

Foreign Labor Trends

Australia



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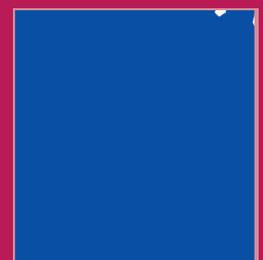
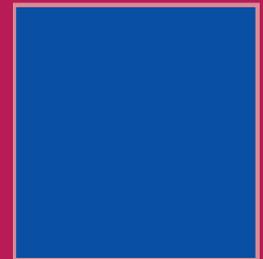
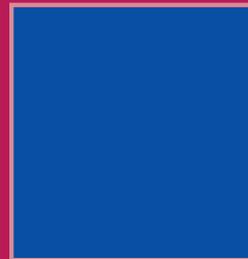
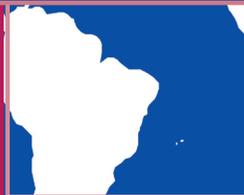
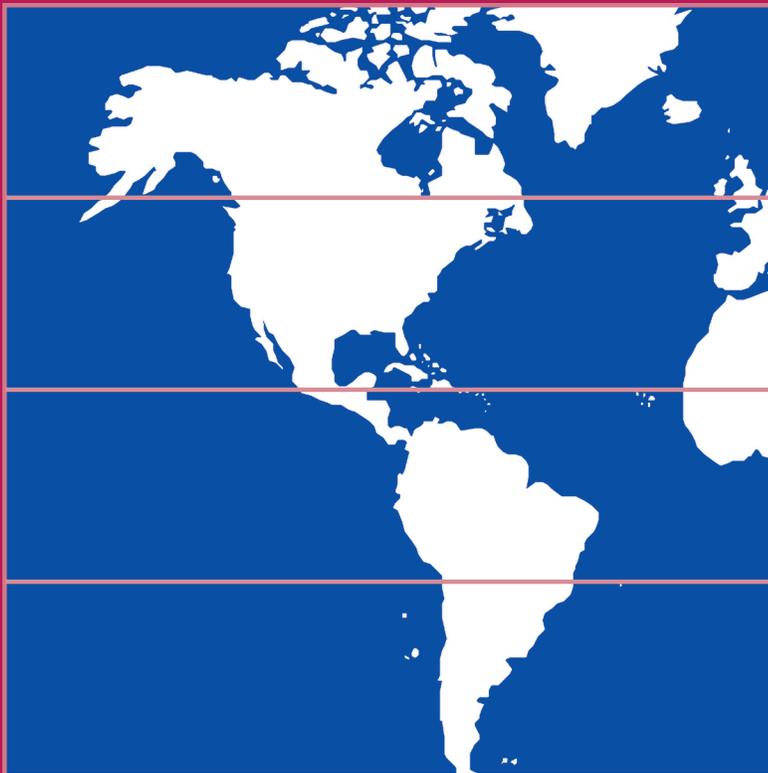


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KEY LABOR INDICATORS¹

Australia 2003

	<u>Indicator</u>	<u>2001</u>	<u>2002</u>	<u>% Change</u>
1.	Per capita GDP, current prices (US\$) ²	18,700	19,400	3.7 ³
2.	—, in agriculture (%) ⁴	3.0	3.0	0.0
3.	—, in industry (%)	26.0	26.0	0.0
4.	—, in services (%)	71.0	71.0	0.0
5.	—, (A\$)	36,091	33,756	-6.5
6.	Population, total (millions) ⁵	19.36	19.66	1.5
7.	—, ethnic groups (%)			
	—, Australian	71.8	n/a	~
	—, Aboriginal	2.2	n/a	~
	—, Asian	5.2	n/a	~
	—, UK/Ireland	5.7	n/a	~
	—, other	15.1	n/a	~
8.	—, in major urban areas (capital cities, millions)	16.6	16.7	0.6
		<u>2000</u>	<u>2001</u>	
9.	Birth rate (per thousand population) ⁶	13.02	12.54	-3.7
		<u>2001</u>	<u>2002</u>	
10.	Life expectancy at birth, total ⁷			
11.	—, male	75.6	76.9	1.7
12.	—, female	81.3	82.2	1.1
13.	Adult literacy rate (% with better than very poor literacy) ⁸	85.0	85.0	0.0
14.	Labor force, civilian, total (millions) ⁹	9.8	10.0	2.0
15.	—, male (millions)	5.5	5.6	1.8
16.	—, female (millions)	4.3	4.4	2.3
17.	—, in informal economy (millions)	n/a	n/a	~
18.	Employment, civilian, total (millions)	9.16	9.33	1.9
19.	—, in industry (mining, construction, & manufacturing; millions)	1.87	1.90	1.6

¹ Most estimates are based on data available as of October 2002.

² Australian GDP figures were taken from the U.S. Embassy, Canberra Trade Act Report 2002.

³ Part of the difference between years is attributable to fluctuations in the value of the Australian dollar and not to a major change in output or production.

⁴ Source: *The World Factbook*, 2001 and 2002; *Ibid* for Indicators #3 and 4.

⁵ Australian Bureau of Statistics (ABS) Estimate of Residential Population Catalogue No. 3101.1 and the ABS 2001 Census of Housing and Population.

⁶ ABS Catalogue No. 3301.0 Births, Australia and ABS Australia Now – *Population: Population size and growth*.

⁷ Australian Institute of Health and Welfare Fact Sheet – *How long do people live?*

⁸ The latest available national data as a 1996 study by the ABS: Catalogue No. 4228.0 – *Aspects of Literacy: Assessed Literacy Skills*. While as many as 20 percent of the people tested demonstrated very poor literacy skills in the areas of either prose, documents or quantitative skills, 15 percent of those tested were rated as very poor in all subject areas.

⁹ In 2001, there were 2.1 million casual or temporary workers (27 percent of the workforce).

