School of Economics, Finance and Marketing / College of Business

The AMMA Workplace Relations Research Project – A Survey Based Analysis

Fourth Report

A research report prepared by

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About this report

The analysis in this report is based on a comprehensive survey of the IR/HR managers of businesses operating in Australia's resource industry on the impacts of the Fair Work Act 2009. The survey upon which this report is based was conducted in October 2011 by the Australian Mines and Metals Association (AMMA), the peak representative organisation for the resource industry dealing with IR issues in Australia.

The survey that is the subject of this report is the fourth in the series looking into the IR environment in the resource industry. These surveys have been conducted as part of the AMMA Workplace Relations Research Project, an ongoing study of the impacts of the Fair Work Act on resource industry employers. The aim of conducting these surveys is to monitor the trends in the conduct of IR in the industry with the aim of firstly informing and secondly showing how improvements can be achieved. With the assumption that governments, workers and employers all aim at achieving higher living standards that only a more productive workplace can create, the desire has been to provide timely information that will reveal industry trends and provide options to enact improvements in Australia's IR system.

It is a survey that has been constructed so that the results speak for themselves. It is constructed as a set of survey questions asked in a neutral manner to determine the circumstances on the ground at the present time. The quantitative survey results have been supplemented by qualitative comments by those who responded to the survey questionnaire.

AMMA distributed the survey questionnaire among its members, receiving completed surveys from 121 member companies employing more than 100,000 people in total. Seventy-four of the respondent companies employed 200 or more people, while 40 employed between 20 and 199 people and five employed less than 20 people. Workforce numbers of individual respondents ranged from one to 6,000 workers.

The respondents to the survey are resource companies operating in every part of the industry and across the whole of Australia. It is a representative sample of the industry. The sectoral break-up of respondents is as follows:

- Oil and gas – 27.6%;
- General mining – 14%;
- Gold mining – 14%;
- Metalliferous mining – 10.7%;
- Maritime (offshore or onshore) – 6.6%;
- Construction (offshore or onshore) – 5.8%;
- Iron ore mining – 4.1%;
- Mineral processing – 4.1%;
- Mining services – 4.1%;
- Hydrocarbons – 2.5%;
- Transport – 2.5%;
- Coal mining – 1.7%;

- Catering – 0.8%; and
- Other – 8.3%.

In order that comparisons can be made between relatively complex data sets at different periods of time, an index has been used on some of the tables included in this report. The index weights each of the responses to particular questions in order to provide an index measure out of 100.0. If 100 per cent of respondents are clustered in the lowest category, the index measure would be zero. If 100 per cent are clustered in the highest category, the index measure would be 100.0. Movements in the index provide a measure of the central point of the data that balances those which are higher against those which are lower.

The conclusions reached in this report are based entirely on the stated experiences of those who are closely involved in IR practices in the resource industry.

Each survey question has been designed in an open way to allow every possible perspective to be shown. The use of the survey questionnaire technique was chosen to ensure that the analysis was recognised as being as objectively determined as possible.

Executive summary

There are few areas more important to the future prosperity of Australia than workplace relations. It is not just an ability to limit the frequency and depth of industrial disputes that is of such importance, which is often seen as the core issue of such policies, but there is also a crucial need to raise the productivity of workplaces if rising living standards are to be achieved. Without higher labour productivity, living standards cannot be raised. It is as simple as that. Making sure the system of workplace relations encourages such growth in productivity must be a central aim of government.

Shortly to be conducted is the two-year review of the Fair Work Act, which was scheduled when the legislation was first passed. And it is very good that it was, because the evidence provided by this research project shows that the new Act, rather than promoting higher productivity and an improved industrial relations (IR) environment, has in fact done the reverse. Australia's productivity performance has deteriorated, while industrial relations is less satisfactory for employers today than when the Act was first introduced.

Four surveys six months apart have been conducted of AMMA members, the information from which the Federal Government can use to assess how well the current legislation is playing its role in encouraging productivity growth in an environment that is fair for both businesses and employees.

Overall satisfaction with the workplace relations environment

The results of the fourth and latest survey conducted in October 2011, which are the subject of this report, reveal that the overall workplace relations (WR) environment experienced by businesses in the resource industry has stabilised at a lower level of satisfaction than the level measured when the first survey was conducted in April 2010. Although the first result was obtained after the Fair Work Act had already been introduced (which was in July 2009 for most of the Act and January 2010 for the remainder), it was early enough so that the residual level of satisfaction from the previous Work Choices system was still evident.

The WR environment satisfaction index, which commenced at a high level of 75.9 out of 100 for the first survey in April 2010 fell to 65.1 for the second survey in October 2010, and fell again in April 2011 to 61.7. The latest survey for October 2011 has shown a slight reversal, with the index rising to 64.5, but still more than ten points below the initial reading in April 2010[1].

Labour productivity

The need to raise labour productivity must be at the core of any IR system. The workplace is where the goods and services that comprise our standard of living are produced. There are many other aspects of a working life but the very reason for having a workplace at all is production.

[1] See the final section of this report dealing with the Methodology of this survey for an explanation of this index measure. Note, however, that the highest possible index level is 100.0 and the lowest is 0.0. The higher the index level, the greater has been the general respondent agreement with the issue raised by the relevant question.

Moreover, we live in a highly competitive world. Australian goods and services must compete with the goods and services produced in other countries. Maintaining an ability to compete keeps our living standards at the high level we have achieved over many years of previous productivity growth. And it is not just production but the existence of well-paying jobs that are also created and preserved by our ability to compete.

This survey therefore looks closely at perceived movements in productivity.

The latest survey shows that, after falling in the previous two surveys, there has been a partial reversal of the falling index dealing with employer satisfaction with the Fair Work Act's impact on labour productivity. The index, having fallen a full ten points from its initial level of 66.7 in April 2010 to 56.7 in April 2011, rose to 59.5 in October 2011.

It should be noted, however, that even the original benchmark level of 66.7 out of 100 was too low. It has been an issue of some importance that Australia's productivity growth has become too minimal to raise living standards across the board. The resource industry thus shares a national problem in having low rates of productivity growth and, as the data outlined in this report show, part of the reason for this has been Australia's IR framework.

Areas covered by the survey

The latest survey was divided into a number of sections:

- the overall industrial relations (IR) environment;
- perceived levels of labour productivity;
- direct engagement with the workforce;
- workplace flexibility;
- enterprise bargaining and agreement making;
- industrial action;
- wage movements;
- redundancies and dismissals;
- adverse action;
- right of entry;
- superannuation;
- staff turnover;
- FIFO/DIDO working arrangements; and
- skilled migration.

What is evident from the data is that there are concerns with the operation of the IR system in virtually every area covered by this survey. In each of the areas covered, there are major concerns expressed in both the survey data and the comments made by respondents.

At a time when greater flexibility and higher productivity are needed, we find there is less of both in the resource industry than required. It is becoming evident that employers are being frustrated in their efforts to make positive changes at the workplace that would lead to increased productivity, and that union activity is becoming more difficult to deal with.

The Fair Work Act was seen in a relatively positive light when it was first introduced. There is now a large degree of disillusionment setting in as greater familiarity with the Act creates many additional problems for management and, increasingly, for those employees who wish to do a good day's work in the industry without being brought into the fray of militant union action.

It should be noted that the number of AMMA member companies responding to this latest survey has increased from 74 in the previous survey six months ago to 121, indicating a growing level of interest in issues surrounding the operation of the Fair Work Act.

Unless otherwise stated, the questions in this survey relate to the six-month survey period between 1 April and 30 September 2011.

Key findings

The main findings from the latest survey begin with the recognition that the overall IR environment has deteriorated under the Fair Work Act while employers are perceiving that growth in labour productivity has become more difficult to achieve.

One of the most interesting findings in the report is that 65.1 per cent of respondents support a return to Australian Workplace Agreements (AWAs) underpinned by a robust no-disadvantage test.

Looking at the survey in more detail, a number of aspects stand out:

- **Just 28.2%** of respondents had even attempted to negotiate productivity improvements in exchange for wage increases and, among those that had, only 11.5% had been successful;
- **There has been** a continuing fall in AMMA members' levels of direct engagement with their workforces;
- **87%** of respondents believe the majority of a workforce should have to support protected industrial action before it is taken (at present, a minority of a workforce who are union members can take protected action against the wishes of the majority);
- **11.6%** of respondents have experienced significantly increased numbers of right of entry requests in the previous six months;
- **Bargaining** under the Fair Work Act is more difficult than under the previous system;
- **71.4%** of respondents cited increased time having to be devoted to enterprise bargaining under the Fair Work Act;
- **62.9%** of respondents said it took longer to finalise agreements under the Fair Work Act;
- **62.9%** of respondents said the number of bargaining representatives involved in negotiations had increased under the Fair Work Act;
- **13.7%** of respondents had experienced industrial action of some kind since the Fair Work Act took effect on 1 July 2009;
- **27.5%** of respondents had experienced flow-on effects from wage increases in the offshore oil and gas industry;
- **Just 15%** of respondents that had tried to negotiate a flexibility clause or individual flexibility arrangement (IFA) had succeeded in achieving any added flexibility as a result;
- **44.2%** of respondents said IFAs were of 'no value';

- **73.2%** of respondents supported employers being able to make IFAs a condition of employment;
- **33.8%** of respondents said it was 'much more difficult than usual' recruiting skilled labour at the current time (due in large part to labour supply and skills shortage issues);
- **61.2%** of respondents said their workforce was larger now than it was 12 months ago; and
- **67.2%** of respondents said they currently recruited skilled labour from overseas.

The overall workplace relations environment

This first set of survey questions is designed to get a general sense of how WR conditions within the resource industry have changed since the previous survey was conducted six months earlier.

How would you describe your current workplace relations environment?

Survey date	Extremely poor (%)	Poor (%)	Less than acceptable (%)	Acceptable (%)	Better than acceptable (%)	Good (%)	Excellent (%)	Index score out of 100
April 2010	0.0	0.0	2.9	4.4	38.2	42.6	11.8	**75.9**
Oct 2010	1.4	1.4	4.2	29.2	31.9	26.4	5.6	**65.1**
April 2011	0.0	4.2	9.9	29.6	28.2	23.9	4.2	**61.7**
Oct 2011	1.2	1.2	10.5	25.6	25.6	30.2	5.8	**64.5**

As the data above show, since the first survey was undertaken in April 2010, there has been an ongoing deterioration in the WR environment that was very partially reversed during the latest survey period. The result for April 2010, although recorded after the introduction of the Fair Work Act, was almost certainly a reflection of the workplace relations environment that existed under the Work Choices legislation. It remains the benchmark standard of what has recently been attained.

