

# INDEX

- 457 visas, 394, 409–12, 423  
Azarias Report, 411
- ability to engage other staff, 15
- academic employment, 300
- disciplinary procedures, 306
- dismissal. *See* dismissal in
- Australian universities
- enterprise agreements, 305
- misconduct and serious  
misconduct, 306–7
- nature of employment in  
universities, 300–1
- organisational change, 306
- redundancy and  
retrenchment, 307–8
- salary, 305
- status of university policy in  
employment contract,  
301–4
- tenure, workplace security  
and types of  
employment, 305–6
- workloads, 308
- academic freedom
- concept of in Australia, 317–19
- dismissal and, 316–17
- express. *See* express  
academic freedom
- implied protection, 321–3
- under statute, 141–2
- adverse action, 93–4
- elements of, 214
- anti-bullying statutory scheme,  
361
- bullying has occurred, 363
- defences, 364–5
- ongoing risk, 363–4
- outcomes from, 365–6
- relationship to other Fair  
Work Commission  
matters, 366–7
- remedies, 365
- worker constitutionally  
covered, 348
- anti-discrimination, 367–8, 389,  
*See also* discrimination
- Apparel Industry Partnership,  
399
- approval process for enterprise  
agreements
- approval by Fair Work  
Commission, 139–40
- better off overall test, 141
- effect of approval, 142
- ‘genuinely agreed’, 140
- pre-approval steps, 138–9
- undertakings, 141–2
- Australian Accounting Standards,  
163
- Australian Building and  
Construction  
Commission, 173–4,  
186, 193
- Australian Charities and  
Non-Profits Commission,  
176, 186
- Australian Commission on Law  
Enforcement Integrity,  
186
- Australian Competition and  
Consumer Commission,  
185
- Australian Crime Commission, 186
- Australian Electoral Commission,  
124, 172, 197
- Australian Federal Police, 186
- Australian Human Rights  
Commission, 145
- Australian Industrial Relations  
Commission, 10, 80, 86,  
100–1, 191
- Australian labour law system
- practical, historical and  
constitutional  
development of. *See*  
development of  
Australian labour law  
system
- Australian Prudential Regulatory  
Authority, 385
- Australian Public Service Code of  
Conduct, 274
- Australian Public Service  
Commission
- Australian Public Service  
Employment Principles,  
274
- Australian Public Service  
Values, 273–4
- Australian Public Service  
Values and Code of  
Conduct in Practice*,  
274–5
- Better Practice Guide to  
Managing  
Unreasonable  
Complainant Conduct*,  
275
- formal investigation, 277
- Handling Misconduct:  
A Human Resource  
Manager's Guide*, 276
- informal investigation, 277
- inherent danger in informal  
investigation, 278
- strengths and weaknesses of  
investigative system, 277
- Australian Securities and  
Investments  
Commission, 176
- Australian Standards, 340
- Australian Taxation Office, 7,  
186, 383
- Australian Workplace Agreements,  
80–2, 95, 112
- automation. *See* robots and  
automation
- awards. *See* modern awards
- Azarias Report, 411
- bargaining for enterprise  
agreements
- approval process. *See*  
approval process  
for enterprise  
agreements
- commencement of, 124
- good faith bargaining  
requirements. *See* good  
faith bargaining  
requirements
- majority support  
determination, 124–5
- notice of employee  
representational rights,  
125–6
- protected industrial action  
in support of claims, 133
- better off overall test, 82, 100, 148
- approval process for  
enterprise agreements  
and, 141