Australia 2003

<u>Indicators</u>	<u>2001</u>	<u>2002</u>	<u>% Change</u>
20. —, in export processing zones	n/a	n/a	~
21. —, in agriculture (millions)	0.43	0.41	-4.7
22. —, in services (millions)	6.38	6.57	3.0
23. Unemployment rate (%)	6.7	6.4	-4.5
24. Underemployment rate (%) ¹⁰	12.61	12.58	-0.2
25. Labor productivity, manufacturing (June Qtr) ¹¹	101.8	105.4	3.5
26. Work-related accidents and illnesses (000)	526.3	n/a	~
27. Days lost from industrial disputes (000)	349.5 ¹²	329.3 ¹³	-5.8
	<u>2002</u>	<u>2003</u>	
28. Minimum wage rate (A\$, per week)	431.40	448.40	3.9
29. —, (US\$)	247.93	291.17	17.4
30. Average weekly earnings by major industry (A\$, June Qtr, full-time employees)	<u>2001</u>	<u>2002</u>	
—, construction	785.90	878.90	11.8
—, finance and insurance	1,001.50	1,061.00	5.9
—, mining	1,448.80	1,545.50	6.7
—, manufacturing	815.10	873.40	7.2
31. Hourly compensation costs for production workers in mfr. (US\$)	n/a	n/a	~
32. —, (A\$)	n/a	n/a	~
33. Hourly compensation costs for laborers (US\$)	n/a	n/a	~
34. —, clerical	n/a	n/a	~
35. —, mechanic	n/a	n/a	~
36. —, commercial assistant	n/a	n/a	~
37. Supplementary benefits as % of mfr. earnings	n/a	n/a	~
38. Average hours worked per week, full-time employees	40.4	40.9	1.2
39. Unionization of labor (% of workforce) ¹⁴	24.7	24.5	-0.8
40. Average personal income per year (US\$)	n/a	n/a	~
41. Average disposable income after taxes & withholding (US\$)	n/a	n/a	~
42. Percent of population beneath poverty level ¹⁵	10.2	n/a	~
43. Consumer price index (% , year-on-year) ¹⁶	3.1	3.2	4.2

n/a = not available

Exchange rate: US\$ 1= 1.54 Australian dollars (A\$)(July 2003); 1.74 (2002); 1.93 (2001).

¹⁰ University of Newcastle, Center of Full Employment and Equity – *Underutilization and Underemployment Indicators*.

¹¹ ABS Australian Economic Indicators, Catalogue No. 1350.0. It measures market sector constant price gross product per hour worked, excluding government and some service industries.

¹² These figures are for July 2000 to June 2001.

¹³ These figures are for July 2001 to June 2002.

¹⁴ ABS Survey of Employee Earnings, Benefits and Trade Union Membership Catalogue No. 6310.0 is published in February of each year, containing the previous year's survey results.

¹⁵ Poverty level is defined as having an annual income of less than half the average income.

¹⁶ Weighted average of Australia's eight capital cities.

SUMMARY

Australian Law provides workers, including public servants, the right of association free from government or political control. However, most local unions belong to state branches of the Australian Labor Party (ALP). Unions may form and join federations freely, and they actively participate in international bodies. Federal, state and territories' law provides workers with the right to organize and bargain collectively, protecting them from anti-union discrimination.

In 1994, the implicit right to strike was legalized, confined to the period of bargaining. Although there are no federal laws prohibiting it, forced labor, including forced and bonded labor by children, is generally not practiced. The enforcement of state compulsory educational requirements effectively prevents most children from joining the workforce until they are 15 or 16 years of age. In 2001, the New South Wales State Government enacted regulations to strengthen protections of children in the workplace.

The minimum standards of wages, working hours, and conditions are set by a series of "awards" (basic contracts for individual industries). Differing wage rates are awarded for individual trades and professions, covering 80 percent of all workers, enough to provide a decent standard of living for a worker and family. In the past two decades, there have been substantial increases in the percentage of temporary workers, not entitled to full employment benefits. Federal or state occupational health and safety laws apply to every workplace.

Australia is believed to be a destination country for a small number of trafficked women in the sex industry. In the past, these women have worked in sweatshops in textiles, clothing and footwear industries, service industries and prostitution. Some non-governmental organizations (NGOs) assist trafficking victims.

BACKGROUND

Australia is a longstanding constitutional democracy with a federal parliamentary form of government. The judiciary is independent. As a member of the British Commonwealth, Queen Elizabeth II, reigning British monarch, is recognized as head of state. However, she does not participate directly in the Government.

The federal Liberal/National Coalition (LNC) won power in 1996, and, following the November 10, 2001 federal election, the Coalition increased its majority to 14 seats in the House of Representatives. Prime Minister John Howard's Liberal Party is the senior partner in the Coalition. The National Party, the junior Coalition partner, is largely rural-based and is identified closely with the interests of farmers in rural and regional Australia.

The ALP controlled the Parliament from 1983 to 1996. Since the ALP's third defeat in a row in the 2001 election, the party replaced former party leader Kim Beazley with former Australian Council of Trade Unions (ACTU) President Simon Crean (Beazley's former deputy). One of the reforms promised by the ALP leadership is a review of the close relationship between the unions and the ALP. Many of the ALP's leading figures and Shadow Ministers are former trade union leaders or have close ties to the union movement. In October 2001, the ALP's national conference voted to expand member representation at all party decision-making forums and reduce the size of union delegations to ensure that no group controls more than 50 percent of the total delegates.

The union movement has, however, also begun to court other political parties, especially the

Australian Democrats in relation to industrial relations legislation. The unions will likely make a special effort to work with the Australian Greens as well, since the Greens now have two members in the Senate and their support is required to block industrial relations legislation opposed by the unions. Apart from the two leading political forces (the LNC and the ALP), the Australian Democrats (seven Senators), the Australian Greens (two Senators) and One Nation Party (one Senator), together with three Independent Senators (Harradine, Lees and Murphy) hold the balance of power in the Senate. In the recent election, there was a noticeable increase in support for the Greens to the detriment of the ALP and the Australian Democrats and a collapse of public support for the extreme right-wing One Nation Party to the benefit of the LNC parties. With the power to block legislation, the minor parties in the Senate have a political influence disproportionate to their actual numbers or the depth of their national political support. These parties take highly visible stands on various economic, political, environmental and social issues. The Greens and the Australian Democrats, for example, challenged the federal government's policy on refusing to allow asylum-seekers, arriving illegally by boat from Indonesia, entry into Australia.

