change*

Have any OHS clauses in the agreement been implemented? Why? Why not? If so, what was the effect?

How are staff, especially management made accountable for OHS?

How does management see the role of the TU with regard to OHS? How do the workers see it?

What is seen as the relationship between OHS and productivity? How is it measured?

What training in OHS is provided? To whom? On what basis? Who decides?

What effect has enterprise bargaining had on OHS outcomes? In what ways?

*Other Comments*

**APPENDIX D****ADAM INDICATORS**

- a) **An agreement was considered to be 'comprehensive' if it had an indicator from 4 out of the 5 groups:**

***Policies and Broad Objectives (one of the following)***

- |    |     |  |
|----|-----|--|
| s2 | q46 | aim for an improvement in safety                               |
| s3 | q32 | accident prevention  |
| s3 | q33 | OHS implementation programme                                   |
| s3 | q38 | Continuous improvement in safety                               |
| s3 | q40 | OHS included in design/operation                               |
| s3 | q46 | OHS committee/sub-committee present                            |
| s3 | q47 | maintenance of an OHS environment                              |
| s3 | q49 | best practice in OHS   |
| s3 | q51 | employer's directions consistent with safe/healthy environment |

***Specified Measurement and Monitoring***

- |    |     |   |
|----|-----|---|
| s3 | q34 | aim for a reduction in workers compensation |
| s3 | q35 | PI include OHS                              |
| s3 | q36 | target of zero for LTI                      |
| s3 | q37 | specific performance indicators listed      |

- s3 q41 OHS data available as required
- s3 q42 regular hazard audit inspection
- s6 q6 PI include safety
- s6 q30 PI include LTI
- s6 q31 PI include no of injuries

***Consultative and/or Participatory Processes/Activities***

- s3 q46 OHS committee/sub-committee present
- s3 q48 participation in decision-making in OHS
- s3 q50 list of safety activities for employee participation

***Training***

- s3 q52 training given in OHS
- s3 q53 OHS training integral
- s3 q55 certain classifications trained for OHS committees

***Miscellaneous***

- s2 q2 reduction in LTI (unspecified)
- s2 q3 reduction of minor accidents (unspecified)
- s3 q39 ACTU code of conduct on 12 hour shift
- s3 q43 safety and protective clothing issued
- s3 q44 OHS equipment listed

s3 q45 asbestos eradication clause

s3 q54 OHS rehab program in place

**b) An agreement was considered to be 'limited' if it had one indicator in the Written Policies/Objectives group and at least one in one of the other groups (ie. 2 out of 5 indicators)**

**c) An agreement was labelled 'none' if it satisfied none of the above criteria.**

## APPENDIX E

### AWIRS DATA

The AWIRS data was used in a similar way to select criteria for labelling the groups, even though the OHS indicators in the data set were not identical to those in the ADAM set.

a) **For a committee to be labelled 'Comprehensive' it had to have the following:**

EG1 written policy

and

EG2 someone responsible

and

EG3 who spent the majority of their time on OHS

or

EG5 someone employed at a higher level

and

EG6 who spent the majority of their time on OHS

and

EG7 specialist OHS committee

and

EG12 the committee met at least once every three months

or

EG13 employee representative

and

EG15 record keeping system

**b) A Workplace was Labelled 'Limited' if it had the Following:**

EG1 written policy

and

EG2 or EG5 someone responsible

or

EG7 a committee which meets EG12 at least irregularly

or

EG13 employee representative

and EG15 record system

**c) A workplace was labelled 'none' if it met none of the above criteria.**

## APPENDIX F

### GLOSSARY\*

#### Agreement

Any mutual understanding that in an industrial relations context tends to be the product of a negotiation process between employers, employees and/or their representatives. Such agreements can vary in regard to their formality as well as the extent to which they are codified (written down). Under present Australian stature, provision is made for registration or certification of agreements in order to facilitate, for example, enterprise bargains. In all jurisdictions, once an agreement has been reached by the negotiating parties, it may under certain circumstances be certified by an industrial tribunal. When agreements are certified they either supplant or supplement existing awards in respect of the issues which form part of the agreement.

#### Allowances

Most awards or agreements contain some provision for the payment of amounts in excess of standard minimum rates of pay. These extras generally accrue when certain tasks are performed by workers, when skills are acquired or utilised, or when work is performed under adverse conditions eg disability allowances such as height, dirt or danger money.