The deterioration in the WR environment is shown by the fall in the index from 75.9 when the first survey was conducted, to 65.1 in the second survey, to 61.7 in the third. In the latest (fourth) survey, the index has risen slightly to 64.5, which is above the previous year's estimate but still below the estimate from the year before that. Of particular significance is that the index level remains more than ten points below the level recorded in April 2010.

In terms of breaking down the index figure, the data in the table above show that at the time the first survey was conducted in April 2010, 92.6 per cent of respondents found their WR environment was 'better than acceptable', 'good' or even 'excellent'. That is, the managers of virtually every resource industry workplace surveyed were content with the industrial environment in which their businesses were asked to perform as of April 2010.

In the latest survey period, the contrast is quite stark. Less than two years after the first survey was undertaken, only 61.6 per cent of respondents believe the IR environment is within the top three categories. Evidently, the IR environment for many resource industry employers has become more difficult.

The IR environment is determined in part by the efforts made onsite by management, labour and unions where they are involved. It is also deeply affected by the IR architecture as designed and the institutional parameters set by the surrounding legislation and regulations.

The downward shift in sentiment shown in the index figure is mirrored in the comments made by respondents to the latest survey in describing their current IR environment. To understand this shift

in sentiment, it is important to appreciate the answer to the following question, which asked respondents to describe in their words their current IR environment.

How would you describe the current industrial relations environment at your enterprise(s)?

Not all is doom and gloom here, of course, with some respondents reporting a good and stable industrial relations environment at the present time. However, things appear to rely very much on the level of union involvement at the workplace as well as whether enterprise bargaining is taking or has taken place. But the comments below together with the index score provide an insight into the experiences of AMMA members at the current time under the current IR framework:

On the negative side, respondents used these words to describe their current IR environment:

> *Very poor due to the union agenda to disrupt work, nominate labour, initiate restrictive work practices and slow the project down to increase overall earnings for members.*
>
> *Challenging.*
>
> *Poor.*
>
> *Things are generally tense. Managers are generally reticent to make changes where required and the employees are constantly having their expectations raised by unreasonable union claims.*
>
> *The MUA are trying to organise staff - but they fall outside their remit. When meetings have taken place, the MUA basically lies and there appears to be no recourse.*
>
> *Difficult.*
>
> *Untenable.*
>
> *Employees are aware of changes to the IR legislation and are quite prepared to threaten union involvement in resolving the most minor of disputes.*

Some of the more positive views expressed by respondents when asked to describe their current IR environment included:

> *We have no issues, although our EBA negotiations will commence in January 2012.*
>
> *In construction: positive; in maritime: fragile.*
>
> *Onshore - no problems, everyone happy. Offshore - three unions operating on one vessel equals quite a 'hot' environment.*
>
> *More relaxed given enterprise agreement negotiations have now been completed.*

The enterprise agreement has just been approved so at present the environment is one of uncertainty. People are waiting to see the results.

Relatively stable. Bargaining processes upcoming.

The current industrial relations environment is union friendly. At the moment there is no overt conflict. For the most part the 10 negotiations have run smoothly although things have been more difficult with the two most active unionised workforces.

Our resource projects are 'okay' but we are monitoring things carefully as we expect unions to continue seeking further involvement in day to day management decisions.

Ok for now.

We believe it is ok but we are about to commence the process of negotiating a new collective agreement over the next couple of months so we will get a better understanding soon.

It is not militant but union delegates are active as issues arise. There is one issue being discussed which has been a "bone of contention" for some time that is not yet resolved and is industrially sensitive.

It varies from site to site. Generally, employees want to have direct contact with leadership teams. Our engagement survey results have ranked all sites within the top quartile.

Satisfactory, but employees seem to be empowered by the current industrial environment.

Things are stable at this stage. New projects are to be mobilised in the next six months which may alter this.

What have been your main industrial relations concerns over the past six months?

Respondents were asked to identify their main IR concerns over the past six months, with issues cited including:

- High turnover rates due to high wages being offered in other operations (described by one respondent as "the grass is greener on the other side" effect);
- Dealing with unfair dismissal claims;
- Union interference with management decisions;
- Increased union attempts to gain entry into worksites;
- Negotiating a new collective agreement with union involvement, including greenfield negotiations;
- Employee engagement;

- Inter-union relationships on-site;
- Union demarcation disputes;
- Working hours, wages and conditions issues;
- Labour shortages;
- Rostering issues;
- Productivity issues;
- Continuity of work issues;
- Ensuring a safe workplace;
- Disciplinary processes and adverse action claims;
- Implementing change;
- Transfer of business issues due to a change in ownership;
- The number of 'anti-employer' decisions coming out of Fair Work Australia;
- Employers being required to encourage union membership;
- Contractor clauses being sought in enterprise agreements;
- Market fluctuations affecting morale;
- Threatened strike action; and
- The looming expiry of five-year AWAs.

Labour productivity

The issue of labour productivity is of major importance for the resource industry as it is for all sectors of the economy. Both for individual firms and the economy as a whole, it is essential that productivity remains as high as possible, particularly in an industry so important to the Australian economy. Improvements in productivity are also the key to non-inflationary growth.

The following are responses to questions seeking information about employers' perceptions of the impact the Fair Work Act is having on labour productivity.

Labour productivity for the purposes of this research is defined as the ratio between output at a particular site or organisation and the total input of labour required to achieve it. While other factors will obviously impact on productivity, this survey is only concerned with labour productivity. It is important to note that this survey does not report on scientific measures of productivity as this information is not available for many worksites, but rather seeks information on employers' perceptions of changes in labour productivity that are attributable to the IR framework.

What is your perception of the current level of labour productivity at your worksite(s)?

Survey date	Extremely low (%)	Quite low (%)	Low (%)	Acceptable (%)	High (%)	Quite high (%)	Extremely high (%)	Index score out of 100
April 2010	0.0	4.6	7.7	16.9	30.8	33.8	6.2	**66.7**
Oct 2010	0.0	0.0	8.8	38.2	30.9	20.6	1.5	**61.3**
April 2011	0.0	2.9	20.0	28.6	32.9	14.3	1.4	**56.7**
Oct 2011	1.2	3.5	11.6	31.4	31.4	15.1	5.8	**59.5**

The benchmark here is the first survey conducted just after the introduction of the Fair Work Act in April 2010. The survey data above show that the index for employers' perceptions of labour productivity have experienced a deterioration that became apparent with the second and third surveys, with the index falling a full ten points from the 66.7 recorded in the first survey to the 56.7 recorded 12 months later in the third survey in April 2011.

With the most recent data, there has been a partial reversal of this deterioration, with the index now sitting at 59.5, still well down on the initial survey results and well below the level needed to lift productivity to a significant extent. Nevertheless, the upwards movement in the index provides an indication that the perceived deterioration of this important measure may now have been contained.

Have you tried to negotiate productivity improvements in exchange for wage increases under Fair Work Act agreements?

The latest survey asked respondents if they had tried to negotiate productivity improvements in exchange for wage increases under Fair Work Act agreements.

	% of respondents
Yes	28.2
No	71.8

As the table above shows, 28.2 per cent of respondents have tried to negotiate productivity improvements in exchange for wage increases under the Fair Work Act. The remaining 71.8 per cent had not considered negotiating on behalf of higher productivity was a realistic option although higher productivity would be an objective for every firm in the industry.

Of the respondents that had tried to negotiate productivity improvements, below are the results showing how successful they were.

	% of respondents
Very successful	11.5
Somewhat successful	46.2
Not very successful	30.8
No success at all	11.5

Only 11.5 per cent of companies said they were 'very successful' in achieving productivity offsets in exchange for wage increases, with 46.2 per cent saying they were 'somewhat successful'. The remaining 42.3 per cent had no success or very limited success with putting productivity offsets onto the bargaining table and having them accepted.

Below are some of the comments from respondents in terms of their success or otherwise in achieving productivity gains in return for wage increases:

> *We have either been rolling over long-established enterprise agreements with a long union history or negotiating greenfields agreements - both make negotiating productivity improvements difficult.*
>
> *Any wage increases have been seen as either standard CPI or acceptable within the industry and so the perception is there should not need to be productivity gains to offset the increase.*
>
> *The integration of maritime and construction crew cannot be discussed at a union level but in practice in small groups it is possible.*

We are in the process of measuring productivity and once we are able to determine the criteria we will be better placed to increase productivity and measure it.

We have been able to negotiate 'hot seating' for priority equipment and an additional half an hour per shift for changeover times.

It has depended on the site location. There have been 10 collective agreements to negotiate this year. We have been successful in gaining flexibility for additional hours by writing rigidities out of our maintenance agreements. On one important maintenance agreement we have reached in-principle agreement to change the roster pattern plus removal of rigidities in the agreement. This was a substantial success compared to the last negotiations.

We are yet to see the outcome as it relates to changes in skill requirements/competencies, job design and the introduction of technology.

Efforts to improve classification structures and payout of annual leave have been rejected by the AMWU.

What have been the most important factors affecting levels of labour productivity at your worksite(s) over the past six months?

Of course, there are factors affecting labour productivity other than the ability to get it on the table during enterprise bargaining discussions. The below are comments from some of the survey respondents as to what, in their opinion, have been the most important factors affecting labour productivity at their worksites in the six-month survey period. The top two issues included union resistance to productivity improvements and labour shortage and turnover issues affecting productivity.

On the issue of union resistance to productivity offsets, respondents had this to say:

It is much more difficult to implement management decisions as a result of objections by union delegates who seek to impose their views on the business and operate as if their permission is required before managers can do almost anything.

Productivity has been affected by union involvement in decisions regarding everyday operations. There have also been client changes and site issues.

Union activity has disrupted work, required the use of nominated union labour and has led to union-initiated restrictive work practices.

Employees have a perception that they are entitled to high wage increases - much higher than the CPI or what other collective federal agreements are paying - without trading off productivity increases. There has been a perspective from some levels of management (not maintenance) that employees are entitled to pay increases and that they are already productive. From an industrial relations perspective, this is limiting.

On turnover/labour shortage issues affecting productivity, some of the responses were as follows:

Turnover, employment of inexperienced personnel, geographical spread of sites and inadequate trainer numbers to cope with demand are all impacting on productivity. Our pay rates are currently below industry standard.

