

5 REFORMS OVER 5 YEARS

REFORM 4: Reform unfair dismissal laws

AMMA IS ADVOCATING FOR '5 REFORMS OVER 5 YEARS' TO ENSURE OUR WORKPLACE RELATIONS SYSTEM BETTER SUPPORTS EMPLOYMENT, INVESTMENT AND GROWTH IN AUSTRALIA'S RESOURCE INDUSTRY.

Reform 4: Reform unfair dismissal and 'general protections' laws to ensure employers are not forced to pay 'go away' money to settle claims without merit.

Why do Australia's unfair dismissal and general protections laws need reform?

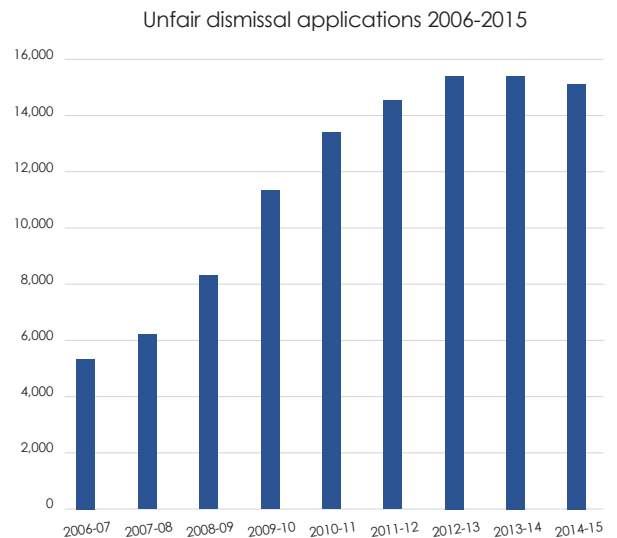
Expanded rules under the *Fair Work Act 2009* dealing with unfair dismissals have encouraged employees to make 'speculative claims' and have seen the Fair Work Commission (FWC) increasingly encroach on the decisions of experienced managers and business owners.

Unfair dismissal applications are now sitting at around 14,500 a year – more than double the annual average of 7,000 under previous workplace relations laws (see graph right).

The Fair Work Act also provides 'general protections' for employee workplace rights which are incredibly broad and place unlimited liabilities on employers for up to six years after an alleged wrongdoing occurs.

Urgent changes are needed to protect employers from unmeritorious claims, and the excessive costs and disruptions that come from defending them.

A 2016 survey of more than 100 resource employers found:



65% had received at least one unfair dismissal claim under the Fair Work Act since 1 July 2009

90% were concerned at employees potentially making claims that lacked merit.

\$94% are concerned at costs of defending claims and having to pay 'go away' money.

87% said the risk of having to reinstate an employee terminated for gross misconduct or serious safety breaches was a concern.

How do we improve unfair dismissal and general protections laws?

For a start...

1. Ensure unfair dismissal claims are assessed on whether there was a valid reason for termination and exclude genuine redundancy claims.
2. Reduce the ability to claim unfair dismissal for breaches of workplace health and safety, physical violence, harassment or gross misconduct.
3. Introduce higher fees for unfair dismissal applications and hearings, and place a high income threshold for both to make claims, unfair dismissal and general protection claims.
4. Reduce the 6 year timeframe to make a general protection claim and introduce caps for compensation and a 'genuine reasons' defence.

How will Australia benefit if we address the problem?

Reforming unfair dismissal and general protections laws will provide employers and employees with simpler, clearer and more reliable rules for unfair dismissal and general protections claims.

This will see fewer claims made without merit and reduce unnecessary costs and productivity impacts on businesses.

Reforming unfair dismissal and general protections laws is one key area that KPMG research found could collectively help

create **36,000 jobs** and add **\$30.9 billion** to Australia's GDP.