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\* The terms in this glossary have been taken from *Glossary of Australian Industrial Relations Terms* compiled by Paul Sutcliffe and Ron Callus, Sydney, ACIRRT and ACSM, 1994

**Award**

A legally enforceable determination containing the terms and conditions of employment of a firm or industry. These conditions have been arbitrated or certified by an industrial tribunal following agreements reached independently by the respondents to the award, or following conciliation or arbitration at either the state or federal level. Awards prescribe minimum enforceable wage rates and other employment conditions and often include procedures for grievance handling. An employer may opt to provide conditions that exceed those laid down by the award but may not pay less or provide conditions less than those that are stipulated. In the federal jurisdiction an award applies only to organisations or employees who are, or whose representatives are respondents to the award. In the state systems awards apply by common rule to all employers and relevant employees in an industry.

**Award restructuring**

A process to review, simplify and modernise awards that began in earnest after the 1987 National Wage Case. Restructuring generally involved a reduction in the number of occupational classifications, changes in provisions governing the payment or entitlement to allowances, penalty rates or hours of work, and an attempt to establish career structures for award employees.

**Bargain**

Any deal or agreement that is reached after some explicit or implicit negotiating process has occurred.

**Bargaining**

An exchange process in which two or more parties, whose interests differ, seek to find an agreed position, in regard to the issues in dispute, that both parties are prepared to accept. It can be described

as a mutual accommodation process. Many bargained outcomes may not satisfy one of, either, or even both parties; the outcomes may represent the best that can be achieved at that point in time. Bargaining is, therefore, often an ongoing process.

### **Bargain in good faith**

The term implies that collective bargaining ought to be carried out in a way that increases the likelihood of producing a sustainable agreement between the parties. It also conveys the idea that the more the parties are able to trust each other the more likely it is that an agreement will be reached or what is more important, will be sustained over time. The Industrial Relations Act provides for the Commission to consider the conduct of the parties in negotiations and decide if a party has agreed to meet at reasonable times proposed by another party; or attend meetings that the party has agreed to attend or complied with negotiating procedures agreed to by the parties or capriciously added or withdrawn times for negotiations refused to negotiate with one or more of the parties.

### **Benchmark**

- (1) Any reference point that can form the basis of measurement or a standard by which, for example, other jobs can be compared for wage determining or evaluation purposes.
- (2) Used as 'benchmarking' the term has also come to be associated with a movement, supported by the federal Labor government, to support and foster best - practice arrangements in organisations as a means of promoting efficiency and competitiveness in Australian organisations by comparing their efficiency with other organisations in their industry, particularly overseas.

**Best practice**

Employer policy and practice that is designed to enhance or improve productivity or the quality of the work and employment experience of workers. The practice has been supported by the federal government through the provision of awards and recognition for organisations whose work practices have been determined to be exemplary.

**Casual**

An employee who is temporarily employed for a specified number of hours in a day or week. A maximum limit is usually stipulated in awards regarding the number of hours that can be worked in each engagement. Casual employees, unlike part time employees do not usually receive a pro rata sick or holiday leave entitlements but instead tend to be paid a higher hourly rate.

**Casual loading**

The extra hourly rate of pay that must be paid to casual employees, over and above the normal hourly award rate, to compensate them for not accruing leave entitlements or being guaranteed work. The rate varies from 18% to 25% over the standard hourly rate in different awards.

**Casualisation**

A policy in which the employers seek to alter the prevailing pattern of working arrangements. The change is from mainly permanent full-time employment towards higher usage of casual employees. This policy has generally been opposed by unions who have sought to maintain stability and security in employment for full-time employees.

**Certification**

A process that involves the formal recognition and acceptance of an industrial agreement by an industrial tribunal. An agreement, once certified, varies or replaces an existing award and gives the agreement legal status.

**Certified Agreement**

Agreements that are reached as a result of direct negotiation between employers and unions (without necessarily involving a tribunal in the bargaining process) and that are subsequently registered by a tribunal and thereby given the force of an award. The conditions under which certification of agreements can occur is set down in s.170MC of the Industrial Relations Reform Act of 1993. These include a requirement that the agreement will not disadvantage the employees covered by the agreement

**Contract Labour**

Labour that is acquired by hiring it from another employer or agency that is established for the purpose of labour supply rather than by employing it under a contract of employment. By this means, an employer may be able to avoid some of the costs associated with employment, especially where the need for labour is temporary or where full time employees cannot be justified on the basis of available work. It has been suggested that this device has been a method of avoiding award responsibilities by some employers.