Turnover of staff has affected labour productivity.

The ability to locate skilled labour and keep them has affected productivity.

Labour shortages have had an impact as have work practices determined by national and international industry standards.

There is a shortage of suitably qualified and experienced applicants.

Where our site is located, i.e. over a four-hour flight, people question continued employment with us thus contributing to labour turnover and impacting on productivity.

Direct engagement with the workforce

This series of questions seeks to identify the potential for the IR legislation to impact on employers' direct engagement with their employees, either to a positive or negative degree. "Direct engagement" is defined as employers' ability to engage with employees at the workplace without the involvement of third parties. As with many other facets of a WR system, direct engagement with an enterprise workforce is seen by employers as critical to maintaining high productivity levels.

A productive workplace is dependent on building and maintaining harmonious relationships between management and employees. To the extent that the Fair Work Act becomes an obstacle to that, the greater the difficulty will be in achieving the kind of IR environment that employers and employees need and can operate most effectively within.

How would you describe the current level of direct engagement with your workforce?

Survey date	Extremely low (%)	Quite low (%)	Low (%)	Acceptable (%)	High (%)	Quite high (%)	Extremely high (%)	Index score out of 100
April 2010	0.0	1.6	3.1	29.7	20.3	32.8	12.5	**69.5**
Oct 2010	0.0	1.5	4.5	34.3	19.4	32.8	7.5	**66.7**
April 2011	0.0	2.8	7.0	35.2	29.6	19.7	5.6	**62.2**
Oct 2011	1.2	1.2	8.5	32.9	29.3	26.8	0.0	**61.4**

As in the first three surveys, the majority of respondents to the fourth survey said the level of direct engagement they had with their workforce under the Fair Work Act was "acceptable" or better. Nevertheless, as the index shows, there has been a significant falling off in employers' degree of satisfaction with engagement levels over the two-year period during which the surveys have been conducted.

The index fell from 69.5 in April 2010 to 66.7 in October 2010 to 62.2 in April 2011 to 61.4 in October 2011. This reflects an unambiguous shift to the lower end of the scale.

The evidence in this series of surveys of a major deterioration in direct engagement levels is an extremely worrying trend.

What have been the most important factors affecting levels of direct engagement with your employees over the past six months?

On the positive side, respondents had this to say about how they continued to achieve good direct engagement levels with their workforce:

> *Onsite, we have a proactive employee business communication forum designed to promote an effective two-way dialogue on business and people issues.*

Our remote location and small workforce discourage union recruitment. We put in a significant effort to engage directly with our workforce at all levels of management.

We have strong leadership training.

We provide career development pathways, effective performance reviews, skills development and leadership development.

Apart from union issues executed by a troublesome minority, most of the workforce are highly engaged because of the nature of the work, good conditions and high pay rates.

We devote the time to meet with employees to share the state of the business.

We have established employee and management engagement over a number of years and continue to ensure this is effective today.

We give employees the ability to put forward ideas for improvements and reward them for doing so.

On the negative side, below are some of the comments suggesting that direct engagement levels were an ongoing challenge, along with the reasons for that:

Union involvement in all levels of decision making impedes genuine employee/employer relationships.

It depends on our ability to push back on union involvement when they have no lawful basis to be involved in day to day management decisions.

We have a geographically remote workforce coupled with an industry trend towards employee engagement through unions as the agent.

There is sometimes artificial conflict.

Our employees usually believe union reps over management reps.

The majority of our 'employees' are supplied by a third party so they are not our direct employees which makes direct engagement difficult.

We have excessive staff turnover.

Direct engagement is difficult with high turnover and very much depends on the quality of leadership.

Other factors affecting direct engagement levels were cited as including:

The remoteness of the location.

Rosters.

The wide geographical spread of project sites, rapid increase in projects and joint ventures, and high turnover of staff.

Union involvement at the workplace

One of the clear consequences of the introduction of the Fair Work Act has been to encourage the growth and influence of unions. The issue of who benefits from this change beyond the unions themselves is a different matter entirely. Conflict between unions and employers and even between rival unions can diminish productivity and raise costs.

This survey seeks information on the difficulties involved in dealing with increasingly unionised workplaces where unions have enhanced rights and privileges under the Fair Work Act.

Looking back over the past six months, how would you describe the level of difficulty in managing your workforce due to union activity?

	% of respondents
Extremely difficult	7.4
Somewhat difficult	22.2
Not difficult at all	70.4

It is seldom easy for management to work with union officials who often see their role as an oppositional force to management and whose self-determined role is to second guess management decisions. The above results are therefore relatively encouraging in that three quarters of respondents indicate that unions have not made managing the workforce especially difficult in the past six months.

This is in part no doubt due to the professionalism of the IR officers at these firms and due to many resource companies still having few union members in their workforces.

It is still the case that some AMMA members have no union involvement at their workplaces. Those respondents are generally the ones who have the least IR issues and fewest problems under the current regime.

Comments by respondents in relation to the level of union activity at their worksites included, on the positive side:

Our operations have been remote enough for unions not to regularly visit and we have had no agreement negotiations in that time.

There is nothing new – just the standard resistance to implementation of change initiatives.

Arguably, unions have helped to facilitate change where it may otherwise have been more difficult in their absence. Unions have not obstructed any major company projects.

We have had no union involvement.

We haven't been overly targeted by them. We are not a headline employer, so it wouldn't create the right level of propaganda.

Overall, unions have not caused too many problems on our resource projects, however, when they are involved they have caused real difficulties engaging directly with our employees.

We have a low union membership base and have had low union activity.

With our open channels of communication, we are happy to discuss matters with the union. However, given the site has an existing representation order, union activity is somewhat limited.

We listened and explained the facts to our personnel and it seems to have worked. They are not interested in joining any union.

And on the negative side, in terms of the detrimental impacts that union involvement has had on their worksites, respondents had this to say:

We have had to deal with the discontent created by lies.

On the project this survey covers, there have been stoppages, etc, all directed by the union. Other contractors are feeling the same issues on the project.

We have had to resort to Fair Work Australia and Federal Court injunctions on numerous occasions.

It has been time consuming to respond to the many challenges by the union; also time consuming to meet with employees to explain fact from fiction.

Unions have displayed a confrontational attitude and are inflexible. They put money over safety, are non-productive and bring fraudulent injury claims.

Maritime employees always deal with their union first then employers. This doesn't follow the disputes process in the agreement.

The context is the negotiation of collective agreements. The AMWU and CEPU have been easy. The AWU organiser has organised through misrepresentation and by trying to drive a

wedge between management and employees. We have worked successfully to counter this. It is all about the managers' credibility.

An agreement was delayed by seven months due to union involvement.

Workplace flexibility

The ability to make workplace changes in order to contain costs and increase production is one of the most critical factors in raising workplace productivity. An IR system that is flexible enough to be adaptable to an industry like the resource industry where unique arrangements are the norm is crucial to the success of any project.

The Fair Work Act changed the rules about the sorts of flexible working arrangements that could be agreed between employers and employees, with flexibility clauses now mandatory in all enterprise agreements and modern awards.

The stated aim of these flexibility clauses was to enable individual flexibility arrangements (IFAs) to be negotiated between an employer and an individual employee in order to vary specific agreement and award terms to achieve added flexibility.

As has become clear from the survey results to date, employers have encountered difficulties in achieving extra workplace flexibility since the Fair Work Act was introduced.

How satisfied are you with your current level of workplace flexibility?

Survey date	Totally dissatisfied %	Moderately dissatisfied %	Somewhat dissatisfied %	Neither satisfied nor dissatisfied %	Somewhat satisfied %	Moderately satisfied %	Totally satisfied %	Index score out of 100
April 2010	8.3	6.7	20.0	51.7	6.7	5.0	1.7	**44.0**
Oct 2010	1.5	12.1	18.2	40.9	16.7	7.6	3.0	**49.0**
April 2011	2.8	9.9	11.3	22.5	29.6	15.5	8.5	**57.8**
Oct 2011	3.6	4.8	7.1	35.7	23.8	22.6	2.4	**58.1**

Although working from a low base and remaining at a low level, the data show an improving level of employer satisfaction with the degree of workplace flexibility experienced in the latest six-month survey period compared with the previous three surveys.

There were fewer respondents to this survey who were dissatisfied with arrangements in relation to workplace flexibility and more expressing satisfaction with the available arrangements. This is particularly the case when the results of the latest survey undertaken in October 2011 when the index score was 58.1 out of 100 are compared with the first survey undertaken in April 2010 when the index score was 44.0.

The overall satisfaction index in this area has risen from 44.0 to 58.1 over the two-year survey period to date. However, it must still be emphasised that a satisfaction rating of 58.1 out of 100.0 in an area as crucial as workplace flexibility remains undesirably low.

What kinds of flexible working arrangements do you currently offer staff? Tick all that apply.

	% of respondents
Ability to return part time after parental leave	77.8
Ability to return to a different role after parental leave	55.6
Ability to work from home	50.0
Extra year of parental leave	38.9
Job sharing arrangements	31.5
Other	16.7

The table above shows the various forms of flexible working arrangements that are offered by AMMA members. Virtually every respondent to the survey offered some form of workplace flexibility to their staff, with the ability for employees to return to work part-time following paid parental leave the most common flexible work arrangement cited.

Individual Flexibility Arrangements (IFAs)

Among other things, this survey seeks to track the experience of employers in the resource industry with IFAs and flexibility clauses under the current workplace relations system as it evolves.

During the past six months, has your organisation tried to negotiate flexibility clauses and/or individual flexibility arrangements with a union or employee?

	% of respondents
Yes	20.6
No	79.4

If Yes, was the aim of achieving extra workplace flexibility achieved?

	% of respondents
Yes	15.0
No	50.0
Too soon to tell	35.0

The 15.0 per cent success rate here indicates that the difficulties for employers in negotiating flexibility clauses and IFAs continue. There is some hopefulness in that 35.0 per cent of relevant respondents said it was too soon to tell whether extra flexibility had been achieved by such methods. Giving further details of whether genuine flexibility had been achieved, respondents offered the following observations:

> *On an individual basis yes, flexibility has been able to be achieved, but not at an organisational level.*
>
> *Previous flexibility requests assisted the few employees that applied without impacting on the organisation.*
>
> *With regard to flexibility clauses, union resistance is too high, plus the company is not convinced it is worth the fight (i.e. any flexibilities achieved would be too hard to exercise anyway).*
>
> *We just included the flexibility clause in the agreement as part of the obligations of the Fair Work Act. However, all unions sought to modify the model flexibility clause. And frankly, they are not really worth the paper they are written on as they provide no certainty.*
>
> *The AMWU strongly opposes any flexibility in the workplace.*

In your experience, what is the value of IFAs in achieving genuine workplace flexibility?

