



FINANCIAL REVIEW

Labor IR stance shows promise

Many business people marvel at how “on message” the Rudd government and the Deputy Prime Minister, Julia Gillard, have stayed on workplace relations in their nine months in government. They listen! She consults them more than the Howard government! And they’ve been meticulous about sticking to the architecture of Forward with Fairness, the revised policy they took to the election last year — and for which they won a thumping mandate. Final judgement must await the legislation and its implementation because this is a field in which the ritual caveat — the devil is in the detail — applies in spades. But the preliminary view is that for a Labor government the package is not bad, and even contains some positive developments. And the steely determination of Ms Gillard in beating off the shrill entreaties from unions and Labor backbenchers to “rip up” Forward with Fairness has won her plenty of admirers.

While Ms Gillard and the government have been listening, the Australian Industrial Relations Commission, which has something to prove after being cold-shouldered by the Howard government, has been turning the other ear. That is the only plausible explanation for the commission’s decision to create new redundancy rights for workers in firms with fewer than 15 employees as part of its award review process. For an organisation that should be trying to disprove the criticisms from before it was sidelined, that was an astonishing lapse. Critics of the AIRC, including this newspaper, complained with justification that it was a remote arbitral tribunal imposing costly and inappropriate obligations on business because it lacked a feel for how business worked in different firms and regions.

Whacking small firms with new redundancy obligations would be a counter-productive step to take at any time — they would simply turn to casual employment. Proposing to do so at a time when many small firms will be struggling because of the credit crunch, high fuel prices and a slowing economy seems particularly tin-eared. Ms Gillard promptly indicated the government would intervene to oppose this measure when it came before the commission. But the government must be wondering if the commission contains the right people to interpret and administer Forward with

Fairness as part of the proposed umbrella agency, Fair Work Australia.

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The pity of this misstep is that the award rationalisation process is one of the most important pieces of workplace relations reform work being undertaken. The Howard government promised to do it but made little progress. This was partly

because it was preoccupied with the backlash against Work Choices, but mainly because of the enormity of the task. About 4000 awards covering a mind-boggling array of industrial vocations and classifications — many obsolete — are to be streamlined. If it is done well, without averaging everyone up, business will enjoy big administrative savings. On Wednesday, Ms Gillard gave an example: in the coal industry 14 awards running to 500 pages have been reduced to one of 26 pages. Business would like to see more of this, with fewer nasty shocks.

As for Forward with Fairness, the proposed fair dismissal code for firms with fewer than 15 employees, drafted by Small Business Minister Craig Emerson, may have achieved what seemed impossible — a simple, efficient process for small firms. After a 12 month trial, bosses will have to give only one warning — on a valid work-related issue — and allow a reasonable time for improvement before discarding a poor worker. There will be no “three strikes and you’re out” circuses. If it is administered with “good old-fashioned common sense” as Ms Gillard promised, it should not be the disincentive to job creation that the old unfair dismissals racket was.

Ms Gillard has stuck to her last on rules for strikes, maintaining the strict Work Choices rules for protected industrial action — a secret ballot and three days’ notice — and stiff penalties for illegal strikes including mandatory loss of pay and lockouts. Bargaining will be limited to matters relating to employment, the requirement for “good faith” bargaining will not mean enforced concessions, and compulsory arbitration will be the exception.

Concerns remain about union rights of representation, the definition of “majority rules”, the expanded scope for bargaining content, and the scope of access to compulsory arbitration where “harm” is being done and to pattern bargaining for low-paid workers. If these uncertainties are satisfactorily resolved — a big if — and Ms Gillard is as good as her word on maintaining a “strong cop on the beat” in the building industry, business will be reassured. The government has read the tea leaves and does not want to be blamed at the next election for exacerbating any economic downturn. That is smart.