- better off overall test (cont.)  
     enterprise agreements and, 122–3  
     Fair Work Commission and, 141  
 Big Society, 94  
 Brexit, 394, 398, 406–7, 423  
     effect of on workers' rights, 407–8  
     freedom of movement of workers/persons after, 407  
     future of European Union and, 408–9  
     impact on Scottish employment law, 408  
     United Kingdom employment laws and law enforcement, 407–9  
 Brodie's Law, 359–60  
 bullying  
     Brodie's Law, 359–60  
     case law, 357–8  
     definition, 357  
     exclusion of reasonable management action from, 18–19  
     Fair Work Commission and. *See* anti-bullying statutory scheme  
     person conducting a business or undertaking and, 358  
     public servants, 278  
     reasonable management action, 357  
     workers' compensation and, 356, 360  
     workplace health and safety and, 358–60  
 Business Council of Australia, 79  
 capacity to bargain for remuneration, 17  
 cascading restraint, 254–5  
 causation, 90–2  
 Chinese labour law, 393, 403–4  
 codes of conduct  
     regulation of transnational labour law by, 399–401  
 Cole Royal Commission. *See* Royal Commission into the Building and Construction Industry  
 Conciliation and Arbitration Commission, 77, 86  
 conspiracy, 205–6  
 construction industry regulator, 173–5  
 contract for provision of personal services, 6  
 contract of employment. *See* employment contract  
 Core Labour Standards, 398  
 corporate tax evasion, 387–8  
 Deakin Settlement, 77, 94  
 deemed employee, 18–19  
     outworkers, 19  
 demotion  
     dismissal and, 217–18  
 development of Australian labour law system, 77–8  
     changing economic, structural and policy considerations, 78–80  
     WorkChoices, 80–1  
 discrimination. *See also* anti-discrimination  
     direct, 369–71  
     equal opportunity, 375–82  
     exemptions to prohibitions against, 372–3  
     genuine occupational requirements, 372  
     Human Rights Commission, 382  
     indirect, 371–2  
     *Racial Discrimination Act* 1975 (Cth), 376–82  
     remedies, 374  
     sexual harassment, 373–4  
 dismissal  
     Australian universities. *See* dismissal in Australian universities  
     avoiding double dipping, 259  
     constructive, 215  
     definition, 215  
     demotion and, 217–18  
     fixed-term contracts, 215–17  
     harsh, unjust or unreasonable. *See* harsh, unjust or unreasonable dismissal  
     jurisdictional questions, 218  
     unfair. *See* unfair dismissal  
     wrongful. *See* wrongful dismissal  
 dismissal in Australian universities, 308  
 academic freedom. *See* academic freedom  
     academic freedom  
     avoiding dismissal processes, 311–12  
     holding of political opinions, 316  
     inappropriate behaviour with student, 315  
     medical assessment of staff, 316  
     misappropriation, 316  
     outside work, 316  
     plagiarism, 314  
     processes, 309–11  
     refusal to obey directions, 313–14  
     reinstatement, 237–9  
 double dipping  
     avoidance of, 259  
 duty of fidelity, 67  
     duty to account for property, 68  
     intellectual property and inventions, 68  
     use of information, 67  
 duty of good faith, 54–9  
     interplay between duty of mutual trust and confidence, 59–60  
     three views of, 54  
 duty of mutual trust and confidence, 43–4  
     Australia and, 49–54  
     development of in English law, 44–9  
     interplay between duty of good faith, 59–60  
 duty to account for property, 68  
 duty to cooperate, 41–3  
 duty to provide work, 39–40  
     distinguished from direction to not perform work, 40–1  
 duty to use care and indemnify, 68  
 duty to use care and skill, 66–7  
 economic dependency, 15  
 elements of unfair dismissal, 214  
 dismissal. *See* dismissal  
 genuine redundancy. *See* genuine redundancy  
 harsh, unjust or unreasonable. *See* harsh,

