



# Cast AWAY

**W**hat is an AWA, and how can it affect you? AEU Federal Industrial Officer **LINDA GALE** explains how AWAs could leave you stranded.

In the new IR system, there will be several layers of industrial regulation, with familiar names but new roles.

## Minimum Conditions

A set of five national minimum conditions will be established by law—four weeks annual leave, the adult minimum wage, unpaid parental leave, personal leave, and ordinary hours of work. An agreement which includes these minimum standards will pass the new 'no disadvantage' test, even if it significantly undercuts current award conditions.

## Awards

Awards will be limited to 16 topics and will apply if you don't have a Collective Agreement or an AWA. Awards will no longer be the standard against which agreements are measured.

## Collective Agreements

We are used to Collective Agreements in TAFE. Currently, these Agreements prevail over the award *and* over any individual agreements. In future, Collective Agreements will prevail over the award, but not over AWAs.

## AWAs

The Australian Workplace Agreement, or AWA, is an individual 'agreement' between a single employee and their employer. Although in theory they could be tailored to meet individual needs, in practice employers use a single template which they offer to all staff on a take-it-or-leave-it basis. There is rarely any genuine negotiation of the conditions in AWAs.

AWAs allow employers to force new working conditions onto employees one at a time.

So long as an AWA includes at least the five minimum conditions, it will replace *all* other conditions of employment—awards, Collective Agreements, and the underlying common law contract. A worker who signs an AWA is entitled **only** to the conditions set out in the AWA itself. Everything else is swept away.

An AWA can last for up to five years. Until then, the employee cannot participate in industrial action, losing their right to campaign for improved conditions. With a collective agreement, staff negotiate together. With AWAs, staff negotiate alone.

Even if an AWA *looks* like a good deal, it can still undermine the worker's conditions by:

- setting wages over a five year period that turn out to be lower than those won through collective bargaining;
- omitting some conditions which didn't seem important at the time but which turn out to be important later (such as redundancy pay);
- including wording which looks innocuous but actually cuts conditions;

- only including individual conditions and omitting collective ones—such as union representation on review committees;
- excluding that worker from future collective bargaining, thus weakening the collective voice of employees, reducing the outcomes of collective bargaining.

AWAs are secret and, once signed, cannot be scrutinised by unions or the public. They are not currently used widely in education, due partly to the workload of administering so many individual agreements. The government plans to streamline the administrative impact on employers by reducing the scrutiny of new AWAs.

## Collective rights endangered

Some conditions, won by workers through collective campaigns, only operate for individuals at particular times in their lives, or only ever operate for some groups. Paid maternity leave and cultural/ceremonial leave for Indigenous workers are two examples. These entitlements have been won and maintained collectively. If each worker has to negotiate separately, many will not make these things a priority, and employers can start to wind these conditions back. Paid maternity leave, armed services leave, cultural leave, and even sick leave may come to be seen as special treatment, rather than standard rights.

## Will I be offered an AWA?

If the *Skilling Australia's Workforce Bill* is passed, it is possible that TAFE staff will be offered AWAs. In addition, it is likely that all universities will offer their staff AWAs in 2006, including TAFE staff employed by universities.

## Do I have to sign an AWA if offered?

No. You have the choice to reject or accept an AWA offer. If you reject an AWA, you will continue to be covered by the Collective Agreement.

## What to do.

Tell your colleagues, friends and family—whether union members or not—about the true nature of AWAs. Make sure that 'This TAFE is an AWA-Free Zone' signs are prominently displayed and that new staff and casuals understand their right to say no.

If you are offered an AWA, contact the union immediately, and do not sign it without advice. Remember, you do not have to sign it, and you have the right to take time to consider what to do.

In some industries, new staff are forced to accept an AWA through a 'no AWA, no job' offer. If an AWA is offered to you on these terms, contact the union immediately for advice.

If you hear that AWAs are being offered to anyone at your institution, please alert the Union. ❖