	% of respondents
Of significant value	0.0
Of some value	34.9
Of very little value	20.9
Of no value	44.2

As the table above shows, no respondent to the latest survey has found significant value in IFAs under the Fair Work Act, although 34.9 per cent did indicate IFAs were of 'some value'. More importantly, 20.9 per cent stated that IFAs were of 'very little value', and 44.2 per cent categorically stated they were of no value at all.

Comments in this regard included:

> *Historically, IFAs have never been effective.*
>
> *In their current form, there is no confidence of their longevity so they are not a good tool for underpinning sustainable change.*

To onshore staff, IFAs would hold value. However, the majority of our employees are offshore where a system of flexibility can mean a huge drop in safety (not to mention productivity).

They are too easy to withdraw and too limited in scope.

We may use them in the future. Our current employee collective agreement was made prior to the Fair Work Act and has a considerable amount of flexibility.

They are not flexible.

Anything that can be overturned by one party in such a short time is pointless; you need certainty.

They are good for staff but have to meet the business needs to make them mutually effective.

While they are required under the Fair Work Act, the issues which can be covered are almost always reduced to meaningless issues such as the employees' desire to alternate leave arrangements, etc. There is no capacity to vary the agreement re an individual's role and responsibilities in any real sense.

They are of little value in their current form. They would need to be substantially modified to provide significant benefit to employers (and probably employees as well).

Their main value is to the employee. There are significant road blocks to negotiating and introducing IFAs in heavily unionised workforces. Unions will only let clauses cover matters related to parental leave or taking annual leave in single days (or similar).

This does not work when involving unions. They have conflicting views.

They do not provide or support genuine flexibility.

The ability for the employee to terminate them with 28 days' notice and the IFA being limited to matters contained in an award reduces their value.

Unions don't support these - so either they are of no value or the initial intent is diluted.

Unions only give them lip service.

The 28-day severance capacity by the employee provides no certainty for work and workforce planning; it would require the ability for IFAs to have fixed terms of two to four years to be of value.

Rather than allowing either party to terminate an IFA with four weeks' notice, as is currently the case, would you support making IFAs binding on the parties for up to four years?

	% of respondents
Yes	46.0
No	54.0

As the table above shows, nearly half of all survey respondents (46.0 per cent) supported the concept of IFAs being binding on the parties for up to four years if agreed.

Many of the comments relating to this proposition were coloured by the fact that IFAs in their current form are of negligible value to employers. Therefore, the idea of extending them for up to four years was not seen by everyone as being in employers' best interests.

At any rate, comments on the proposed four-year maximum end date for IFAs were both positive and negative. Comments on the positive side included:

> *This would avoid disruption in the workplace with the potential for continual changes. Better deals could be offered beyond the potential of a four-week life.*
>
> *That would provide certainty to both parties.*
>
> *This would give some certainty.*
>
> *It is too destabilising otherwise.*
>
> *We need predictability.*
>
> *In principle, it would be good but there are potential down sides. Employers need the flexibility to change to meet changing environments and that should be extended to employees. So both parties should be able to establish, review, change, etc, matters that meet their collective needs without fear that Fair Work Australia or unions are going to get involved.*

Comments on the negative side of the four-year proposition included:

> *The value of the IFAs for employers is very questionable – we would not want to lock it in for four years as there is currently little value for the employer. Unions negotiate hard to restrict the matters that can be subject to an IFA so, overall, their value is going to be doubtful if they can only cover parental leave or taking annual leave in single days (or similar).*
>
> *Too much of a lockdown would prevent employers looking down this avenue.*

The reasons behind the request for genuine flexibility arrangements may change.

A six-month duration would be OK. Four years = too much resistance.

Perhaps one to two years.

Four years is a very long time and just as employers desire flexibility, so too do employees from time to time. I believe that 12 months' minimum with three months' notice would be more realistic.

They need to be flexible enough to be changed at fairly short notice as people's circumstances change. For example, someone has an IFA that has flexible rostering due to caring for a child. As these circumstances change, there needs to be the ability to terminate an IFA to accommodate this.

Agreements need to recognise change. If set for four years, they could work against employees and companies alike. They need the flexibility to change.

Would you support employers being able to make IFAs a condition of employment (contrary to how they currently operate)?

	% of respondents
Yes	73.2
No	26.8

As the table above shows, there is a great deal of support for employers in the resource industry being able to make IFAs a condition of employment, with 73.2 per cent of respondents supporting such a provision. Comments as to whether they supported this concept included:

Yes. The current method requires a "double handling" of the employment relationship which is time consuming and costly in terms of resources to be applied to it.

Provided that both available options are required to be provided to a prospective employee at the time of offer, an individual should be able to make an informed decision. Coercion to sign an IFA should be prohibited.

Provided they were negotiated with employees and were suitable/conducive to supporting a more productive and safe work environment.

Most definitely. Terms could be agreed, budgeted and planned that would allow for increased employment under those terms.

Yes, but I can see problems with unions in this regard. They would probably mount a campaign against this. You would need to ensure that unions do not get automatic notification of any IFAs entered into in the workplace.

IFAs as they currently operate don't add value so we wouldn't move to make them a condition of employment.

You need to make them an option, not a requirement.

Yes, but we would rather go back to a reasonable individual contract regime.

If you have common law contracts in place at your enterprise(s), how would you rate them in terms of meeting your organisation's needs for flexibility and efficiency?

	% of respondents
Excellent	20.0
Good	66.7
Neither good not bad	13.3
Bad	0.0
Very bad	0.0

As the table above shows, common law contracts, where they are able to be used, are seen as a good means of organising the work environment. For 86.7 per cent of respondents, there were clear advantages to common law contracts, with 20.0 per cent of those indicating that common law contracts were 'excellent' in creating flexibility and efficiency, and 66.7 per cent saying they were 'good' at doing this.

Respondents' comments in relation to the benefits or otherwise of common law contracts included:

Common law contracts are better than EBAs / modern awards.

They meet our needs, especially for professional roles.

At this workplace, there are many people who are engaged under common law contracts and this has been the case for many years. The problem now with the award structure and the right of entry provisions is unions' increased ability to seek to get involved.

They allow for pay for performance and remuneration tactics to be applied to be competitive / strategic.

We have not had any issues arising from common law contracts.

Our common law contracts cover professional, managerial and administrative personnel only.

Would you support a return to Australian Workplace Agreements underpinned by a no-disadvantage test, i.e. pre-Work Choices-style AWAs?

	% of respondents
Yes	65.1
No	4.8
Don't know	30.2

In many ways, this is a key question of this survey. The respondents have known both the previous and the present IR systems and have had to manage their enterprises under both sets of arrangements. The data in the table above show that 65.1 per cent, a large majority of respondents, would prefer Australian Workplace Agreements underpinned by a no-disadvantage test (which were the pre-Work Choices style AWAs) to what is currently available under the Fair Work Act. A further 30.2 per cent were uncertain, while only 4.8 per cent did not support a return to AWAs.

Some of the comments on respondents' support for the reintroduction of AWAs were:

At a previous mining industry company, we used AWAs for all operator/trades roles with great success. The workforce was not keen to change from that to the Fair Work Act.

So long as agreed minimum standards are developed for use across the board. With good relationships between employees and employers, there is no need for collective bargaining.

The sooner the better... management should always maintain the responsibility to manage their employees and not give it away to any third party.

Better regulation of 'rogue' employers might make this option more palatable. It would also make unions more accountable as they currently have a protected position in bargaining.

Categorically yes. We need the direct engagement to improve productivity and AWAs have been a proven approach to achieve this objective.

I don't think employees should be forced to accept a majority vote on a collective agreement where they could otherwise arrange individual arrangements.

Work could be available that under the current system would not be under the Fair Work Act; the added flexibility would definitely provide more work.

Fundamentally, I believe that individual contracts should be operated under the common law and not via statutory agreements. However, given a choice between a statutory system that denies individual agreements as set out in the objects of the Fair Work Act and a system that provides for them with a proper safety net, I would support the latter.

Businesses in WA need their flexibility. As you know, whole industries have been built on AWAs in WA since 1993.

We did not use AWAs but the principle that the employer and employee negotiate and agree arrangements without the need for third parties (unions, Fair Work Australia, etc) should be in place. It seems the system is being designed with the lowest common denominator in mind under the current system - ensuring that the employer who does not treat their employees well is controlled whereas the majority of employers are doing the right thing by their employees.

AWAs can offer real flexibility and productivity gains for employers.

Enterprise bargaining and agreement making

The questions in this section relate to the entire period of operation of the Fair Work Act rather than the six-month survey period leading up to 1 October 2011. This is based on the reality that employers will only negotiate new industrial agreements every few years and will therefore only have had experience with bargaining once if at all during the two-year life of this research project so far. A comparison between individual six-month survey periods on a range of bargaining indicators would therefore be of less relevance than looking at the entire period of operation of the Fair Work Act in assessing employers' experiences with bargaining and agreement making under the current system.

At the core of the current IR system is good faith bargaining. During bargaining rounds, each party must come to the table recognising the importance of supporting the ongoing viability and expansion of the business and the need to increase wages and other forms of compensation only as far as profitability and long-term economic considerations allow.

The issue of importance, therefore, is whether employees and their bargaining representatives are being realistic in their claims and are willing to recognise the economic issues faced by the businesses they deal with in enterprise negotiations. A sympathetic understanding by each party of the concerns of the other makes it possible to reach a productive and enduring agreement that meets the needs of both sides.

This next set of questions seeks to ascertain to what extent this sort of give and take is happening in the experience of AMMA members that have engaged in good faith bargaining under the Fair Work Act.

Have you engaged in good faith bargaining under the Fair Work Act since it was introduced on 1 July 2009?

	% of respondents
Yes	48.1
No	51.9

As the above table shows, only 48.1 per cent of the 121 AMMA member companies that responded to this survey have engaged in good faith bargaining under the Fair Work Act. The results in this section are therefore confined to those firms that have engaged in such bargaining.