**Contracting-out**

An employer who instead of employing labour or producing goods in house contracts with another organisation to carry out the work or supply the labour.

**Core workers**

Some workers enjoy a relatively privileged employment status in organisations either because of their specific skills, attributes, industrial position, or union organisation and bargaining power. This is reflected in preferential treatment in regard to their pay and conditions, job tenure, job quality and job control.

**Demarcation**

The right of one occupational group to undertake specific types of work is often strictly separated from that performed by the members of other occupational groups. These 'boundaries' or demarcations are maintained by unions in order to protect the jobs of their members. On occasion, however, the boundaries are disputed and become a focus for inter-union rivalry.

**Danger money**

An allowance that is paid to an employee whose work exposes them to known risk in the performance of their job.

**Direct negotiation**

As in collective bargaining, direct negotiation takes place between the parties without reliance upon third parties and often without outside institutional support. The term can also be applied to negotiations that take place directly between management and workers at the enterprise level without involving trade unions or employer associations.

**Empowerment**

(1) Concessions made to workers by employers that allow the workers more discretion or control over how they perform their job tasks. Empowerment constitutes a form of worker participation.

(2) The term is also used to describe a strategy that is adopted by some employers to distribute control throughout their organisations in order to create flatter organisational structures and to reduce the number of supervisory or middle level managers. It is a method or device for effectively linking authority and responsibility.

### **Enterprise Agreement**

Any agreement (eg. on wages and conditions of employment) that applies exclusively to a single enterprise or bargaining unit. These agreements typically result from direct bargaining between a particular employer and the workers, or union(s). Enterprise agreements may displace industry or multi-employer awards in respect of the items regulated in the agreement although the process by which this occurs varies between the state systems. The advantage of enterprise agreements is assumed to be that they allow for the development of arrangements that are specifically related to the employment and production needs in a particular enterprise. In recent years enterprise bargaining has been encouraged as a method of promoting labour flexibility and microeconomic reform. In practice only about 20% of agreements completely replace awards. Most alter existing award conditions or add new clauses not previously dealt with in the award. The most recent amendments to the Industrial Relations Act include many provisions that support enterprise bargaining including the establishment of a new Bargaining Division to facilitate the process.

### **Enterprise award**

An award that applies exclusively to a single employer (enterprise) and its employees.

### **Enterprise bargaining**

Direct negotiation that takes place between an employer and their employees (or their unions) in an organisation. The bargaining

process and its outcomes may take place within guidelines established by the AIRC or a state tribunal or may occur independently of the institutions of industrial relations. Thus enterprise bargaining may or may not involve trade unions as representatives of employees. Various outcomes are possible as a result of enterprise bargaining including failure to achieve an agreement, a certified agreement, or an agreement reached with the assistance of a tribunal.

### **Enterprise Flexibility Agreements**

An agreement whose implementation has been approved under Division 3 of Part VIB of the *Industrial Relations Reform Act* of 1993. Essentially EFAs are those that are negotiated between an employer and the employees in an enterprise. The negotiations do not necessarily have to involve a trade union but to be certified, the agreements must meet a number of specific criteria which include: their application only to the nominated enterprise, coverage of all employees, and the agreement must not disadvantage the employees.

### **Flexible Specialisation**

A theory concerned with the links between the product market of an organisation, its technological processes and the tasks and jobs performed by its employees. In essence it is suggested that increasingly dynamic market changes and rapid technological changes require the organisation of work to become more flexible. This in turn requires that traditional patterns of labour utilisation and rigid divisions between types of labour (Taylorism) be broken down in order to permit the organisation to respond to its changing environment.

### **Flexibility**

A term used to describe:

- (1) the removal of inefficient and restrictive work practices; and

(2) less rigid adherence to established work rules such as standard hours, timing of meal breaks, etc. Flexibility is often a by-product of productivity bargaining and it is designed to improve organisational competitiveness by reducing production costs or by raising output. From the perspective of workers, however, flexibility often involves the abandonment of traditional work practices that have been negotiated or established through custom and practice. Unions once argued that changes in work practices should only be considered if there was some tangible gain for the workers as a *quid pro quo*.

### **Full time work**

Employment that is based upon a contract of employment for a standard hour engagement (generally between 35 to 40 hours per week). Full-time employees are paid either a wage based upon an hourly rate or a set salary.