- unjust or unreasonable dismissal
- emergency services
  - key issues, 417
  - ongoing concerns about unpaid work, 417–19
  - paid and unpaid work, 416–17
- employee
  - consent, transfer of employment and, 20
  - deemed, 18–19
  - identification of. *See* identifying an employee
  - lack of unified definition of, 8–10
  - obligation to obey reasonable directions. *See* employee obligation to obey reasonable directions
  - public servant. *See* public servants
  - use of information by, 67
- employee obligation to obey reasonable directions, 60–2
  - direction regarding outside of work activities, 64
  - direction to attend medical examination, 62–4
  - public service employee, 65–6
- employer
  - identification of. *See* identifying the employer
- employment contract
  - academic employment, status of university policy in, 301–4
  - consideration and, 5
  - contract of service, 9
  - duty of fidelity. *See* duty of fidelity
  - duty of good faith. *See* duty of good faith
  - duty of mutual trust and confidence. *See* duty of mutual trust and confidence
  - duty to cooperate, 41–3
  - duty to provide work. *See* duty to provide work
  - duty to use care and skill, 66–7
  - employee obligation to obey reasonable directions. *See* employee obligation to obey reasonable directions
  - directions
    - See* employee obligation to obey reasonable directions
  - employer's duty to use care and indemnify, 68
  - essential terms complete and certain, 5
  - formation of, 4
  - intention of agreement to be legally binding, 4–5
  - not required to be in writing, 4
  - remuneration for work, 38–9
- employment law
  - definition, 84–5
- employment relationship
  - contractual nature of, 3–5
  - issues at end of. *See* issues at end of employment relationship
  - significance of, 2
  - statutory rights and obligations, 3
  - vicarious liability and, 2–3
- Enforceable Undertakings
  - workplace health and safety, 343
- enforcing rights and obligations under enterprise agreements, 142–3
- dispute resolution, 143
- via the courts, 143–4
- enterprise agreements
  - academic employment, 305
  - approval process. *See* approval process for enterprise agreements
  - 'bargaining fee', 117–18
  - bargaining for. *See* bargaining for enterprise agreements
  - better off overall test and, 122–3
  - contracts and policies and, 110–11
  - enforcing rights and obligations under. *See* enforcing rights and obligations under enterprise agreements
  - express academic freedom and, 320–1
  - 'fairly chosen', 113
  - mandatory content in, 118–20
  - matters which can be included, 115–18
  - only one applies, 110
  - prohibited content in, 120–2
  - relationship with other employment terms, 110–11
  - scope of, 112–13
  - terminating, 145–6
  - varying, 144–5
  - who is covered by, 112–15
- enterprise bargaining
  - definition, 99
  - forms of, 99
  - future of and possible reform, 146–8
  - historical context, 100–1
  - key characteristics of, 99–100
  - minimum standards
    - underpinning. *See* minimum standards underpinning enterprise bargaining
  - negotiations, reasons for, 101–2
  - objective of, 101
  - who can bargain, 111
- equal opportunity, 375–82
- European Union
  - freedom of movement of workers/persons, 407
  - future of after Brexit, 408–9
  - United Kingdom exit from. *See* Brexit
- express academic freedom, 320
  - in codes of conduct, 320
  - in enterprise agreements, 320–1
- fair entitlements guarantee, 260–1
- Fair Work Act 2009* (Cth)
  - adverse action, 93–4
  - element of causation, 90–2
  - elements of adverse action, 214
  - overview, 82
  - procedure and remedies, 94
  - right of entry under, 192–3
  - State and Federal tribunals and constitutional issues, 82–4
  - workplace right, 358–60
- Fair Work (Registered Organisations) Act 2009* (Cth)
  - disqualification of union officials and, 161–2

*Fair Work (Registered Organisations) Act 2009* (Cth)  
(cont.)

eligibility and rules, 159–60  
overview, 158–9  
substantive changes to, 187–8  
union elections and, 160–1  
union financial and other records and, 162–3  
Fair Work Australia, 118  
Fair Work Building and Construction, 173–4, 186  
Fair Work Building Industry Inspectorate, 173  
Fair Work Commission, 3, 86–7, 94–5, 100, 110, 123, 129, 131, 186, 193–4  
accountability of union officials to, 170–1  
approval of proposed enterprise agreements by, 139–40  
better off overall test and, 141  
bullying and. *See* anti-bullying statutory scheme  
conduct found not unfair or capricious, 130  
disclosure of relevant information and, 128  
dual role of, 172  
'genuinely agreed' and, 140–1  
good faith bargaining orders, 127, 132–3  
'last offer' arbitration, 147  
majority support  
determination, 124–5  
powers available to, 172–3  
powers of General Manager, 158–9, 172, 176, 188  
protected action ballot and, 197–8  
protected action ballot order, 134–5  
Regulatory Compliance Branch, 158  
removal of ambiguity in enterprise agreements, 145  
resolution of industrial disputes and, 118–20  
reviews of modern awards, 108

suspension or termination of protected industrial action, 136–7  
termination of and settlement for industrial action, 201  
termination of Australian public servants, 277  
termination of enterprise agreements, 145  
undertakings, 141–2  
unprotected industrial action and, 200  
Fair Work Commission anti-bullying jurisdiction, 365, 388  
outcomes from, 365–6  
relationship to other Fair Work Commission matters, 366–7  
Fair Work Ombudsman, 176, 365, 418  
Fairness Test, 81  
Federal Court of Australia, 129  
fixed-term contracts  
dismissal and, 215–17  
freedom of association, 88–9  
fringe benefits tax, 386  
G20, 383, 387, 389  
General Agreement on Tariffs and Trades, 394  
General Employee Entitlements on Redundancy Scheme, 261  
General Purpose Financial Report, 163  
genuine redundancy, 227  
spill and fill, 230–1  
*Ulan Coal* cases, 227–30  
good faith bargaining, 82  
good faith bargaining orders, 127, 132–3  
good faith bargaining requirements, 127  
attendance, 127–8  
consequences for breaches of, 132–3  
disclosing relevant information in timely manner, 128  
genuinely consider proposals and give reasons for response, 129–30