How have you found the process of enterprise bargaining under the Fair Work Act?

Survey date	Extremely easy %	Moderately easy %	Slightly easy %	Neither easy nor difficult %	Slightly difficult %	Moderately difficult %	Extremely difficult %	Index score out of 100
April 2011	2.9	5.9	5.9	38.2	29.4	11.8	5.9	**57.4**
Oct 2011	2.9	5.7	8.6	31.4	28.6	20.0	2.9	**58.2**

The above question asks how easy or difficult good faith bargaining has been in the experience of resource industry employers that have engaged in it since 1 July 2009. The question uses a seven-stage scale as a means to pick up the nuances of the experience of those in the industry.

As the data in the table above show, in the latest survey a total of just 19.2 per cent of respondents indicated that enterprise bargaining under the Fair Work Act had been in any way 'easy'. The largest single response group was the 31.4 per cent who described the enterprise bargaining process under the Fair Work Act as 'neither easy nor difficult'. Another 28.6 per cent found the bargaining process under the Fair Work Act 'slightly difficult', while 22.9 per cent found the process either 'moderately difficult' or 'extremely difficult'.

Being above 50 on this scale means the experience of respondents with the bargaining process is towards the difficult end of the scale. The index score here is 58.2, which has risen from its previous level of 57.4 recorded in April 2011. Thus, rather than becoming less difficult, the data indicate that as difficult as it has previously been, enterprise bargaining under the Fair Work Act has become more difficult still.

Which of the following types of agreements have you tried to negotiate under the Fair Work Act since 1 July 2009? Tick all that apply.

	% of respondents
Single enterprise non-greenfield agreements	78.8
Single enterprise greenfield agreements	27.3

The data above show that 78.8 per cent of respondents have tried to negotiate single enterprise non-greenfield agreements under the Fair Work Act since 1 July 2009, while 27.3 per cent have attempted to negotiate single enterprise greenfield agreements. Note that because some companies have tried to negotiate both types of agreements under the Fair Work Act, the percentage figures sum to more than 100.

What have been the major issues for your organisation associated with enterprise bargaining under the Fair Work Act?

Achieving productive outcomes is the aim of enterprise negotiations so that both parties can work in harmony with each other over the longer term. The question above seeks to determine whether the introduction of the Fair Work Act has made such negotiations easier or more difficult.

Here, the major issues for survey respondents associated with enterprise bargaining since the Fair Work Act began have been:

- The time and resources involved in bargaining for a new agreement;
- The formality of the process for appointing bargaining representatives;
- The onerous record keeping requirements throughout the process;
- Competing unions pushing for their own EBAs;
- The inclusion of union-centric clauses in agreements;
- Unions' lack of availability to attend meetings;
- Conflicting advice from the authorities about awards and agreements;
- Increased labour costs and a lack of competitiveness;
- The perception that industrial action is an accepted part of negotiations. One respondent described this as the 'sword of Damocles' hanging over employers' heads;
- Unrealistic wage expectations due to 'boom' times;
- Union involvement in the bargaining process;
- Explaining the bargaining representative requirements to staff and making sure they make an election;
- Trying to negotiate productivity and flexibility arrangements;
- Union demarcation disputes delaying negotiations;
- Contractor clauses being held to be lawful;
- Different unions involved in bargaining not being on the same page, making an end result difficult to obtain;
- Burdensome administrative and compliance aspects of the agreement making process;
- The involvement of multiple bargaining agents; and
- An imbalance of power in negotiating greenfield agreements.

The below specific comments were provided by respondents giving an indication of their general concerns with the Fair Work Act's enterprise bargaining regime:

> *There are low hurdles for protected action approval and Fair Work Australia appears to have a low resistance to union demands for contractor clauses, etc.*
>
> *Managing multiple bargaining agents is challenging, especially given that they can self-nominate at any time. It is difficult to bargain in confidence when individuals can self-nominate to access bargaining materials.*

It is too complex and based on old fashioned awards and concepts; it is technical and nit picky.

There is an inability to create binding workplace instruments for greenfields projects without the union's agreement. We will work with unions, however, it cannot be in a situation where the mobilisation of a project is dependant on the outcome of a union demarcation dispute (where we have no control over the timing or resolution) or where reaching agreement requires us accepting union centric clauses that offer no productivity or flexibility gains.

The system is overly technical; changes were made but with no real benefit to employers and possibly employees - where is the productivity gain?

The wishes of the few can override the wishes of the majority. Therefore, bullying may be an issue.

Please indicate whether any of the following activities has increased or decreased during bargaining under the Fair Work Act.

	Increased (% of respondents)	No change (% of respondents)	Decreased (% of respondents)
Working hours devoted to meetings and negotiations	71.4	25.7	2.9
Time taken to finalise an industrial agreement	62.9	37.1	0.0
The number of bargaining representatives involved in negotiations	62.9	37.1	0.0
The number of union-specific clauses demanded	60.0	40.0	0.0
Union involvement in bargaining	57.1	42.9	0.0
Time devoted to tribunal processes and applications	35.3	61.8	2.9

It is clear from the table above that the negotiation process has become more difficult and the timeframes involved in locking down a new agreement have become extended under the Fair Work Act. It now takes longer to finalise an agreement which requires more hours of negotiation and meetings plus the involvement of a greater number of bargaining representatives and the necessity to devote more time to tribunal proceedings.

During enterprise bargaining since the Fair Work Act began, have union bargaining representatives pursued any of the following types of union-specific clauses for inclusion in agreements? Tick all that apply.

	Oct 2011 % of respondents	April 2011 % of respondents
Trade union training leave	79.2	86.4
Payroll deductions of union fees	58.3	36.4
Shop stewards' rights clauses	58.3	72.7
Paid union meetings	50.0	68.2
Trade union training levies	29.2	50.0
The requirement to have a union office onsite	20.8	18.2
Union picnic days	20.8	18.2
Other	16.7	4.5

The data in the table above show that union bargaining representatives are now commonly pursuing a range of union-specific clauses in their agreements that would have been considered prohibited content under the Workplace Relations Act. The table shows a comparison with the data collected in the previous survey in April 2011.

Trade union training leave was the union-centric clause most commonly pursued by unions, followed by payroll deductions of union fees and shop stewards' rights clauses.

The types of clauses cited by respondents under 'other' included clauses relating to:

- the use of contractors;
- right of entry;
- union invitations to all employee inductions;
- union involvement in company-wide health and safety committees; and
- in one case, a clause requiring a 'union development fund' levy of $1,000 per employee.

The inclusion of all of the above types of clauses in agreements will add to costs on the one side and enhance and entrench the power of unions on the other. They are unlikely to represent any productivity or efficiency benefits for the enterprise. This is a major concern to the industry and should be a major concern for the Federal Government.

Greenfield agreements

AMMA members have experienced particular difficulties in negotiating greenfield agreements which, under the Fair Work Act, must be negotiated with unions. The following question seeks from respondents information about the specific challenges involved in greenfield agreement making.

Has the lack of a non-union greenfield agreement option delayed the start-up of any of your organisation's projects?

	% of respondents
Yes	9.4
No	59.4
Too soon to tell	31.3

The data in the table above show that almost one in ten resource projects engaged in by respondents has been delayed because of the absence of a greenfield agreement option that does not involve having to negotiate with trade unions. Beyond this, there are a further 31.3 per cent of respondents that indicate the potential remains for projects to be delayed but at this stage it is too early to tell, ie, it is also too early to rule such an eventuality out.

Respondents' comments help to provide additional insight into the experience of negotiating greenfield agreements with unions under the Fair Work Act:

> *The union realises they 'hold the keys to the car' a little, so can really ask for more than they'd get if it was regular non-greenfield bargaining.*
>
> *We felt like the union was holding the project to ransom. There is a huge power imbalance.*
>
> *Ahhhh - it has been a debacle.*

One respondent described the greenfield negotiation process as:

> *Cumbersome, but achieved.*

Another labelled it:

> *Slow.*

Industrial action

When the Fair Work Act took effect on 1 July 2009, it changed the rules governing protected industrial action, including the circumstances under which employees could take protected action and the rules the federal industrial tribunal had to apply before approving it.

This section of the survey seeks information on how prevalent industrial action is at resource industry workplaces since the Fair Work Act was introduced. Again, this set of questions covers the whole term of operation of the Fair Work Act in recognition of the fact that parties will only be exposed to protected industrial action every couple of years unless it relates to genuine safety issues.

What types of industrial action have been taken at your workplace(s) under the Fair Work Act? Tick all that apply.

	% of respondents
None	86.3
Protected stoppages – agreement making	8.2
Protected stoppages – alleged safety concerns	5.5
Unprotected stoppages	4.1
Other type of industrial action	4.1
Unprotected work bans	2.7
Work to rule	2.7
Protected work bans	2.7

The data in the table above show that 13.7 per cent of respondent businesses have experienced some type of industrial action since the Fair Work Act began. The remainder of the data show how this industrial action was distributed amongst the various forms it could take. Again, these figures add up to more than 100 given that a single respondent could have experienced more than one type of industrial action.

While the level of industrial action is low, we know that the threat of such action is a powerful tool used often and to great effect under the Fair Work Act. Threatening action without taking it has the benefit of inconveniencing the employer but ensuring workers don't lose any pay by turning up for work at the last minute.

It also needs to be remembered that around half of the industry is yet to negotiate an agreement under the Fair Work Act and so has not been exposed to the possibility of employees taking protected industrial action in the context of enterprise bargaining. The results of these types of questions in future surveys are expected to become more meaningful and paint a more complete picture of how industrial action is being used as a tactic under the Fair Work Act.

If and when you have been notified that your employees plan to take protected industrial action, are you aware which employees are entitled to take such action, i.e. do you know which of your employees are members of a union?

	% of respondents
Yes	26.7
No	73.3

The results in the above table are significant. They reveal that 73.3 per cent of respondents do not know which of their employees are members of a union and therefore entitled to take protected industrial action in the course of enterprise bargaining. If an employer does not know which employees are entitled to take protected action, there is no prospect of pursuing orders against individuals to stop the action or to claim damages.