### **Functional Flexibility**

Relates to the nature and degree of flexibility in the utilisation of labour. Two different types of flexibility have been distinguished. Functional flexibility refers to the capacity of the management of an enterprise to adjust the work practices and skills of its employees.

### **Grievance Procedure**

A formal and agreed process that bargaining parties are required to follow in an attempt to deal with or resolve their grievances. Typically grievance handling follows a number of sequential steps which are laid down in the procedure. The steps tend to involve progressively higher levels of management and worker representatives. Procedures generally require the process to begin as near as possible to the level at which the grievance arises by the procedures themselves can extend beyond the workplace level. Many awards contain a grievance procedure. In the federal jurisdiction

enterprise flexibility agreements must contain a grievance procedure in order to be registered.

### **Holiday pay**

The pay that a person is entitled to when they take their annual leave. It includes full pay for the number of days stipulated in the relevant award, the annual leave loading, and any other amounts agreed.

### **Human Resource Management**

While the term is often used interchangeably with personnel management it is, more accurately, a contemporary development and extension of the strategic aspects of personnel management. In practice there are several different views regarding its philosophy and objectives. Most agree that it builds upon the techniques that have been developed and refined over the years for managing labour, but HRM tends to be more strategic in focus than its forerunners. As well as being designed to more effectively link policy and practice to organisational strategy, HRM is claimed by some to constitute a more humane or consensual approach to the handling of employment relations issues. It is portrayed as a genuine improvement, compared to traditional (unitarist) management approaches for handling employment issues in the organisation. This conception tends to be based upon a multiple-stakeholder (or pluralist) perspective. Some analysts suggest, however, that HRM has more sinister objectives and is merely a new form of thinly disguised unitarist management.

### **Industrial agreement**

(1) When agreement is reached between negotiating parties, the term agreed upon, whether substantive or procedural, may be embodied in an industrial agreement and, in Australia, may be registered under the appropriate arbitration statute. Industrial agreements may be written down but do not necessarily have to be codified. When they are

written down they may be given the status of a common law contract. Some industrial agreements may be verbal only.

(2) In some state systems the term is synonymous with an award.

### **Industrial Registrar**

The Registry is the administrative arm of an industrial tribunal. The registrar is the person charged with the registration and inspection of industrial organisations or industrial unions under the relevant statute. The responsibilities of the registrar (and registry staff) include the operation and scheduling of the work of a tribunal.

### **Industrial Relations Act**

The state and federal Industrial Relations Acts are the primary methods for regulating industrial relationships in Australia. They provide for conciliation and arbitration, enterprise bargaining, wage fixation, and the registration of industrial organisations. The primary focus of the acts has traditionally been upon the prevention and settlement of disputes.

### **Industrial Relations Commission**

The name that is now given to the Australian Conciliation and Arbitration tribunal, as well as to the tribunals operating in some of the states. The name change was the result of a review of the nature and operation of the tribunals in the 1980's. The change in title has been accompanied by many changes in the content of the Acts.

### **Industrial Relations Reform Act**

An amendment to the Federal Industrial Relations Act that came into force in 1994 which provided for many significant changes to the process of industrial relations in Australia. The Act provided for both union and non-union enterprise bargaining and introduced

changes in respect of the role of the Commission, the award system, protection of the low paid, dismissals and terminations, and the jurisdictions of the tribunal.

### **Industrial Tribunal**

A generic term used to describe the various state and federal Industrial Relations Commission and Wages Boards. They are independent legal entities created by legislation in order to prevent and settle industrial disputes and/or to fix wages. In the federal jurisdiction the tribunals were established as a result of the Commonwealth being constitutionally constrained from direct legal enactment in the area of industrial relations. The states are not similarly constrained and are therefore able to legislate directly in relation to any industrial matter. Most states have nevertheless opted for an independent tribunal system for regulating much of the area of industrial relations.

### **Informality**

Many of the inter-relationships and exchanges that occur between the parties in industrial relations take place within the context of agreed procedures, customary practices, and other statutory regulations. These processes define a formal system of industrial relations. In this sense the procedures tend to be considered legitimate by all parties and there is an expectation that they will be used to process claims and disputes. Not all industrial relations do take place through these formal procedures, however. Formal arrangements and agreements are often ignored; the parties relying instead upon direct negotiation or upon some form of unilateral regulation, or even the application of custom and practice. Informality and custom and practice are related. It has been suggested that the amount of informal job regulation tends to increase or drift over time, and this drift is thought to advantage workers.