recognise and bargain with other bargaining representatives, 132  
refrain from capricious or unfair conduct, 130–2  
responding to proposals in timely manner, 129  
surface bargaining and, 130  
goodwill, 16  
Greenfields agreements, 81, 111, 125, 147  
harsh, unjust or unreasonable dismissal, 218–19  
after-hours conduct and, 222–4  
job performance, 222  
job performance, workplace behaviour and discipline and, 219–20  
social media misuse and, 225–7  
workplace culture and conduct and, 358–60  
*Harvester Judgement*, 73  
Heads of Workers Compensation Authorities group, 356  
Health Services Union  
litigation against officials, 166–8  
Henry Review, 383  
Higher Education Standards Framework, 319, 321  
Higher Education Workplace Relations Requirements, 122  
Human Rights Commission, 382  
identifying an employee  
contract for provision of personal services, 6  
deemed employee, 18–19  
employee/independent contractor distinction, 6  
employment relationship is contractual, 3–5  
express intention of the parties, 6–8  
lack of unifying definition of employee, 8–10  
practical and realistic approach to true nature of relationship, 8  
totality test. *See* totality test  
'ultimate question', 9–11

- identifying the employer, 19
  - employment by related or associated corporations, 20–2
  - labour hire arrangements. *See* labour hire
  - labour hire arrangements
  - labour supply chains, 26–7
  - principles to be applied in, 20–1
  - sham contracting and. *See* sham contracting
- implied duty of trust and confidence, 47, 49
- Improvement Notices
  - workplace health and safety, 343
- income tax, 383–4, *See also* taxation
- incorporation, 17
- independent contractors
  - employee/independent contractor distinction, 6
  - legislation, 34–5
  - sham contracting and, 29–34
- individual flexibility
  - arrangements, 109
- industrial action
  - definition, 133, 195
  - intimidation and, 206
  - picketing, 202–3
  - prohibition on payments for, 138
  - protected. *See* protected industrial action
  - right to strike. *See* right to strike
  - secondary boycotts, 207–9
  - suspending or terminating, 200–1
  - unprotected, 200
  - workplace health and safety issues and, 203
- industrial relations
  - workplace health and safety and, 345–6
- industrial torts, 203–5
  - conspiracy, 205–6
  - contractual interference, 205
  - intimidation, 206
  - remedies in relation to, 206–7
  - unlawful interference, 206
- injury
  - definition for workers' compensation, 350–1
- integration into the business, 15
- intellectual property
  - duty of fidelity and, 68
- International Federation of Airline Pilots, 405
- international labour law. *See* transnational labour law
- International Labour
  - Organization, 87–8, 95, 208, 264, 393–4, 396, 399, 404, 417, 422
  - Committee of Experts on the Application of Conventions and Recommendations, 27–8
  - Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, 196
  - Convention concerning Discrimination in Respect of Employment and Occupation, 367, 375
  - Convention concerning Freedom of Association and Protection of the Right to Strike, 196
  - Convention on Termination of Employment, 213
  - Core Labour Standards, 398
  - Declaration of Philadelphia, 87
  - Freedom of Association and Protection of the Right to Organise Convention, 87
  - Maritime Labour Convention, 405
  - Occupational Health and Safety Convention, 333
  - Right to Organise and Collective Bargaining Convention, 87
- international transport industry
  - human resource issues and international organising, 404–5
- International Transport Workers Federation, 405
- introduction of robots and automation
  - government reports on, 421
  - scholarly writing on, 421–2
- inventions
  - duty of fidelity and, 68
- issues at end of employment
  - relationship references, 263
  - restraint of trade clauses. *See* restraint of trade clauses
- Johnson exclusion zone, 48
- judicial work, 288–90
  - appointments, 290
  - conditions. *See* judicial working conditions
  - conduct guides and misconduct, 294–5
  - removal of judge from office, 291–3
- judicial working conditions
  - basic, 296
  - government administrative arrangements and budgets, 298–9
  - mental safety, 297
  - physical safety, 296–7
  - sick leave, 297–8
  - social media, 299–300
- labour hire agency
  - identifying the employer and, 25–6
- labour hire arrangements, 22
  - identifying employer in, 23–5
  - interposition of labour hire agency, 25–6
  - intra-group labour hire arrangement, 20
  - what constitutes, 22–3
- labour law
  - definition, 84–5
  - legal theories as justification for, 73–6
- labour supply chains
  - identification of employer and, 26–7
- majority support determination, 124–5
- medical certificates, 353
- Merit Protection Review Commission, 277
- methods of regulating
  - transnational labour law application of domestic laws abroad, 401–3
  - codes of conduct, 399–401