A number of the comments below suggest this lack of knowledge, although to employers' detriment, is often by choice because ignorance is the safer option given the breadth of the Fair Work Act's adverse action provisions and employer fears of facing claims of discrimination on the basis of union membership:

> *It suits us not to know who are union members, then we can't be accused of decision making based on union membership.*
>
> *This is an issue that we struggle to resolve.*
>
> *We assume that all employees are members. While we know that not all are, we do not wish to draw attention to them given the fear and intimidation that would undoubtedly follow.*
>
> *We are aware of who can take such action and have a general idea of union membership, but do not monitor this directly.*
>
> *A protected action ballot was conducted but information regarding those eligible to vote was not available.*
>
> *We did not search, however, payroll deductions of union dues have been in place for a number of years so we could find out. A number of employees approached us and informed us they were not members and wanted to work but had concerns about crossing the picket line.*

Have employees and/or their representatives sought to apply for secret ballot orders for protected industrial action before you have agreed to bargain with them?

	% of respondents
Yes	1.4
No	98.6

Despite Fair Work Australia's 2011 decision in the *JJ Richards* matter (which AMMA has appealed to the Federal Court) having paved the way for employees to apply for protected action ballots before employers agree to bargain, this has only occurred in one AMMA member workplace to date. However, the concern is that unless this decision is overturned, more of these pre-emptive strikes will be seen as time goes by.

Do you believe the majority of a workforce should have to support protected industrial action before it is taken (at present, a minority of a workforce who are union members can take protected industrial action)?

	% of respondents
Yes	87.0
No	13.0

As the table above shows, AMMA members overwhelmingly support a requirement that a majority of workers approve protected industrial action before it can be taken, with 87 per cent endorsing such a requirement. The comments from respondents below are very clear about the reasons for their views:

> *It is inappropriate for a majority of just union members to be able to dictate to the whole workforce if industrial action should be taken.*
>
> *If a small percentage of people want to change but a large percentage don't want to, then they shouldn't have to.*
>
> *It's unfair to segregate fellow workers just because they are not paid-up union members.*
>
> *A vocal and influential minority should not be able to easily stand over and influence the outcome for the majority of employees, who may in fact be happy with the deal / package presented to them.*
>
> *Industrial action affects everyone, including those not wishing to participate - it should only be a majority decision.*
>
> *Industrial action affects all employees' livelihoods and the workplace culture.*
>
> *It should be majority rules, not minority.*

The minority are generally not the most productive employees and there is a potential risk of this minority moving from site to site causing disruption. If the majority support the action, there would possibly be a valid reason for it.

People should not be forced to take action by a minority (or even a majority actually).

There should be a majority vote when it affects the entire workforce.

If the majority want to work and bargain for a deal they should be permitted to. Industrial action by a minority can necessitate stoppages that mean the majority could be stood down. No-one wins.

Union membership is often low and is disproportionate to their ability to adversely impact a business.

It seems counterintuitive that a minority group can take industrial action without the majority support of their peers. The action can certainly prejudice any negotiations.

Typically, non-union personnel will also engage in the action even though they may not have voted for it. This can be a consequence of peer pressure whether real or imagined.

The majority should be required. At the moment, a small number can cause trouble for the majority - hardly democratic!!

Wage movements

The cost of labour is one of the most important factors affecting the viability of an enterprise. Even in a highly capital-intensive industry such as the resource industry, the cost of labour has an often decisive impact on long-term profitability. Keeping wages and labour-related forms of compensation within the limits imposed by productivity remains critical.

Labour cost movements in the resource industry can also be an important indicator of future movements in the rest of the private sector, so any potential increases here are likely to have flow-on effects elsewhere. The resource industry is the best performing sector of the Australian economy at the present time. However, using the industry as a pace-setter for other industries can create problems for the future that are best dealt with by policymakers sooner rather than later.

As the results below indicate, the determination of wages and conditions in the resource industry is being driven in part by increased competition for skilled labour. However, union power can exploit labour market shortages and unrealistically drive the upwards movement in wages. Very clearly, wages in the resource industry are rising rapidly and are expected to continue to do so.

Has your organisation agreed to wage increases during the past six months?

	% of respondents
Yes	56.3
No	43.7

If so, in comparison with previous wage increases granted, is the latest percentage increase?

	% of respondents
Much greater	11.6
Somewhat greater	30.2
About the same	53.5
Somewhat smaller	0.0
Much smaller	4.7

In examining the data in the above table, note that the comparison is with the previous growth rate and not with the previous wage level or absolute size of the increase given. And what the data show is that just over half (53.5 per cent) of respondents indicated wages growth had been no higher in the latest agreement than on the previous occasion where wages were raised, presumably in an enterprise agreement context. A further third (30.2 per cent) indicated the growth rate in wages was ‘somewhat greater’ in the latest agreement while more than one in ten (11.6 per cent) indicated that growth in wages was ‘much greater’ in their latest wage agreement than in the previous one. Only

4.7 per cent indicated that wages growth was lower in the latest agreement compared with the previous one.

If there has been a significant movement in wage increases, either upwards or downwards in your last agreement, how do you account for this change?

Reasons given by respondents for awarding significant increases in wage agreements during the survey period included:

- Labour market pressures to do with supply and demand driving wages up;
- Mining industry trends;
- Shortages of experienced tradespeople;
- Attraction and retention drivers;
- Having to keep up with competitors to attract staff; and
- Expectations being greater due to the union activity in offshore construction and the inflated outcomes there.

Will the wage increases granted cause you to employ fewer employees than you would otherwise have employed?

	% of respondents
Yes	12.2
No	87.8

With higher wage costs, the effect on employment is expected to be negative. The data in the table above show that in 12.2 per cent of workplaces, the number of employees is expected to be lower than it otherwise would have been if the wage increases incurred by employers had been more moderate.

Which parts of your workforce have been able to negotiate the largest pay rises and why?

Respondents to the survey were asked which parts of their workforce were able to negotiate the largest pay rises. The aim of this question was to identify, amongst the other reasons for wages growth to have risen, exactly where the most serious skills shortages lay for employers in the resource industry.

Below is an indication of occupations that are in the greatest demand and therefore able to command the highest wage increases:

- Technical specialists;
- Qualified personnel - engineers, geologists;
- Skilled trades employees;
- Mechanical and electrical fitters;
- Field technicians;
- Senior experienced employees;

- Blue-collar workers;
- Production and maintenance workers; and
- Jumbo operators;

The comments below identify further the types of employees able to negotiate higher wage increases and why:

> *All areas because of increasing demand for experienced mining personnel.*
>
> *MUA members who try to misrepresent the skills they have in comparison to officers.*
>
> *Crew-based increases are the highest as a result of the need to mitigate business risk due to lost time and not as a result of any productivity improvement or work value assessment.*
>
> *Operationally critical positions were given the largest rise. This is due to their importance to the company.*
>
> *The construction division, not by negotiation but purely because of unionised site agreements.*
>
> *Our blue-collar workforce has collectively achieved higher outcomes than salaried (common law contracted) employees.*
>
> *Construction workers, given the timeframes for projects.*
>
> *Anybody working on boats, i.e. covered by the MUA.*
>
> *Employees where there is a strong union presence. Generally, the client directs the increase and is on-charged specifically for that site.*

Looking ahead, what are you expecting to happen to the rate of wage increase in your next agreement?

	% of respondents
It is expected to increase significantly	22.4
It is expected to increase slightly	31.3
It is expected to remain about the same	44.8
It is expected to decrease slightly	0.0
It is expected to decrease significantly	1.5

The current acceleration in wage outcomes is expected to continue in the period ahead with more than half (53.7 per cent) of respondents anticipating the growth in wages to pick up in the next

agreement and almost a quarter (22.4 per cent) expecting significant increases in the next agreement.

Have you experienced any flow-on effect to your enterprise(s) from recent wage and allowance outcomes in the offshore oil and gas industry?

	% of respondents
Yes	27.5
No	36.2
Too soon to tell	36.2

The data in the above table are of very great significance. They indicate to all those who believe there are no longer risks of a flow-on of wage increases from one enterprise to another, or from one industry sector to another, that this is not the case and flow-ons continue to influence the rate of increase in labour costs.

The above table shows that 27.5 per cent of respondents have experienced a flow-on effect from wages and conditions outcomes in the offshore oil and gas industry where pay rates have increased by 30 per cent since 2009. Another 36.2 per cent of respondents said they had not experienced a flow-on, but a further 36.2 per cent said it was too soon to tell what the flow-on effect would be. That is, the die had not yet been cast.

A number of comments were made indicating the nature of the actual and potential flow-on effects they had experienced from outcomes in the offshore oil and gas sector:

> *The expectation is that those higher wages will flow on to production sites.*
>
> *We are directly affected by the offshore construction agreement for projects. We expect some flow-on to onshore components of related projects.*
>
> *We operate in the same industry so will have to adopt the increases.*
>
> *We are always competing with high wages and packages with Pilbara mining companies to attract and retain staff. This will just further increase competition for skilled employees.*
>
> *It is difficult to attract skilled people, particularly tradesmen and project managers.*
>
> *I believe the expectation for larger increases is growing and this results in higher turnover if not realised.*
>
> *Our personnel are leaving our company to get better pay.*
>
> *All wages have increased dramatically to cope with demand.*

Lines and mooring and onshore (in-harbour) work which supports any offshore activity is being targeted.

The cost of vessel and port dues has gone up significantly. We have closed down some of our workshops to transfer that work to south-east Asia.

Workers are even harder to attract than they already were.

Professional staff salary movements are continuing to increase (engineers, drillers, geoscientists, etc) which are heavily influenced by industry dynamics (supply/demand) and labour supply/shortages.

Staff are leaving the business to earn more money elsewhere.

Redundancies and dismissals

Redundancies and dismissals are part of any business operation and often unavoidable. The following questions seek information on the nature of any redundancies and dismissals initiated by respondents during the survey period and, most importantly, on any claims for unfair dismissal that arose as a result.

Have you made any of your employees redundant for operational reasons during the past six months?

	% of respondents
Yes	28.2
No	71.8

Have you dismissed any of your employees 'for cause' during the past six months?

	% of respondents
Yes	53.5
No	46.5

Have any dismissed employees filed an unfair dismissal claim in the past six months?

	% of respondents
Yes	31.3
No	68.7

The significance here is that almost a third of companies that had dismissed employees in the six-month survey period had received an unfair dismissal claim. This high proportion suggests that unfair dismissal claims are now routine following an employer-initiated termination of employment.