DESCRIPTION OF THE LABOR SCENE

Government

The Department of Employment and Workplace Relations (DEWR) is the lead government agency on labor issues. The primary goals of DEWR are to achieve an effectively functioning labor market and to realize workplaces that attain higher productivity and provide higher pay. The Department is an active member of the International Labor Organization (ILO) and also participates in the Organization for Economic Cooperation and Development (OECD) and the Asia Pacific Economic Cooperation (APEC) forum on labor and social issues. The Honorable Tony Abbott serves as Minister for Employment and Workplace Relations, and the Honorable Mal Brough is the Minister for Employment Services.

Employers

The Australian Chamber of Commerce and Industry (ACCI) is the most representative organization of employers. Mr. Peter Hendy serves as its Chief Executive. ACCI was established in 1992 after a merger between the Confederation of Australian Industry and the Australian Chamber of Commerce. Its members include the Chambers of Commerce in each state and territory and industry associations. Over 350,000 businesses are represented through the state and territory Chambers of Commerce. The role of the ACCI is to represent the interests of business both nationally and internationally. The ACCI sits on various national tripartite bodies, including the National Labor Consultative Council, the National Occupational Safety and Health Commission, the National Advisory Committee on Discrimination in Employment, and the Commonwealth Employment Service Advisory Council. The ACCI actively takes part in international activities, including participation in the International Organization of Employers (IOE), the OECD, and the ILO. Mr. Bryan Noakes of the ACCI is an employer member of the ILO's Governing Body.

The Business Council of Australia (BCA) is an association of Chief Executives from approximately 100 leading Australian corporations that have a combined workforce of over 1.1 million people. It was founded in 1983 to provide a forum for business leaders to contribute directly to public policy debates. The BCA's current policy agenda concerns business leadership, education (including vocational education and training), and regulatory reform, among other

matters. Its Chief Executive is Ms. Katie Lahey.

The Australian Industry Group (Ai Group) represents 11,000 companies in 12 sectors, including defense, utilities, transport, information technology, and health. Its members employ more than one million people. The mission of the Ai Group is to be an advocate for Australian industry, assisting businesses to be more competitive in the domestic and international markets. Its advocacy efforts extend to trade, industrial relations policy, workplace safety, and education and training. Mr. Robert Herbert serves as Chief Executive.

Founded in 1979, the National Farmers' Federation (NFF) serves as the voice for Australian agriculture. Mr. Peter Corish is the NFF President. The Federation is comprised of state farm organizations; state and national bodies that are related to agricultural, pastoral, fishing, or forestry activities; commodity councils; and emerging industries. Among its priorities are the economy, industrial relations, trade, and education.

The American Chamber of Commerce (AmCham) is a premier organization supporting the U.S.-Australian business community. The Chamber has more than 1,500 member companies and works very closely with the U.S. Embassy and U.S. Commercial Service in Australia. AmCham has a full program of business information and advisory services, business community networks, and business forums, among others. It represents views of the business community to both the Australian and American Governments and is active in the Asia-Pacific Association of Chambers and the Asia-Pacific Cooperation Forum.

Trade Unions

Although much reduced in size from a decade ago, Australia's union movement still exerts considerable influence over the market place. Unions have organized roughly 25 percent of the workforce, but this average figure underestimates their pivotal influence in certain sectors, such as mining (88 percent); transport, construction, and manufacturing (all three combined, 81 percent); and the public sector (50 percent). The rate of unionization is very low in the service sector and on farms and in small, rural businesses.

The Australian Council of Trade Unions (ACTU) is the only umbrella organization for all Australian unions. Forty-five registered unions, representing about 1.8 million workers, are affiliated with the ACTU and play an integral part in the executive and decision-making bodies of the organization. There are branch offices in each state and territory, usually called Labor Councils.

The ACTU is led by President Sharan Burrow and Secretary Greg Combet. Unions in Australia are generally affiliated with or mirror the left or right factions of the ALP. Both Ms. Burrow and Mr. Combet come from unions affiliated with the left wing of the labor movement. Ms. Burrow is a former teacher and a former president of the teachers' union. Mr. Combet rose through the ranks of the Maritime Union of Australia. Mr. Combet is considered prototypical of what is termed the "new-breed" of trade unionist in that he is university-educated and rose through the union ranks without actually working in the sector represented by the union.

The leadership of the ACTU is an enthusiastic proponent of workplace reform, but the organization remains adamantly opposed to a number of provisions in the Workplace Relations Act (WRA) aimed at reducing the unions' ability to represent workers. The majority of union leaders are willing to consider workplace reforms that will enhance productivity and Australia-based firms' ability to compete internationally. Many see this type of change as essential to deal with expected rising unemployment as a result of future international economic slowdown.

The ACTU is affiliated with the International Confederation of Free Trade Unions (ICFTU). Ms. Burrow is currently the President of the Asia Pacific Regional Organization (APRO) within the ICFTU. The ACTU actively participates in the ILO, where Ms. Burrow serves as a member of the Governing Body. The ACTU also takes part in the Organization of Economic Development's (OECD's) Trade Union Advisory Body, South Pacific and Oceanic Council of Trade Unions (SPOCTU) and the APEC-related Asian Pacific Labor Network and the Southern Initiative on Trade Union Rights.

The ACTU has a close relationship with the AFL-CIO and has sent many union leaders to the U.S. to meet with the U.S. union movement. The Executive Vice President of the AFL-CIO, Linda Chavez-Thompson, addressed the 2003 ACTU Congress in Melbourne, Victoria.

THE ECONOMY AND LABOR

The Government continues to implement policies that will maintain economic growth with the goal of reducing unemployment through job creation. Apart from the September 2000 quarter where gross domestic product (GDP) growth was negative, the Australian economy has continued to expand over the past 10 years. In 2001-2002, Australia's GDP grew by 3.8 percent, and, as of the March 2003 quarter, the annual economic growth rate equaled 2.9 percent.