- methods of regulating
- transnational labour law (cont.)
  - regional agreements and sanctions, 398–9
  - trade regulation, 399
  - treaties and conventions, 397–8
- migration and employment, 394
  - subclass 457 visas, 394, 409–12, 423
- minimum standards
  - underpinning enterprise bargaining, 102
  - modern awards, 107–9
  - National Employment Standards, 102–7
- misrepresenting employment as independent contracting arrangement, 29–32
- modern awards, 110
  - as minimum standard underpinning enterprise bargaining, 107–9
  - content required in, 109
  - coverage, 108–9
  - individual flexibility arrangements, 109
  - reviews by Fair Work Commission, 108
- multi-indicia test, 13–14
- National Employment Standards, 9, 18, 94, 109–10, 118, 141, 148
  - as minimum standard of enterprise bargaining, 102–7
- no disadvantage test, 80–1, 100, 123, 146
  - abolition of, 81
- no work, no pay, 38–9
- North American Free Trade Agreement, 399
- notice of employee representational rights, 125–6, 139
- Office of the Australian Information Commissioner, 186
- on-the-spot fines, 343
- opportunity for profit and the risk of loss, 16
- origins of union regulation, 154
- Conciliation and Arbitration Act 1904* (Cth) and successors, 155–7
- system inherited and colonial experience, 154–5
- outsourcing, 19
- outworkers, 19
- Panama Papers, 387–9
- payment for leave, 17
- payment of other significant business expenses, 16
- payroll tax, 387
- Penalty Notices/Infringement Notices
  - workplace health and safety, 343
- person conducting a business or enterprise
  - expertise of another party and, 341–2
- person conducting a business or undertaking, 388
  - concept in workplace health and safety, 335–7
  - due diligence of officers and, 337
  - incident notification and associated requirements, 339
  - Provisional Improvement Notices and, 339
  - reasonable practicality, 340–3
  - workers' compensation and, 362
- picketing, 202–3
- plagiarism
  - as ground for dismissal in Australian universities, 314
- procedural fairness in unfair dismissal, 231–5
- reinstatement and damages, 237–9
- tribunal procedure, 236
- Productivity Commission, 108
- Prohibition Notices
  - workplace health and safety, 343
- property
  - employee duty to account for, 68
- protected action ballot, 197–8
- protected action ballot order, 134–5
- protected industrial action
  - implications of, 199
  - in support of enterprise bargaining claims, 133
  - procedural requirements for, 134–6
  - prohibition on payments for, 138
  - protected action ballot, 197–8
  - requirements for, 197–9
  - significance of, 134
  - suspending or terminating, 136–8
- provision and maintenance of tools and equipment, 16
- provision of own place of work, 16
- provision of skilled labour or labour requiring specialist qualifications, 17
- Provisional Improvement Notices, 339
- Public Interest Disclosure Act 2013* (Cth)
  - key issues under, 287–8
- public sector employment, 270–1
  - handling misconduct and investigations, 276–84
  - judicial work. *See* judicial work
  - management of, 272–3
- public sector theory, 285
- outsourcing, 285–6
- whistleblowing. *See* whistleblowing
- public servants.
  - bullying, 278
  - obligation to obey directions, 65–6
  - social media and, 275
  - See also* Australian Public Service Commission
- Public Service Act 1999* (Cth)
  - Australian Public Service Code of Conduct, 274
  - Australian Public Service Employment Principles, 274
  - Australian Public Service Values, 273–4