Further details were supplied by respondents as to the reasons cited by applicants for bringing unfair dismissal applications:

> *One incidence of violent behaviour went to conciliation and the employee demanded payment of $30,000. Agreement was reached to pay $12,000 less tax.*
>
> *They take a nothing to lose stance.*
>
> *One employee filed an unfair dismissal claim over the application of the company's drug and alcohol testing policy.*

One worker took a general protections claim instead of an unfair dismissal claim. Unions are aware of the higher level of pressure this places on employers to settle (reverse onus of proof and lengthy costly process of defending claims).

In the past six months, have you paid 'go away' money to avoid any unfair dismissal claims going to court?

	% of respondents
Yes	25.4
No	74.6

The data in the above table show that around a quarter of affected respondents (25.4 per cent) paid "go away" money to dismissed employees as a means of settling unfair dismissal claims in the past six months. The fact that financial settlements were made does not in any way go to the merit of such claims but speaks more about a system that encourages claims to be brought.

Comments by respondents in this regard were:

Despite strong prospects, there was a failure to settle after unsuccessful conciliation and this would have necessitated legal spend, time and effort for key staff away from operational duties.

In the conciliation process, we were pressured to settle the claim despite little evidence supporting the employee's claims. It's easier to settle than go to hearing. The system encourages claims of unfair dismissal to be made.

While the employee settled for a few weeks' pay, in the process the company incurred legal fees, loss of management time, etc, so the entire matter including settlement cost $10,000 to $15,000.

We advised a labour hire company we no longer required a contractor who then went to the Australian Human Rights Commission alleging discrimination. Whilst not being the employer, we were roped in and there was considerable time redirected to defend our position and whilst his employer only paid $300 to settle and we provided a letter of service, the cost of this matter to us was probably $10,000 (legal, management time, etc).

This is what most people want – they think they can get a lump sum payout to avoid Fair Work Australia. One guy claimed $2 million and he had only worked with us for three weeks!!!

We have paid settlements but would not regard the settlement as go away money.

Adverse action

The Fair Work Act significantly broadened the Workplace Relations Act's anti-discrimination and freedom of association provisions by introducing the 'general protections' or 'adverse action' provisions. Under the general protections, an employer is prohibited from taking adverse action against an employee because of a "workplace right".

That "workplace right" can include:

- an entitlement to the benefit of an industrial instrument;
- the ability to initiate proceedings under a workplace law; or
- the ability to make a complaint or enquiry to seek compliance with a workplace law.

Where adverse action is alleged to have been taken for prohibited reasons, an applicant has 60 days to bring a claim where it resulted in termination of employment, or six years to bring a claim where it did not result in termination of employment.

Adverse action is a new feature of the IR system. Because of the potential cost to employers of losing against parties bringing such claims, and because claims end up in courts of law, this jurisdiction has the potential to create major problems for every business in the country. The jurisdiction has a nothing-to-lose aspect from a plaintiff's point of view in that claims can be pursued on a 'let us see' basis. There is also a reverse onus of proof requiring employers to disprove the claims rather than requiring applicants to prove them. Just how great the potential is to add significantly to the costs and risks of running a business remains to be seen.

Has your organisation received any adverse action claims from current, prospective or former employees or independent contractors since the Fair Work Act was introduced? Tick all that apply.

	Number of respondents
Former employees	2
Current employees	5
Prospective employees	0
Independent contractors	1

The results in the table above are shown as the number of respondents that received claims rather than a percentage of total respondents. It is possible that a single business may have received claims from both current and former employees.

No claims were received by respondents to the survey from prospective employees.

In the past six months, have you paid 'go away' money to avoid any adverse action claims going to court?

	% of respondents
Yes	10.7
No	89.3

As the table above shows, 10.7 per cent of respondents that had received adverse action claims in the six-month survey period had paid money for them to ‘go away’. Again, this is not an indication of the substance of any of those claims but the consequence of a system designed to put employers on the back foot.

Right of entry

The Fair Work Act changed the right of entry laws on 1 July 2009. Unions now have the right to enter a workplace based on their eligibility rules rather than whether they are bound by an agreement or award covering a worksite.

The Fair Work Act thus provides more extensive right of entry provisions that allow unions to enter worksites whether they have members on the premises or not. There is only a requirement that potential members be present for unions to gain entry for discussion purposes.

There is a formal procedure that must be followed to gain entry but the reality is that union visits have become more commonplace under the new regime and there is pressure on employers to waive the rules that do apply in order to open up their worksites even further.

The following tables provide responses to the survey questions dealing with right of entry and the problems this is causing for employers.

During the past six months, how often did union officials visit your workplace(s)?

	% of respondents
Have not visited in last six months	47.1
Daily	0.0
Weekly	13.2
Monthly	13.2
Occasionally	26.5

The data in the table above show that union visits occurred once a week at 13.2 per cent of companies and once a month at another 13.2 per cent. In 47.1 per cent of workplaces, union officials did not visit at all during the six-month survey period. In many cases, this will be due to the remoteness of the enterprise or whether the company had engaged in bargaining under the Fair Work Act during the survey period.

The evidence strongly indicates that right of entry provisions are creating increased tensions at some workplaces. In itself, the current law only gives unions access. The concern is that this greater access is being turned into a greater level of disruption and potentially into an escalation in the number of industrial disputes.

What were the reasons cited by union permit holders when visiting your worksite(s) and seeking entry? Tick all that apply.

	% of respondents
Recruitment/consultation/discussion	64.7
Consultation about workplace change	38.2
Bargaining	32.4
Alleged safety breach	20.6
Other	14.7
Alleged award or agreement breach	11.8

The most commonly cited reason for union entry to worksites during the survey period was 'recruitment and discussion' which occurred in 64.7 per cent of affected companies. The next most common reason was 'consultation about workplace change' in 38.2 per cent of workplaces, closely followed by 'bargaining' for which there were visits at 32.4 per cent of affected worksites. Alleged safety breaches were the explanation in 20.6 per cent of cases and alleged breaches of awards or agreements in 11.8 per cent.

Has the number of right of entry requests increased in the past six months?

	% of respondents
Increased significantly	11.6
Increased slightly	16.3
Remained about the same	65.1
Decreased slightly	2.3
Decreased significantly	4.7

The data in the table above show there has been an increase in the number of right of entry requests at 27.9 per cent of workplaces and within that, a significant increase at 11.6 per cent.

As to the number of right of entry requests received, the following comments describe the experiences of respondents:

> *Due to our operations being at sea, we do not receive entry requests as the union is physically unable to get to our operations.*
>
> *The number of visits relates to the high level of bargaining on our sites this year.*
>
> *We have seen more than 400 visits to one site since July 2009 and visits have been almost weekly in the past six months.*

How would you describe your experience with the right of entry provisions under the Fair Work Act?

The following were comments made in response to a question about AMMA members' experiences with the new right of entry rules under the Fair Work Act:

> *There has been a definite increase from levels under the Workplace Relations Act. In the construction area, right of entry is being used to further demarcation disputes.*
>
> *We didn't make a fuss because we knew our employees were not going to be persuaded.*
>
> *The laws are formal and time consuming.*
>
> *We would adhere strictly to the law, providing the least opportunity to gain information or access to crib rooms.*
>
> *They are a pain.*
>
> *They are open to interpretation and abuse.*
>
> *No incidents but the trips were pointless really.*
>
> *The laws are confusing.*
>
> *We and union officials seeking access to the site adhere to the right of entry provisions.*
>
> *Our cultural practices allow unions onsite if they ask permission. I have had to enforce this with the AWU organiser - telling him that I will make him provide a formal right of entry notice if he does not check with the relevant manager or myself before coming onsite.*
>
> *They are concerning.*
>
> *They have not presented us with a problem to date.*
>
> *No issues so far; there are no union members currently known to be working at the site. Two unions have requested to speak to the workers, one was granted access, the other did not pursue.*
>
> *Usually the formality is dispensed with. The unions are already expert at generating conflict in order to justify their existence without our assistance in that respect.*
>
> *The new laws have not affected us greatly as yet, but may do so in the next negotiations? Too soon to tell.*

Superannuation

Raising the level of compulsory superannuation payments above the current statutory level of 9 per cent is being pursued via legislation that at the time of writing this report had been tabled in federal Parliament. In response to the survey questions about superannuation, most employers in the resource industry reported paying at least the statutory minimum although a good proportion paid above that rate to at least some employees.

What level of employer superannuation contributions does your organisation currently make on behalf of employees?

Most respondents to the survey paid the statutory 9 per cent in employer superannuation contributions. However, there were exceptions as outlined in the table below:

Level of employer super contributions	10%	11%	12%	13%	14%	14.5%
Number of respondents	5	6	8	1	6	2

What level of annual employer superannuation contributions are unions seeking during enterprise bargaining?

Answers to this question ranged from the standard 9 per cent up to 15 per cent.

Do you support a legislative obligation for employers to pay more than the current 9% in coming years?

	% of respondents
Yes	69.4
No	30.6

It is noteworthy that 69.4 per cent of respondents were supportive of a higher legislative obligation with regard to superannuation contributions. However, the jury is still out on whether those increases should be funded by employers or employees or by a combination of the two. Comments in relation to proposed legislated increases above the current 9 per cent included:

> *This is desirable for long-term community sustainability. Increases, however, should also be subsidised by employees, not just employers.*
>
> *Not without certain compensation.*
>
> *Saving for the future is an individual's responsibility, not an employer's responsibility.*

If it helps with retirement, but it has to be offset from wages - or partial employee or government contributions.

Perhaps, however, in saying this there should be a contribution from the individual.

Increased statutory contributions would impede an employer's capacity to provide benefits over and above the statutory minima.

This reduces the ability to increase the 'in hand' payment.

Something has to be done to address the retirement costs associated with the Baby Boomers and future generations leaving the workforce.

This is simply an extra cost to employers with no tangible benefits for doing it. It is simply a reduction in the government's responsibility to pay pensions in the future.

If the economy is to get the benefit of consumer spending by retirees then they need to have an income that is sufficient to support their lifestyle. It is well settled that a contribution in the order of 15% of salary is necessary to achieve that. I would support a system of co-contribution at the rate of 10% employer contribution with a 5% compulsory employee contribution.

I think it will be a burden on small business. If it is implemented, minimum wage increases would need to take into account the legislative increase in superannuation.

This should be offset against productivity/wage outcomes.

It may sound a bit parental - but 9% will not be sufficient to support many people and women are at a disadvantage with either absences from work or reduced hours.

The government is already looking at taxing the superannuation, devaluing the scheme.

We already pay above - but I would want it taken into consideration in wage claims.

