

Canada vs Australia: Regulating the Gig Economy

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Abstract : The nature of the workforce has changed radically over the last 50 years in terms of a wide range of factors, including its education levels, gender composition, and the status of workers. Despite extensive changes to the structure of the workforce, lawmakers and judges have shown a reluctance to reshape employment law. In particular, employment laws have not kept pace with the extensive use of flexible forms of employment, whether part-time, casual or agency employees. This paper focuses on recent attempts at legislative change in the state/provincial and federal jurisdictions in both Australia and Canada. Australian and Canadian employment laws share a common heritage and many similarities. However, there are significant differences in the way in which employment-based disputes are resolved. The Australian component of the paper considers the changes made by the Federal conservative Coalition government in 2021. The paper also reviews the proposals for change to regulating the gig economy made by the Canadian Federal government in the 2021 budget and the idea of a rebuttable presumption in favor of an employment relationship over a contract for services. The paper suggests that there are considerable institutional impediments to achieving pragmatic law reform that balances the interests of workers and employers. It concludes that there are strong interests in the legal and labor law community for continuing the status quo, despite the fact that it may negatively impact the most marginalized members of the workforce in Australia, Canada, and other jurisdictions.

Keywords : employment law, flexible employment, labor law, legislative reform

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