- key provisions and guides, 273–5
- objectives, 273
- s 22, 273
- territorial operation, 273
- Registered Organisations
  - Commission, 175–7, 183
  - powers of Commissioner, 163, 172, 188
  - rationale for, 176
- relevant indicia of totality test, 13–17
  - consideration of, 14–17
  - multi-indicia test, 13–14
- removal of judge from office, 291–3
- remuneration
  - for work, 38–9
  - methods of, 16–17
- remuneration planning, salary packaging and fringe benefits tax, 386
- representation as part of the business, 15
- restraint of trade clauses, 248–9
  - anti-poaching clauses, 255–8
  - basic principles, 250–2
  - cascading restraint, 254–5
  - legitimate interest and, 249–50
  - technology and, 252–4
- right of entry, 185
  - applications for and removal of permits, 194–5
  - Fair Work Act 2009* (Cth) and, 192–3
  - permit system, overview of, 191–2
  - position prior to *Workplace Relations Act 1996* (Cth), 190–1
  - Work Health and Safety Entry Permit, 194
- right to delegate or substitute, 15
- Right to Organise and Collective Bargaining Convention 1949, 87
- right to perform work for others or reject work, 14–15
- right to strike
  - constraints on in Australia, 196–7
  - international position on, 196
- Robens reforms, workplace health and safety, 331–2
- robots and automation, 394
  - introduction into the workplace. *See* introduction of robots and automation
  - spectre of, 419–20
  - waterfront example, 420
- Royal Commission into the Activities of the Australian Building Construction Employees' and Builders Labourers' Federation, 178
- Royal Commission on the Activities of the Federated Ship Painters and Dockers Union, 178
- Royal Commission into Alleged Payments to Maritime Unions, 178
- Royal Commission into the Building and Construction Industry, 173, 178, 180
- Royal Commission into Trade Union Governance and Corruption, 153
  - ACTU and, 182
  - Discussion Paper: Options for Law Reform*, 182
  - disqualification of union officials and, 162
  - link between industry superannuation funds and trade unions, 385
  - named unions, 179–80
  - organised crime and corruption, 185–6
  - policy issues and consultation, 181–2
  - referrals arising from, 186–7
  - scope of hearings, 180–1
  - terms of reference, 178–80
  - topics of issues papers, 181
- Royal Commission into Trade Union Governance and Corruption recommendations
  - building and construction industry, 185
  - competition issues, 185
  - corrupting benefits, 184
  - legislative amendments, 184
  - right of entry, 185
  - secondary boycotts, 185
  - superannuation, 185
  - union officials, 183–4
  - union regulation, 183
- Royal Commissions, 177–8
  - Letters Patent, 177–8
- secondary boycotts, 185, 207–9
- sexual harassment, 373–4
- sham contracting, 27, 174
  - common law sham and pretence and, 27–8
  - dismissing employee to engage as independent contractor, 32–4
  - misrepresenting employment as independent contracting arrangement, 29–32
  - statutory provisions on sham arrangements, 28–9
- Small Business Fair Dismissal Code, 213–14, 218
- social media
  - Australian public servants and, 275
  - judicial working conditions and, 299–300
  - misuse, dismissal and, 225–7
- spill and fill, 230–1
- State regulators, 175
- superannuation, 384–6
- surface bargaining, 130
- taxation, 382–3, 389
  - corporate evasion of, 387–8
  - employee share schemes, 386–7
  - income tax, 383–4
  - liability, totality test, 18
  - payroll tax, 387
  - remuneration planning, salary packaging and fringe benefits tax, 386
  - superannuation, 17, 384–6
  - termination payments, 387
- technology. *See* robots and automation
- termination
  - damages and, 48
  - fair entitlements guarantee, 260–1
  - insolvency of employer or transfer of business, 259–60, 262
  - termination payments, 387