Recent restrictions on employer contributions mean that some of our higher paid employees are paying the full rate of tax on employer contributions above $25K per annum. This seems ridiculous in terms of assisting employees to plan for their retirement and be independent of any government-sponsored pension scheme.

The superannuation increase will not relieve pressure for higher basic salaries. Additionally, the superannuation tax thresholds will impact on a range of our employees with the increased contribution which will cause further pressure for cash compensation in the package.

Staff turnover

Employee turnover is a major issue for resource industry employers in the current environment where there exists a shortage of appropriately skilled and qualified labour and increasingly unrealistic wage and conditions demands from employees and trade unions. However, a stable workforce is part of the process for achieving higher productivity.

What is your current rate of staff turnover on a 12-month rolling basis?

	% of respondents
We have turned over every employee in the last 12 months	0.0
We have turned over three-quarters	7.7
We have turned over half	6.2
We have turned over a quarter	29.2
We have turned over 10%	32.3
We have turned over 5%	23.1
We have turned over virtually none of our staff	1.5

The table above shows the most common rate of staff turnover experienced by respondents on a 12-month rolling basis was 10 per cent (experienced by 32.3 per cent of respondents). This was closely followed by a turnover rate of 25 per cent (experienced by 29.2 per cent of respondents) and an annual turnover rate of 5 per cent (experienced by 23.1 per cent of respondents).

Comments from respondents about their current turnover levels included:

> *Our large turnover is due to better opportunities elsewhere for more money on better rosters.*
>
> *Our turnover is mainly due to competitive wages in the resource / oil and gas and iron ore sectors driven by labour shortages.*
>
> *Most of our employees are casual . . some long term . . but we experience very little turnover apart from project end terminations.*
>
> *The majority of staff turned over were unsuitable candidates; we decided this during probationary periods.*
>
> *We are an offshore project therefore we turn over most offshore crew at the end of each project.*
>
> *We have a very stable workforce.*

Due to job security, most of our lower positions are hired through a labour hire company. We have had 18% turnover for the past 12 months.

Around 5% haul truck operations turn over.

It has varied from business unit to business unit. There is less turnover in the regional areas except for the seasonal turnover we experience each year.

Our turnover runs at about 17%.

Across the company, turnover is 7%, with some pockets higher and some lower.

Night shift has been a problem for some employees; others have found employment closer to home. Some redundancies have occurred due to the efficiency of mining techniques.

Resignation of staff with five years or more service who don't want to work offshore anymore has contributed to our turnover rates.

How difficult is it to recruit skilled labour at the present time?

	% of respondents
Much more difficult than usual	33.8
Somewhat more difficult than usual	45.6
About the same as usual	19.1
Somewhat less difficult than usual	0.0
Much less difficult than usual	1.5

The other side of the labour turnover issue is related to difficulties in recruiting skilled labour at the present time. It is always difficult to find the right employees since each job often requires special characteristics. As the above table shows, there is a far greater level of difficulty currently being experienced by resource industry employers than historically in finding suitable employees.

The data show that 45.6 per cent of respondents are finding it ‘somewhat more difficult than usual’ to recruit skilled labour at the present time, while a further 33.8 per cent are finding it ‘much more difficult’.

Comments in this regard, including the skill sets that are the most difficult to recruit, include:

Certain skilled underground roles such as drillers and shotcreters.

Technical staff, geologists.

Some jobs are near impossible to fill when in direct competition with 'up north' wages.

There are pay rate expectations and additional benefits offered by big miners that we cannot compete with.

I expect this will become far more difficult next quarter, increasingly so.

There is a dwindling labour pool with much lower skilled candidates available.

Multiple projects onshore and offshore and the resources boom make it difficult.

It is difficult to attract candidates - some high rates are being offered.

There are not a lot of skilled people available without recruiting internationally.

There are plenty of applicants but a shortage of skills.

The job market is too hot.

There are shortages of quality staff across the board.

It is starting to become harder.

Generally, as we are small we cope with replacing small numbers of professional personnel compared to bigger companies who need to do this on a larger scale.

Trade roles are difficult to fill.

Industry professionals (drillers, engineers, geoscientists) are in demand as are other professions (procurement, contracts, commercial).

We have been looking for a senior mining engineer for more than nine months.

Which roles are you having the most difficulty filling?

In response to the above question, the responses below show the breadth of the current skills shortage, with the following roles proving the most difficult to fill:

Senior mining engineers, production drillers, jumbo operators, shotcreters, electricians.

Offshore construction and drilling personnel.

Mining engineers, underground surveyors, drill and blast engineers, geologists (resource, exploration and mine).

Geologists, electricians, graduate roles, engineers.

Experienced tradespeople.

Heavy diesel mechanics, boilermakers, welders, senior supervisors, experienced mobile plant operators.

Trades and engineers.

Tradesmen, experienced supervisors, professionals and project managers.

Senior geologists.

We struggle to fill both skilled and unskilled entry level roles.

Mechanical and electrical fitters, plant operators.

Engineers, health and safety staff, quality officers.

Trade, technical and professional staff.

Geologists with more than two years' experience.

Experienced scaffolders, welders, fabricators.

Supervisory roles, drillers, toolpushers.

Trades.

People with drilling experience.

Middle and senior line operational roles.

Experienced mining management staff.

Superintendents.

Site engineers.

Senior officers and marine engineers.

Diesel fitters, heavy equipment, electricians.

Fitters, boilermakers, scaffolders, formworkers with concreting experience.

Blue-collar engineering roles.

Plant operators, mining professionals.

Welders.

Geologists and engineers.

Engineers.

Engineering professionals and tradespeople.

Mining engineers.

Trade-qualified roles such as sheet metal workers, rope access technicians, insulation crews.

Professional roles are becoming difficult to fill, specifically engineers and environmentalists.

Professional level employees.

Mine engineering roles.

Marine engineers.

Skilled employees. However, in some of our regional sites we are finding it hard to find good unskilled or semi-skilled employees.

Diesel fitters, coded welders, instrument fitters, tube fitters, linespeople, high voltage skilled workers.

Specialist engineering roles.

Geologists, surveyors (underground).

Senior mining engineers, senior mine geologists.

Technical staff.

Geologists, mining engineers, underground electricians, underground diesel fitters.

Technical and professional staff.

Electricians.

Wages staff (blue-collar), plant operators, salary staff (white-collar), mining engineers, estimators, safety personnel.

High end technical line management, supervisory roles.

Laboratory staff are difficult to find.

Maintenance planners.

Technical roles, supervisory roles.

A range of professional and technical roles.

Offshore personnel, surveyors, electronic engineers, geophysicists.

Technical professional staff, project professional staff, safety staff.

Chefs.

For the roles you are having difficulty filling, where are you sourcing/recruiting those workers?

In terms of where respondents are recruiting those hard to find workers, respondents' answers included that they were sourcing skilled labour both from within Australia and from overseas. A significant proportion of respondents said they used recruitment agencies to help them source workers, as well as a significant number sourcing by 'word of mouth'. Other methods of sourcing labour included internal training, trainee and graduate programs.

Countries where workers were sourced from as needed included:

- Burma;
- The Phillipines;
- South Africa;
- The United Kingdom;
- Ireland;
- South America;
- New Zealand; and
- The United States.

How does the size of your current workforce compare to the size it was 12 months ago?

	% of respondents
It has significantly increased	26.9
It has slightly increased	34.3
It is essentially the same	23.9
It has slightly decreased	10.4
It has significantly decreased	4.5

A clearly important part of the skills shortage and labour supply problem is related to the expansion of the industry which has required the employment of additional personnel. As the table above shows, only 14.9 per cent of survey respondents reported a fall in the size of their workforce over the past 12 months, while 61.2 per cent reported an increase. Of those reporting growth, 26.9 per cent indicated the increase in the size of their workforce in the past 12 months had been significant.

What proportion of your current workforce is female?

Female proportion of the workforce	Less than 10%	10%	15%	20%	25%	30%	40%	50%	70% to 75%	Weighted average
Percentage of respondents	20.7	15.5	19.0	22.4	10.3	3.4	3.4	1.7	3.4	18.4

The data in the table above indicate that the proportion of female employees working at respondent operations is, using a weighted average, 18.4 per cent of the workforce (please note, however, that the data in the table are not weighted by company size). This figure is largely consistent with, but slightly higher than, the latest figures published by the Australian Bureau of Statistics on the proportion of women in the mining industry as a whole, which as of November 2011 was 16.3 per cent[2].

Would you employ more women if you could?

	% of respondents
Yes	98.5
No	1.5

Virtually the entire industry (98.5 per cent of respondents) indicated they would employ more women if it were possible. Factors cited by respondents as preventing them from employing more women included:

[2] *Labour Force, Australia, Detailed Quarterly, November 2011,* published by ABS on 15 December 2011

- A lack of interest from women in applying for available roles;
- The perception that mining is dirty, masculine work;
- The nature of rosters including fly-in, fly-out work schedules; and
- The offshore location of some roles.

Respondents' comments in this regard included:

> *Women form a high percentage of our trainee workforce.*
>
> *We have noticed a slight increase in applicants for apprenticeships from females and have endeavoured to recruit them into vehicle areas. The reason for the difficulties I believe are the region and being a residential site.*
>
> *The perception of the industry among women is a very poor one. We all need to do more work in that regard.*

FIFO/DIDO working arrangements

Do you currently operate Fly-in, Fly-out (FIFO) or Drive-in, Drive-out (DIDO) work practices?

	% of respondents
Yes	80.6
No	19.4

More than four out of five survey respondents used Fly-in, Fly-out (FIFO) or Drive-in, Drive-out (DIDO) work practices as part of their normal working arrangements.

Skilled migration

Does your organisation currently recruit skilled workers from overseas?

	% of respondents
Yes	67.2
No	32.8

Two-thirds of respondents (67.2 per cent) said they currently sourced skilled workers from overseas as part of their recruitment practices. Because of the shortage of skilled labour in Australia, this is a practice that is certain to continue as a supplement to the training of domestic workers.

Do you plan to recruit skilled workers from overseas in the next six months?

	% of respondents
Yes	52.2
No	20.9
Too soon to tell	26.9

Not only have companies in the sector continued to recruit skilled labour from overseas, but the data in the table above indicates this is a practice that will continue. Around 52.2 per cent of respondents said they will be recruiting from overseas in the next six months and another 26.9 per cent are considering this as an option.