**Intensification**

The speeding-up of production or heightened demands by an employer for workers to produce more in a given period than has traditionally been the case. The term is pejorative and tends to convey the idea that such demands are unreasonable; especially if they are imposed without prior consultation, negotiation, or agreement.

**Interim Award**

An award or determination that is handed down by an industrial tribunal pending further consideration of the matter or until the creation of a new award.

**Internal Labour Market**

As well as being faced by an external labour market ( which is subject to prevailing supply and demand conditions) an organisation has the potential to recruit from within by using training and promotion. This policy can limit some of the constraints upon employer choice that arise in the external labour market.

**Jurisdiction**

- (1) Relating to, or within, the sphere of interest or rightful control of an organisation or agency, eg. as in a union having the right to cover certain categories of membership, or to contrast actions taken at the state versus the federal level.
- (2) Having the legal right to deal with a matter as in the case of a court or an industrial tribunal.

**Just-in-Time**

A production system that aims to provide component parts and materials only as they are required at a particular stage of the production process. This relieves firms of the need to maintain stockpiles or inventories and is designed to reduce wastage and improve efficiency.

**Labour Market Deregulation**

The removal of statutory and other controls or regulations that govern the operation of the labour market including wage determination, collective bargaining, and dispute resolution. A policy of deregulation has been strongly advocated throughout the 1980's and 1990's by the so-called economic rationalists (and the New Right). Deregulation is favoured by these groups because it is aimed at breaking down the role and influence of the tribunals, as well as circumscribing the role trade unions, in the collective bargaining process. It is argued that the labour market will work more efficiently if it is left to market forces. Others challenge this view.

**Loading**

Any payment that is made to an employee, over and above their normal award rate, to compensate them for some particular aspect of their job (eg. shift loading) or for some aspect of their employment (eg. remote geographic location).

**Managerial prerogative**

Those areas of decision-making within an organisation over which managers claim to have an unfettered right to decide as they see fit. Managerial prerogatives are claimed by managers to be a legitimate basis for their power and decision-making. They generally expect such decisions to be authoritative and, therefore, not to be subject to industrial relations.

## **Minimum Wage**

The lowest rate of pay that can lawfully be paid to an adult wage earner in an award area. The minimum rate comes into force only when the award rate for a particular classification is lower than the minimum rate that is specified nationally from time to time. In cases where the award rate exceeds the minimum rate, the former becomes the effective minimum. In the states, the guaranteed minimum as it is called, is determined by common rule for all awards the Basic Wage Cases or by the gazetting of National Wage Cases. In the Federal system, the minimum is determined by the Full Bench but, because there is no common rule in the federal jurisdiction, each award has to be varied by flow-on applications before the minimum rate specified becomes generally applicable.

## **Multi-skilling**

A process in which employees are trained to perform a broader range of tasks than was formerly the case, or in which traditional demarcations are set aside. Multi-skilling has been one of the most significant changes associated with the award restructuring and workplace reform processes in Australia. It is also linked to the provision of career paths for workers and the extension of training programs.

## **National Wage Case**

A hearing before the Full Bench of the Industrial Relations Commission at which the Commission hands down decisions setting general wage increases for Australian workers covered by federal awards. In the absence of common rule in the federal jurisdiction the wage cases were traditionally based upon the Metal Trade Case. Through a series of flow-on decisions the NWC determinations were generalised to other federal awards and ultimately applied in the state jurisdictions.

## **Negotiation**

Any formal or informal bargaining process in which two or more parties attempt to reach an agreement by successively narrowing their initial claims, through a series of offers and counter-offers. The process of negotiation can be highly formalised (as in the case of arbitration) or it can be extremely informal (as in the case of tacit bargaining). Negotiation can also occur with the parties unassisted (as in free collective bargaining) or it can occur with the support of an independent mediator (as in conciliation). Negotiation does not necessarily imply equality of bargaining power between the parties involved.

## **Numerical Flexibility**

Numerical flexibility relates to the ability of the enterprise to adjust the number of workers it requires dependent upon changes in the level of demand for its products or services.

## **Organisational Climate**

A theory that implies that organisations are composed of a number of individuals and groups whose individual and collective behaviours and approaches to handling employment relationships develop over time into a discernible, if intangible, 'identity'. This is described as the organisations internal organisational climate. Climate is claimed to be influenced by such things as the management style of key managers, the nature of the trust dynamic in the organisation, the structure of the organisation, its product market and competitiveness, and the level of skill and organisation of the employees. Organisational climate is thought to have a direct impact upon a number of organisational processes, eg decision-making.