In 2002, the services and manufacturing sectors grew at an annual rate of 4.5 percent. The mining sector realized a 1 percent decrease, and the growth rate of the agricultural sector declined by 3.5 percent.

The average unemployment rate was 6.6 percent for 2001-2002 (September to August). As of June 2003, the unemployment rate equaled 6.1 percent.

FOREIGN INVESTMENT POTENTIAL

The Government welcomes foreign investment, which totaled A\$ 844.4 billion (US\$ 485.3 billion) in 2001-2002. The U.S. is the country's largest source of foreign capital (roughly US\$ 100 billion in 2001), and Australia is the 15th largest destination for U.S. exports. The Federal Department of Treasury regulates foreign investment with the assistance of the Foreign Investment Review Board (FIRB). The FIRB screens investment proposals for conformity with Australian law and policy.

Australian firms are open to capital investment, joint ventures and other strategic alliances, both to capture a larger share of the Australian market and to gain a competitive advantage in developing products for export to other markets, particularly in the Asia Pacific region. (Approximately 70 percent of Australian exports go to APEC economies.) Other advantages for U.S. investment are that Australia has quality institutions with a stable legal and political system, a common language, an excellent communications and transportation infrastructure, a high standard of living, and a sophisticated financial system.

Like the U.S., Australia is a leading advocate of trade and investment liberalization. In 2001, Prime Minister Howard proposed consideration of the negotiation of a bilateral Free Trade Agreement (FTA) between the U.S. and Australia. In November 2002, the Howard Government welcomed the announcement that the U.S. and Australia would commence negotiations over an

FTA. No major political issues detract from the business climate or the stability of the bilateral trading relationship between Australia and the U.S.

Although there are differences in approach, all of Australia's major political parties seek to promote economic growth and encourage investment, including investment abroad. Both the governing LNC Party and the main opposition party, the ALP, support Australia's internal economic restructuring aimed at transforming the country into a globally competitive trading nation. The Coalition upholds traditional conservative social values and the importance of a free market and takes an entrepreneurial approach to economic growth.

Some elements of the union movement, most prominently the Australian Manufacturers Workers Union (AMWU), have played a very public role in opposing globalization of the economy and the resultant loss of Australian jobs to cheaper labor offshore. The AMWU has been the leading proponent of incorporating core labor standards in trade agreements and in WTO negotiations. The ALP has sought to distance itself from this position and has reiterated its commitment to fully free trade. Despite these differences between the union movement and the ALP and efforts by the ALP to distance itself from the unions, the unions will likely continue to work closely with the ALP as the party which overall is considered most attuned to union interests.

While Australia does not have any export processing zones (EPZs), the Darwin Trade Development Zone (TDZ) located in Darwin, Northern Territory, concentrates on developing Australia's trading relationships with its Asian neighbors to the north and west. Since 1986, the TDZ has fostered close working relationships with other Industrial Estates and EPZs within Asia, particularly Indonesia, Malaysia and China. Industries established include manufacturers of knitted textiles; cardboard and packaging; color repro-graphics; computer software development; brewery supplying beer to Asia; fish emulsion and plant food; plastic extrusion injection blow molding; and engineering-based manufactures. The zone also has access to the services of international financial consultants and customs agents.

In December 1997, the Government adopted Manufacturing-in-Bond (MiB), an initiative designed to deliver U.S. Foreign Trade Zone style benefits to manufacturers located in Australia. A firm with MiB approval is able to import dutiable goods into a licensed, bonded warehouse, free of duty and tax. The decision to grant an MiB license is solely with the Government and dealt on its merits. The first site selected was the Steel River Facility (Newcastle) near Sydney.

SOCIAL SAFETY NET

Pensions

Residents who have lived in Australia continuously for 10 years are eligible to receive a social security pension at age 62.5 for women and age 65 for men. The total cost of the social security system is borne by the Government. Single persons may receive up to A\$ 210.90 (US\$ 137) per week, while each member of a couple qualifies for a weekly A\$ 176.05 (US\$ 114). Disability pensions are also provided.

Since 1992, the Government has operated a system of compulsory savings for retirement referred to as "superannuation." This compulsory defined-contribution pension fund differs significantly from the U.S. social security system since it is privately run, and firms and their employees choose which investment company(s) will administer their pension funds. Various industry sectors have established their own superannuation funds, which are jointly run by employer and employee trustees. These funds are known as "award" funds because they are

named in the relevant award as the sole fund into which employees' superannuation contributions are paid. Also known as "industry" funds, they dominate the compulsory superannuation industry. Some corporate and public sector defined benefits funds still exist, but they account for a smaller share of the superannuation industry.

While the 1992 legislation does not compel employees to make superannuation contributions, the Government encourages employees to contribute to superannuation through concessional tax treatment; however, some award funds require employees to make contributions, which are supplemented by additional employer contributions. Employers pay nine percent of the employee's base salaries into their superannuation fund. An individual is entitled to receive his/her superannuation pension at age 55 if permanently retired.

Since 1997, the Parliament has debated various government-proposed bills that provide superannuation fund members with the opportunity to choose the fund into which their savings are invested (the superannuation choice debate). The employer currently chooses the fund. The Senate has held a number of inquiries into several government-proposed "super choice" bills. In November 2002, the Senate Select Committee on Superannuation handed down a unanimous report that called on the Government to address the following issues: educating employees on making the right choice, controlling administration fees and charges, minimizing the costs of choice on business, and eliminating discrimination against same sex couples.

Unemployment Insurance

Unemployment insurance is paid from the general revenue of the Government. Unemployed young people aged 16 to 20 who undertake education, training, or job searches to prepare for employment can receive between A\$ 82.55 and A\$ 197.65 (US\$ 54 to US\$ 128) in unemployment benefits per week, depending on their age, living arrangements, marital status, and if they have dependent children. Unemployed women (ages 21 to 62.5) and men (ages 21 to 65) are entitled to receive up to A\$ 166.40 (US\$ 108) per week for each member of a couple; A\$ 184.50 (US\$ 120) if single with no dependents; or A\$ 199.50 (US\$ 130) if single with dependents or single and over age 60, after receiving unemployment benefits for 9 months.