- totality test
  - control and continuing
    - relevance of, 11–13
  - flexible application of, 18
  - obligations owed by
    - contracting parties to each other, 18
  - relevant indicia. *See* relevant indicia of totality test
  - taxation liability, 18
  - vicarious liability for injuries, 18
- Trade Union Council (UK), 407
- trade unions. *See* unions
- transfer of employment
  - consent of employee and, 20
- transnational labour law, 393–4, 396–7
  - conflicts of law in, 402
  - key issues, 395–6
  - methods of regulating. *See* methods of regulating transnational labour law
  - origins, 394–5
- tribunals, 86–7
  - International Labour Organization, *See* International Labour Organization
- unfair dismissal
  - damages and, 48
  - elements of. *See* elements of unfair dismissal
  - procedural fairness in. *See* procedural fairness in unfair dismissal
- union officials
  - accountability to Fair Work Commission, 170–1
  - breach of duties of, 168–70
  - consequences for improper action, 171
  - disqualification of, 161–2
  - duties of, 164–8
  - right of entry. *See* right of entry
  - who is regarded as, 164
- union-related Royal Commissions and inquiries, 177–8
- unions, 95
  - adverse action and, 93–4
  - causation and, 90–2
  - corporate status of, 157–8
  - elections, 160–1
  - elements of adverse action, 214
  - eligibility and rules, 159–60
  - Fair Work (Registered Organisations) Act 2009* (Cth) and, 158–9
  - Federal, State registration for, 188–90
  - financial and other records, 162–3
  - freedom of association, 88–9
  - origins of regulation of. *See* origins of union regulation
  - purpose of, 153
  - workplace right and, 358–60
- United Nations, 396, 417
  - Convention on the Elimination of All Forms of Discrimination against Women, 367, 375
  - Convention on the Elimination of All Forms of Racial Discrimination, 367
  - Convention on the Law of the Sea, 405
  - International Covenant on Civil and Political Rights, 367
  - Universal Declaration of Human Rights, 154, 196, 397
- unlawful interference, 206
- unprotected industrial action, 200
- vicarious liability, 2–3
  - for injuries, 18
- volunteers, 394, 412–13
  - definition, 413–14
  - emergency services. *See* emergency services
  - liability, workplace health and safety, 415–16
  - workers' compensation and, 362
- Wagline (Qld), 84
- Wal-Mart Stores Inc, 399–401
  - Code of Conduct, 400–1
- whistleblowing, 286–7
  - complaints, 286–7
  - key issues under *Public Interest Disclosure Act 2013* (Cth), 287–8
- work
  - employer duty to provide, 39–40
  - remuneration for, 38–9
- work experience, 394
- Work Health and Safety Entry Permit, 194, 345
- WorkChoices, 80–1, 95
  - key features of, 81
- worker
  - concept of in workplace health and safety, 348
  - definition for workers' compensation, 349–50
  - workers' compensation and, 348
  - workplace health and safety duties imposed upon, 337–8
- workers' compensation, 346
  - bullying, 356, 360
  - compulsory insurance for employers, 348
  - definition of injury, 350–1
  - definition of worker, 349–50
  - employer opportunity to 'self-insure', 348
  - employment issues following injury, 354–5
  - excluded claims, 353–4
  - injury management, rehabilitation and return to work, 354
  - interaction between State and Commonwealth schemes, 355–6
  - journey and recess claims, 351–3
  - 'no-fault' schemes, 348
  - person conducting a business or enterprise and, 362
  - precursor to statutory scheme, 346–7
  - psychological claims, 353
  - statutory schemes, 347–9
  - volunteers, 362
  - worker and, 348



workplace health and safety and, 345	health and safety representatives and other consultations, 339	workplace law case law and statute or common law and legislation, 85–6
Workplace Gender Equality Agency, 375	incident notification and associated requirements, 339–40	employment, industrial or labour law, 84–5
workplace health and safety bullying. <i>See</i> bullying	industrial relations and, 345–6	freedom of association, 88–9
compliance and enforcement, 343–5	notion of general duties, 331–2	workplace right, 358–60
compliance tools, 343	officers to exercise due diligence, 337	World Trade Organization, 394–5
concept of person conducting a business or undertaking, 335–7	origins of modern legislation, 330–1	agreements, labour conditions in, 398
concept of worker, 348	other duty holders, 337–9	wrongful dismissal damages for lost opportunity, 247–8
concepts of risk and risk control, 334–5	penalties for failure to comply with safety duty, 345	leading cases and issues on, 241–2
duties imposed on others including visitors, 338	reasonable practicality, 340–3	reasonable notice, 239–41
duties imposed upon workers, 337–8	workers' compensation and, 345	repudiation and giving and waiving notice, 242–5
harmonised national scheme and exceptions, 333		termination and non-renewal of short-term contracts, 201