## **Organisational Culture**

A theory that implies that over time most organisations, because of the mix of people currently or previously employed there, develop a characteristic pattern of inter-personal relationships that have an impact upon the tenor of relationships in the organisation and that may either support or frustrate the achievement of organisational goals. Culture is claimed to be influenced by such things as management style, production processes, the level of organisation of employees, and the occupational diversity of employees. Some theorists suggest that senior managers ought, or need, to change the culture of an organisation in order to improve its efficiency or productivity.

## **Organisational Structure**

The structure of an organisation defines or describes the particular 'shape' of the organisation, including its organisational chart, its authority relations and internal political processes, its functional divisions, the relationship between its staff and technical and production processes, and its levels of hierarchy. Structure is thought to have an important influence upon the nature of the internal relationships that develop in an organisation including workplace level industrial relations.

## **Overaward Payments**

Any part of standard hours pay that exceeds the amount set down in a minimum rates award. There are a number of sources of overaward payments. These are reflected in different components and the terms used to describe them.

## **Overtime**

Work performed outside the range or award-specified standard hours. Overtime work has to be paid for at penalty rates that are

stipulated in awards. For example, the first four hours of overtime are normally paid for at time and half and thereafter each hour at double the standard hours rate. Public holidays when worked are normally paid at triple time (ie double time and a half). Most unions formally oppose overtime working on the basis that if workers need extra pay it should be paid for standard hours worked, and to a lesser extent, on the basis that employers can limit the size of their workforce by relying upon overtime working, thus limiting employment opportunities for union members. In practice overtime working is tolerated, taxed, and if possible distributed equitably amongst workers. There are now provisions in some agreements for annualised hours. This allows variation in working hours from week to week without overtime payment being due when the hours worked exceed standard hours.

### **Part-Time Work**

Work performed by any employee who is engaged for a number of hours, fixed or variable, but that are fewer than those specified as standard hours in the relevant award. Some awards stipulate the maximum as well as minimum hours for which part-time workers can be engaged. Part-time workers are entitled to accrue holiday and other leave entitlements on a pro rata basis according to the ratio of hours worked to standard hours.

### **Penalty rates**

Award-determined extra payments and allowances associated with a particular job or its execution. They include allowances for height, dirt, danger and so on. The term also applies to the rates payable, in addition to normal pay for overtime or shiftwork.

**Permanent Employee**

Any person, employed on a full-time, part-time or casual basis, whose employment is governed by a contract *of* service rather than a contract *for* service.

**Productivity**

A measure of the output (of the goods or services that are produced) per unit of input (that is, of materials, labour or machinery). It is used to measure the efficiency with which goods and services are produced. In recent years there has been a renewed emphasis upon improvements in productivity as a target of industrial relations negotiations.

**Productivity Bargain**

A bargain struck between employers and employees, typically at the enterprise level, with the deliberate intention of raising the productivity of the enterprise, in which employees agree to trade off 'restrictive' work practices or intensify work patterns in exchange for other, usually material, benefits.

**Productivity Enhancement**

Measures adopted in an enterprise or industry that facilitate improvements in the efficiency of production.

**Quality Circle**

A work team given responsibility for advising management in regard to possible efficiencies, improved production methods and quality control. Quality circles, which generally consist of managers or supervisors and the relevant work group, tend to focus upon the need

for continuous improvement in relation to the part of the production process for which they are responsible.

### **Quality Control**

Procedures that are developed to monitor, manage, and improve the quality of products or services delivered to clients of an organisation.

### **Quality of Work Life (QWL)**

The term is generally used to refer to the nature of the working conditions in an organisation and their impact upon the work and non-work experience of individuals employed by the organisation. The term is also used to refer to organisational policies that are intended to improve the relationship between the individual and the organisation. These policies tend to be concerned with changes in work content or work environment.

### **Registered Agreement**

Any industrial agreement reached between two or more bargaining parties that is subsequently certified by an industrial tribunal, and thereby, given the force of an award. Registering agreements is likely to be more common under an enterprise bargaining regime.

### **Restrictive Practices**

Any one of a large number of informal and formal restrictions of output that can be instituted by a work group. Some of these practices have the intention of controlling the way in which, or the rate at which, work is done rather than specifically lowering output.