Education and Training

Federal programs for post-compulsory education and training have had their emphasis and funding steadily reduced over the past six years. Job training has focused on apprenticeships and the "Work for the Dole" scheme. The Work for the Dole scheme is viewed by the Government as successfully helping welfare recipients obtain the job experience needed to transition from welfare to full-time employment. The opposition ALP has argued that Work for the Dole has not provided appropriate training and employment opportunities and that more emphasis should be placed on training, inducing students to remain in school and post-compulsory education. State governments, all of which are now ALP-run, have implemented their own job training schemes focused mainly on reducing unemployment.

Workman's Compensation

Employers are responsible for the total cost of insurance premiums covering work injuries. The benefits vary depending on the state or territory. Temporary disability benefits generally cover at least 95 percent of the worker's earning for a minimum of 26 weeks. A lump-sum payment

may be granted to persons with permanent disabilities, as well as reasonable payment for medical care, hospitalization, transportation, nursing care, and rehabilitation. Survivor benefits are also provided.

Universal Health Insurance

The Government provides universal health insurance to all citizens from birth on a co-payment basis. There is a 1.5 percent charge for families with an income above A\$ 26,523 (US\$ 17,223) and for single adults (with no dependents) earning A\$ 15,718 (US\$ 10,206). Exemptions to this levy are veterans, war widows, and military personnel with dependents. The patient also must pay 15 percent of the fee for outpatient care or A\$ 50.10 (US\$ 33), whichever is less. Benefits include free inpatient treatment in public hospitals and a sickness allowance: A\$ 161.70 (US\$ 105) for single adults between the ages of 21 and 60; A\$ 166.40 (US\$ 108) per week each for a couple with children; and A\$ 174.95 (US\$ 114) for singles with dependents or persons over the age of 60. Additional assistance may be available at the state, territorial, or local levels.

Family Allowances

There is a strong commitment towards children's welfare through its publicly funded system of education and medical care. The Government also provides family tax benefits for families with dependent children up to age 24. The tax benefit per two-week period ranges from A\$ 40.74 to A\$ 160.72 (US\$ 26 to US\$ 104) for families with a child under age 18 and having an income up to A\$ 83,184 (US\$ 54,016), increasing by A\$ 6,752 (US\$ 4,384) for each additional child under 18. Families with a dependent between the ages of 18 to 24 and having an income of A\$ 84,401 (US\$ 54,806) (increasing by A\$ 7,969 [US\$ 5,175] for each additional dependent up to age 24) also are entitled to receive a family tax benefit of A\$ 54.74 (US\$ 36) every 2 weeks. Additional assistance is given to single income families, particularly those with children below the age of five.

A lump-sum maternity allowance is paid to persons with a newborn or twins that qualify for the above tax benefits. Australia also provides a bi-weekly allowance for multiple births of three or more. In addition, a large family supplement is given to families with at least four children.

Since it came to power in 1996, the Government has reversed the significant changes to child care made by the previous government by reclassifying child care as a social security, reinstating means testing and transferring child care's administration to the Federal Department of Family and Community Services. The Government currently provides a minimum benefit of 16.8 percent of the cost of a first child's childcare to all parents (with a smaller benefit for additional children), which increases to as much as 100 percent for the lowest income families.

In 2002, the childcare debate was overshadowed by a community debate about paid maternity leave. Following national consultations, the Federal Sex Discrimination Commissioner called on the Government to adopt a government-funded scheme of paid maternity leave, which would pay women a 14-week allowance at the minimum wage rate in lieu of other child allowances. While the Government has been considering the proposal, the union movement has been pursuing paid maternity leave through enterprise bargaining negotiations. The law provides women with 12-months unpaid maternity leave after the birth of a child and protects women from termination on the grounds of pregnancy. The Federal Government provides its employees with 12 weeks of paid maternity leave.

Programs for Indigenous Peoples

The indigenously elected Aboriginal and Torres Straits Islander Commission (ATSIC) has the main responsibility for initiating, coordinating, and monitoring all government efforts to improve the quality of life of indigenous people. In 2001-2002, the Government planned to spend approximately A\$ 2.34 billion (US\$ 1.27 billion) on indigenous-specific programs in health, housing, education and employment.

Provisions for Migrant Workers

Migrant worker visas require that employers respect protections and provide bonds to cover health insurance, worker compensation insurance, unemployment insurance, and other benefits.

LABOR LAW AND SYSTEM

The Federal Coalition Government has made industrial relations reform one of its highest priorities. Upon being elected in 1996, the Coalition Government introduced to Parliament its first significant piece of legislation, the Workplace Relations Act (WRA). Key elements of the WRA include:

- a streamlined "award" system;
- more emphasis on enterprise bargaining;
- curbs on union power;
- restrictions on strikes; and
- a streamlined unfair-dismissal system, which limits frivolous appeals and compensation claims.

The Coalition Government also established two independent bodies, the Australian Industrial Relations Commission (AIRC) and the Office of Employment Advocate (OEA). The AIRC has as its core functions setting wages in federal awards, registering new awards and enterprise agreements, settling industrial disputes and registering trade unions. The OEA investigates breaches of the WRA's freedom of association provisions and files individual employment agreements called Australian Workplace Agreements (AWAs).

One of the most significant changes was the introduction of this new form of employer-employee agreement, the AWA. This form of industrial instrument has always existed in common law; however, it was redefined under the WRA by introducing individual contracts to the industrial jurisdiction. These agreements are subject to far fewer government regulations than are awards and certified or enterprise agreements. The AWAs are closer to American-style employment contracts. The AWAs are required to improve upon the basic working conditions contained in the award applying to the firm's sector.

