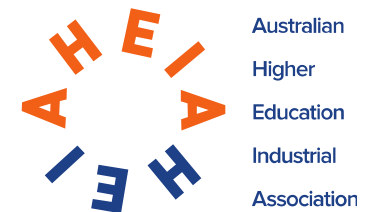


# **AHEIA Senior WR seminar**

## **Unique IR aspects of the HE Sector**

**26 May 2022**



# Academic work regulation – pre 1980s

Salaries	Conditions
<ul style="list-style-type: none"><li>Originally set by individual universities</li></ul>	Tenure statutes
<ul style="list-style-type: none"><li>Academic salaries tribunal established in 1964</li></ul>	Employment until age 65
<ul style="list-style-type: none"><li>benchmarking with CSIRO, commonwealth and state public service, some overseas universities</li></ul>	Individual contracts*  * <i>Orr v University of Tasmania</i> (1957) 100 CLR 526 University entitled to terminate despite appointment to age 65

# AS Award history

<b>1980s – 1990s</b>	<b>High level of regulation</b>
<b>First awards – 80 years into federal system</b>	<b>Salaries awards</b>
	<b>Conditions: “Bryant award”</b>
Late 1990s	Conditions: “Bryant” removed committees, etc
Award simplification	Salaries: creation and insertion of MSALs
2010 – modern awards commence	Retained fixed-term restrictions & AS redundancy 52 wks max, otherwise consistent with other sectors

MMO

**Slide 3**

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**MMO**

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# Features of EAs in the HE Sector

- Coverage of senior staff
- Continuation of provisions no longer in awards (eg disciplinary provisions)
- Provisions that have never existed in awards: academic workload models, academic freedom
- Less flexible than the award – eg consultation process
- More generous than award/NES – eg paid parental leave, redundancy & notice, superannuation
- Duplication of legislative provisions: eg commitment to non-discrimination
- AS provisions extended to GS MM0

**Slide 4**

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**MMO**

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# Workforce dynamics

- Limitation on use of fixed term engagement MM1
- High casualisation (unavoidable) with little prospect of conversion under FW Act
- Low union density – high influence

## Slide 5

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**MM0**

Reorder this slide

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**MM1**

Limitation

Marcus Miller, 2022-05-25T23:47:34.498

**MM2**

Plenty of room for discusison here.

Marcus Miller, 2022-05-25T23:55:37.245



# Academic probation

MMO

- Minimum employment period under FW Act allows for u/d claims > 6 months
- Previous legislation allowed for “reasonable period” of probation (held 3 years for AS)
- Important to retain in contract/EA to allow for specific/simplified provisions re performance & termination

## Slide 6

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**MMO**

Still requires compliance with provisions of EA not as straight forward as other sectors probation and after 6 months access to FWC Unfair dismissal - harsh etc

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# Workload Clauses - Academic

- Not in award - feature of EA's
- Seek to reduce managerial prerogative and discretion
- Along with major workplace change a frequent dispute matter with the NTEU
- Need to create shared understanding internally with academic leaders about workload provisions - “where the rubber hits the road” to ensure consistency, fairness and reduce unhelpful interpretations

# Demotion

MMO

- Relatively unusual in awards/contracts/ EAs
- Important in HE because termination requires “serious misconduct”, essentially same as summary dismissal
- Recent caselaw has clarified law on demotion vs dismissal

## Slide 8

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**MMO**

A double edged sword - having it in your EA means that you should consider it Flinders

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# Opportunities

- Scope clauses and high income guarantee
- Individual flexibility arrangements