**Respondent**

A party upon whom a log of claims has been served. In the federal system, only respondents who have been thus served can be parties to the award, unless respondentcy occurs by succession (ie. the purchase of a business that has already been a respondent). Employers who are members of an employer's association are respondents if the association is cited.

**Restructuring and Efficiency Principle**

A wage fixing principle laid down by the federal Commission in the March 1987 National Wage Case. The principle amounted a significant departure from previous practice because it linked wage increases to productivity improvement (capacity of the organisation to pay). The decision introduced a two-tier system. The second tier meant that, in order to gain a 4% increase in wages, employees had to negotiate cost-offsets. The principle was later replaced by the Structural Efficiency Principle (SEP) in the August 1988 wage case.

**Rotating Shift**

A system of work where employees work either on a morning, afternoon or evening shift for a set period of weeks then change to another shift that begins at a different time of day.

**Skills Audit (Analysis)**

A systematic process which identifies then compares the present stock of skills held by employees, whether or not they are being used, with the skills needed, including future needs.

**Smoko**

A short, unofficial, break from a work routine.

### **Span of Hours**

The period of time that employees work at ordinary rates of pay. Work outside the span of hours is usually paid at over time rates. In some agreements the span of hours allows employees to work longer for no additional overtime payment.

### **Standard Hours**

The number and spread of hours set down in an award to define the normal working day or week, e.g. as in the 40 hour week or the eight hour day. Standard hours are usually determined for each industry by agreement or award. At the present time 37.5 hours is the most common arrangement but 35 hours is developing as the new standard. Most hours' campaigns have taken around twenty to thirty years to be fully implemented from the initial claim to common acceptance.

### **Stress**

Some of the negative personal and psychological effects of work and occupation upon an individual. Stress can manifest itself as both psychological and physiological symptoms. It is a complex phenomenon that appears to be multi-causal. Indications are that it arises because of, for example, the nature of the work performed, relationships at work, the structure of the organisation, and the work environment. It is also suggested that the costs to an organisation and the individual resulting from such work stress are far greater than those born as a result of industrial action and the overt expression of dissatisfaction.

### **Structural Efficiency Principle (SEP)**

A method of wage fixation introduced by the AIRC in the August 1988 National Wage Case. The system, which built upon a two-tiered structure with a standard base adjustment for all employees and

the possibility of a second negotiable component, was designed to facilitate the wide ranging review of federal awards with particular reference to the competitiveness of industry as well as a consideration of the 'best' interests of workers and managers. To access wage increases under this principle, unions were required to give a no extra claims commitment as well as an undertaking to participate in a fundamental cooperative review of the relevant award. This system has continued to operate through a succession of wage cases. Whereas the Accords had addressed the issue of inflation, SEP was primarily concerned with microeconomic reform. This reflected the magnitude of the economic crisis confronting Australian industry and the complexity of the ongoing structural reform process.

### **Sub-contractor**

A person who is given a contract (for service) to perform work as an independent contractor rather than as an employee. That is, one who has a contract for service rather than a contract of service. Subcontractors have not traditionally been covered by award provisions. This changed with the introduction of the Industrial Relations Reform Act of 1993 (s.127A).

### **Work Practices**

The formal and informal work arrangements and rules that influence the way that jobs and tasks are performed. These practices may be introduced intentionally as part of conscious job design and engineering or they may develop over time as a result of custom and practice. Workers have traditionally resisted changes to work practices in an attempt to maintain job security or to protect against the speed-up.

### **Workplace Reform**

Any policy that is intended to alter established (outmoded or inefficient) work practices or procedures. In recent years there has

been a major emphasis, shared by key employer and employee groups, upon workplace reform as a means of increasing the competitiveness of Australian industry and as a method of improving efficiency and productivity in order to sustain jobs.

## **ACIRRT**

The Australian Centre for Industrial Relations Research and Teaching (ACIRRT) at the University of Sydney was established as a Key Centre of Teaching and Research in 1989 through a grant from the Commonwealth Department of Employment, Education and Training. The Centre is closely linked with the University's Department of Industrial Relations, which has a long and distinguished history of teaching and research in this area.

ACIRRT's main brief is to improve the quality of industrial relations teaching and research in Australia. This goal is being pursued through a range of activities including seminars, conferences and research projects conducted by members of ACIRRT and researchers from other institutions.