Following Prime Minister John Howard's re-election in 2001, the Prime Minister announced the government's intention to pursue additional industrial relations reforms as a top priority. During the year, the Government introduced into the Parliament industrial relations reform legislation, previously amended or rejected by the Senate, which would prohibit a union from making the same claims on a number of businesses in the same industry ("pattern bargaining"), introduce a requirement for pre-strike secret ballots of union members, and exempt small businesses from legal claims for unfair dismissal. By November 2002, the Government had introduced 14 bills to amend the WRA. At year's end, only two of those bills, although significantly amended, had been passed by the Parliament. It remains to be seen if

the minor parties and independents can be convinced of the government's key reform arguments and will pass the bills to prohibit pattern bargaining, pre-strike ballots and exemption from unfair dismissal for small business.

LABOR STANDARDS AND WORKER RIGHTS

The Right of Association

Law and practice provide workers, including public servants, with freedom of association. The WRA barred "closed shops," where an individual has to be a member of a union to be hired, and eliminated preference clauses through the award simplification process. Before 1996, the existence of "preference clauses" in both federal and state awards allowed a result very much the same as a closed shop. These clauses required an employer to give a preference to specified individuals, usually but not exclusively to union members or veterans, when more than one person is being considered for a position.

The OEA investigates breaches of the freedom of association provisions in the WRA. In the year ending June 2002, two of the three court cases brought by the OEA against major unions in the construction and electrical trades industry for breaches of the freedom of association provisions of the WRA were determined in the OEA's favor, and one went against the OEA.

There is a limited legal provision for the right to strike in Australia. Under the WRA, unions and workers are prohibited from striking in companies engaged in interstate commerce, except when they are negotiating a new enterprise agreement. The strike must also concern a matter specifically related to the negotiations. This is known as "protected action" during a "bargaining period." Industrial disputes are then intended to be settled via conciliation and, if necessary, compulsory arbitration by the AIRC. For intra-state industrial disputes, each state government has its own restrictions on unions and workers' right to strike.

Federally, when unions do strike outside a bargaining period, they can be sued by employers for damages under common law and for secondary boycotts under sections 45D and E of the Trade Practices Act (TPA). Union officials and individual strikers can be held personally liable. While there have been few successful suits, the potential for legal action serves as a serious disincentive for industrial action outside a bargaining period. In 2000, however, two union officials in Victoria were personally fined A\$ 20,000 (US\$ 11,628) each by the Federal Court for breach of a Federal Court order for their unions not to take industrial action. Like the acquisition of the legal right to strike, the repeal of sections 45D and E of the TPA (first introduced under the Liberal Government of Malcolm Fraser in 1977 and 1980) has been a major objective of the ACTU.

Australia ratified ILO Convention No. 87 on freedom of association and protection of the right to organize in 1973. Both the ILO's Committee on Freedom of Association (CFA) and the ILO's Committee of Experts (COE) on the Application of Conventions and Recommendations have called upon the Government to amend the WRA and the TPA to bring them into compliance with the Convention. In 2000, the CFA recommended that the WRA's linkage of restrictions on strike action to interference with trade and commerce should be eliminated, as legitimate strike actions could be impeded. In 2003, the COE came to a similar conclusion, indicating that prohibiting industrial action threatening to cause significant damage to the economy went beyond the definition of essential services; however, the Committee suggested that the authorities could establish a system of minimum services rather than impose an outright ban on strikes. Both Committees stressed that workers should be able to participate in a sympathy strike (secondary boycott) if the initial strike they are supporting is lawful. Additionally, the

COE declared that trade unions should be allowed to take industrial action in support of multi-employer agreements and that workers should be able to take action in support of a claim for strike pay.

The number of workdays lost to industrial action in Australia has been steadily declining since a high of 794,100 in 1999-2000 (July to June). The figures from the Australian Bureau of Statistics show that from July 2001 to June 2002, the number of days lost from industrial disputes fell to 329,300. During this time period, there were a total of 683 disputes.

Over the past two years, the most notable industrial action was taken by the AMWU. They launched a series of strikes against automotive component manufacturers, which halted or nearly halted automobile production by the three leading car manufacturers, Holden, Toyota and Mitsubishi. The action was taken in support of the union's efforts to secure accumulated leave entitlements for employees in the event the employer goes bankrupt or into receivership. The AIRC ended the strike action without resolving the union's claim as the strike was determined to be harming the national interest. There have also been efforts by the maritime unions to halt the practice of allowing foreign registered vessels to use foreign crews in Australian waters. There were also short localized strikes by nurses, teachers and construction workers.

The Right to Organize and Bargain Collectively

The Australian system of industrial relations (IR) is a highly centralized model, characterized by industry-wide or company awards, which are negotiated by company, union, and sometimes government officials, and then submitted to the AIRC for ratification or resolution of differences. Such awards establish minimum wages and working conditions for specific categories of workers and are the approximate functional-equivalent of an American collective bargaining agreement. Individual companies and their employees or unions may negotiate supplemented "over award" wage benefits based on market conditions. These benefits when registered with the AIRC are known as Certified Agreements (achieved through enterprise bargaining) if they cover most or all of a company's workforce, or AWAs if they cover an individual employee. Eighty percent of all wage and salary earners are covered by the awards system, with the greatest proportion of employees receiving over-award payments through some form of enterprise agreement. Despite efforts by the federal government to promote the use of AWAs, the vast majority of employers still prefer enterprise agreements or awards. At present, the most common methods of setting pay for all employees are either unregistered common law individual agreements (38.2 percent), registered agreements (35.2 percent), or wages based upon awards only (23.2 percent).

The concept of enterprise bargaining is somewhat akin to U.S.-style collective bargaining, but increases are tied to specific-productivity improvements. The increase in company-based bargaining has eroded the long held principle of "comparative wage justice," by which wage rates were kept relatively level over industries or trades, which had traditionally been the guiding principle of wages in Australian industrial relations.

Approximately 50 percent of awards are company-based rather than industry-based. Some companies prefer to negotiate enterprise agreements that can be tailored to fit specific needs; many others, particularly small and medium-sized enterprises, prefer to use awards and avoid the lawyers' fees and effort required to negotiate enterprise agreements. In general, awards are of indefinite duration. However, any party to an award may apply to the appropriate state or federal IRC for a new hearing and variation at any time. Employers and unions then take their individual cases to the Commission or present it with a joint pre-negotiated agreement for

approval.

