

“Deregulation” of Labour Relations in Australia: Towards a More “Centred” Command and Control Model

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Introduction

The misnomer “labour market deregulation” continues to dominate political debates over the future of labour law in Australia. The phrase is widely used to describe the ideal of removing laws that protect labour rights and entitlements in order to allow business more “flexibility” in labour relations. This ideal is based on an assumption (among many others) about the regulatory character of the Australian federal labour relations system: namely, that it has historically been a highly state-interventionist, centralised and juridified model of business regulation based on a “paternalistic” objective of protecting workers and their trade unions from the operation of market forces.

As earlier chapters in this book have suggested, there is no such thing as “deregulation” of labour markets to the extent that this suggests the ultimate removal of all labour market regulation. The rhetoric of labour market deregulation often masks extensive legal re-regulation and juridification of social and economic systems or spheres to suit prevailing political objectives. This rhetoric is based on a rather narrow definition of “regulation” and its purposes when it comes to the exchange of labour in the economy. The inaccuracy of the term is highlighted by the inconsistency between the Howard Coalition Government’s labour market deregulation rhetoric, and its extensive use of prescriptive law to “re-regulate” labour relations to, among other things, reduce the power of the Australian Industrial Relations Commission (Commission) and trade unions.¹

¹ See, for example, Mitchell R, “Juridification and Labour Law: A Legal Response to the Flexibility Debate in Australia” (1998) 14 *International Journal of Comparative Labour Law and Industrial Relations* 113; Forsyth A, “Outside Intervention or Necessary Evil: The Howard Government’s Approach to Industrial Relations Regulation” (*CCH Industrial Law News*, Issue 1, 29 January 2004).

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