While enterprise bargaining is likely to continue to dominate the industrial relations scene for years to come, the ACTU believes that enterprise bargaining has run its course in Australia and has been arguing that workers are unlikely to benefit any further from decentralized bargaining. The union movement sees the future in terms of a return to industry-wide bargaining as the only way to provide increased significant new benefits to workers, especially in view of the weakening of the award system.

The federal, state, and territories' laws provide workers the right to organize and bargain collectively and protection from anti-union discrimination.

The Australian Constitution restricts the federal government's role in industrial relations to "conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of one state." Accordingly, the Federal Government cannot directly pass laws regulating matters such as wages and conditions of work. Instead, the Federal Parliament passed the Commonwealth Conciliation and Arbitration Act (CCAA) in 1904, establishing the Commonwealth Court of Conciliation and Arbitration as an independent industrial tribunal, which in turn created the federal awards system prescribing employee's terms and conditions of employment. Although the tribunal's duties have varied over the past 98 years, the Commission has always retained the same primary functions.

Upon its election in 1996, the LNC Government undertook significant reform of Australia's IR system, repealing the Industrial Relations Act (IRA) 1988 and enacting the WRA. The WRA introduced the concept of award simplification or "stripping." The WRA provided that awards would consist of only 20 "allowable matters" which may be considered in enterprise agreements. Before the WRA, awards by the AIRC had evolved over time to include, in some cases, 100 matters. To date, about 85 percent of awards have been stripped. Conditions removed from awards by "award stripping" are now negotiated separately through the enterprise bargaining process in the form of certified agreements or AWAs.

State Governments are not restricted from enacting legislation concerning wages or other benefits. Most State Governments have established State Industrial Relations Commissions that fulfill similar functions to the federal AIRC. The presence or absence of interstate commerce determines whether the state or federal tribunal has jurisdiction. However, a state commission also has authority to grant "common rule" power to an award. This makes the latter binding on all relevant employers and employees, regardless of whether they were represented before the state commission by an employee organization or union. State tribunals are also part of the state judicial system, giving them greater enforcement powers than the AIRC.

The laws and mechanisms for regulating wages and conditions with States varies considerably across States and, in one case, the federal law applies. In 1996, the Victorian LNC-led State Government transferred its IR responsibilities to the federal government and left 350,000 Victorian workers who were ineligible for federal award coverage without award recognition. Although the transfer was not irreversible, the Victorian ALP government and the Federal LNC-led government have been unable to reach agreement on award coverage for these workers. In 2003 the Victorian ALP government legislated a set of minimum employment conditions for those workers. In August 2002, the Western Australian Labor Government enacted the Labor Relations Reform Act (LRRRA) repealing laws that permitted individual contracts to override collective agreements, reversed many discriminatory measures against trade unions contained in 1997 legislation, and removed requirements that unions undertake complicated pre-strike ballots.

Since 1996, the AIRC has adjusted the wages for the lowest paid category of workers through adjustments to the minimum pay rate in awards, in what has become known as the "living wage" case. A living wage case generally occurs about once a year, but this can vary. After receiving submissions from unions, employers, and the Government, the Commission determines the amount of the adjustment based on its judgment of the social, industrial and economic needs of the country. The ACTU applies to the AIRC for an increase to the award rate, which has consistently been contested by employer organizations and the federal government. A ruling by the AIRC on May 6, 2003 provided an increase of A\$ 17 (US\$ 11) in award rates for employees earning up to A\$ 731.80 (US\$ 475) per week and a A\$ 15 (US\$ 10) increase for those earning above that amount. This decision brought the Federal minimum wage to A\$ 448.40 (US\$ 291) per week. State tribunals need not, but generally do, adopt the principles of the living wage.

In 2003, the manufacturing unions launched "Campaign 2003," which coincided with the expiration of 1,500 enterprise agreements in the manufacturing industry and involved the unions claiming virtually the same set of employment conditions and benefits for all employees undertaking similar work. The Federal Government labeled this approach "pattern-bargaining" and has argued that it undermines the enterprise-bargaining principles of the WRA and should be outlawed. In 2002, the Government agreed to Senate amendments to the government's anti-pattern bargaining bill, which saw pattern bargaining prohibitions replaced by extended authority for the AIRC to terminate a bargaining period and end strike action. Unions in the state of Victoria and in the manufacturing and construction sectors continue to pursue this type of pattern bargaining but have met strenuous opposition from most employers and the federal government.

Australia ratified ILO Convention No. 98 on the right to organize and bargain collectively in 1973. Both the CFA and the COE have indicated that the WRA appears to give primacy to individual relations over collective relations through the AWAs. The Committees requested that the Government amend the WRA to bring it into conformity with the Convention so as to ensure that the AWAs do not undermine workers' legal right to bargain collectively.

Prohibition of Forced or Compulsory Labor

Although there are no federal laws prohibiting it, forced labor, including forced or bonded labor by children, generally is not practiced. Australia ratified ILO Convention No. 29 on forced labor in 1932 and ILO Convention No. 105 on the abolition of forced labor in 1960.

Status of Child Labor Practices and Minimum Age for Employment

There is no federally mandated minimum age for employment. State-imposed compulsory educational requirements, which are enforced by state educational authorities, effectively prevent most children from joining the workforce full time until 15 or 16 years of age.

Federal and state governments monitor and enforce a network of laws, which vary from state to state, governing the minimum school-leaving age, the minimum age to claim unemployment benefits, and the minimum age to engage in specified occupations. In 2001, the State Government of New South Wales enacted regulations to strengthen protections for children in the workplace. In 2001 the State Government of Victoria undertook an inquiry into children at work, but did not introduce legislation to the Parliament until 2003. The bill transfers the responsibility for regulating employment from the community services and child welfare to the

industrial relations portfolio. While retaining the previous restriction on children's employment to light work only, it protects working children by specifying minimum work conditions. This bill has not yet been enacted into law by the Parliament.

Education is free and compulsory in all states and territories for children between the ages of 6 and 15 (age 16 in Tasmania). The Australian Bureau of Statistics (ABS) 2001 Census showed that school attendance among 15 year olds ranged from 93 percent in major cities to 61 percent in very remote parts of Australia. Overall 92 percent of boys and 94 percent of girls aged 15 years were attending a secondary school. According to the 2001 Productivity Commission's Report on Government Services, 67 percent of all children completed 12 years of schooling (normally through the final year of secondary education).

Most cases of abuse in the last several years, like the 1999 clothing sweatshops in Sydney and Melbourne, have involved members of ethnic communities from nations where child labor is not uncommon. The Attorney General's Department has stated that it would study existing laws and consider whether new legislation would strengthen the Government's ability to combat the problem.

The Government has not ratified ILO Convention No. 138 on the minimum age nor ILO Convention No. 182 on the worst forms of child labor.

Discrimination in Employment

The law prohibits discrimination based on race, color, descent, national or ethnic origin, sex, disability, language or social status. The Australian Human Rights and Equal Opportunity Commission (HREOC) is responsible for handling complaints under the Racial Discrimination Act 1975, Sex Discrimination Act 1984, Disability Discrimination Act 1992, and the Human Rights and Equal Opportunity Commission Act 1986. The Commission and an independent judiciary vigorously enforce the prohibition.

Women have equal status under the law, and the law provides for pay equity. There are highly organized and effective private and public women's rights organizations at the federal, state, and local levels. A federally funded office of the Status of Women monitors women's rights. Nonetheless, there have been several sexual harassment complaints and cases. The federal Sex Discrimination Commissioner of the HREOC receives complaints and attempts to resolve those that are deemed valid. Of the 399 sex discrimination cases in 2001-2002, women filed 88 percent, and 85 percent were employment-related.

In 2002, women's full-time average weekly earnings were A\$ 772.10 (US\$ 443), which was 81 percent of men's earnings according to the ABS. Some members of the opposition political parties attributed the difference to changes in the workplace laws, such as the WRA, which relies on the use of individual employment contracts that are negotiated privately and thus do not necessarily foster equal pay outcomes. Other commentators suggested that an "old boy network" could make it difficult for women to negotiate salaries equal to those of their male counterparts.

The Disability Discrimination Commissioner promotes compliance with federal laws that prohibit discrimination against persons with disabilities. It is illegal to discriminate against a person on the grounds of disability in employment, education, any state services, provision of goods, services and facilities, access to premises, and other areas. The law also provides for investigation of discrimination complaints, authorizes fines against violators, and awards damages to victims of discrimination. In 2001-2002, 478 disability complaints were filed.

Acceptable Conditions of Work

Although a formal minimum wage exists, it has not been relevant in wage agreements since the 1960s. A ruling by the AIRC on May 6, 2003, set the federal minimum wage at A\$ 448.40 (US\$ 291) per week. Differing minimum wage rates for individual trades and professions, established through awards, are adjusted regularly by the AIRC to keep pace with changing social, industrial and economic trends. The wage rates cover 80 percent of all workers. All rates are enough to provide a decent standard of living for a worker and family.

Most workers are employees of incorporated organizations. A complex body of applicable government regulations, as well as decisions of applicable federal or state industrial relations commissions, prescribe a 40-hour or shorter workweek, paid vacations, sick leave, and other benefits. The minimum standards for working hours and conditions are set by a series of awards. Some awards specified that workers must have a 24 or 48-hour rest break each week, while others specified only the number of days off per number of days worked.

In 2001-2002, the ACTU campaigned to have the AIRC regulate against employees working unreasonably long hours. On July 23, 2002, the AIRC rejected the ACTU's fundamental "reasonable hours" claim, which would have provided additional leave for employees who are required to work extended hours over long periods to be inserted into awards. The AIRC decided instead to give workers the right to refuse to work overtime "where it would result in them working unreasonable hours." The decision left the way open for unions to seek, through enterprise bargaining, additional leave as compensation for employees who are required to work "extreme" hours.

Over the past two decades, there has been a substantial increase in the percentage of the workforce regarded as temporary workers. In 2001, there were 2.1 million persons (27 percent of workforce) employed as casual or temporary workers. Such employees were not entitled to certain employment benefits, such as sick leave or annual leave, but were paid at a higher hourly wage rate.

Federal or State occupational health and safety laws apply to every workplace. The law provides federal employees the right to cease work without endangering their future employment if there is an immediate threat to health and safety. In 2001, there were 141,821 compensation claims for occupational accidents and injuries, of which 319 concerned fatalities.

Trafficking in Persons

Trafficking in persons from Asia, particularly women, is a limited problem that the Government is taking steps to address as part of a broader effort against "people smuggling," defined as "illegally bringing non-citizens into the country." Smuggling of persons in all forms, including trafficking, is prohibited by Australian law, with penalties of up to 20 years' imprisonment. In 1999 the Criminal Code Amendment (Slavery and Sexual Servitude) Act came into force. The Act modernized the country's slavery laws, and contained new provisions directed at slavery, sexual servitude, and deceptive recruiting to address the growing and lucrative international trade in persons for the purposes of sexual exploitation. In 2001 Parliament also enacted the Border Protection Act, which authorized the boarding and searching of vessels in international waters, if suspected of smuggling of or trafficking in persons.

Australia is a destination for trafficked women but government studies have concluded that the documented incidence of trafficking appeared to be low. However, the Government, NGOs, and

journalists agreed that an unknown number of women were being trafficked into the country each year to work in Australia's legalized prostitution industry. In the past, there were reports of trafficking in women to work in sweatshops in the textile, clothing, and footwear industries as well as in service industries, sometimes as bonded labor. However, there were no such reports during 2002.

In February 2001, an Ambassador for People Smuggling Issues was established to promote a coherent and effective international approach to combating people smuggling (particularly from Asia-Pacific region). In 2002, the Government established a national police Transnational Sexual Offences Crime team to combat organized crime syndicates. The government's overseas aid agency AusAID has provided \$ 4.8 million to build the capacity of local institutions to combat trafficking in Cambodia, Laos, Burma and Thailand. In February 2003, Indonesia and Australia co-chaired a 38-country Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crimes.

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