For a century, the Australian Federal Parliament generally provided only the regulatory framework for the operation of the system of federal industrial relations, leaving awards made by the industrial tribunal to provide the floor of minimum terms and conditions of employment. A dramatic shift in this approach has occurred with Parliament legislating minimum standards, the National Employment Standards, in the Fair Work Act 2009 (Cth), with some standards previously being set by Parliament under the Work Choices system in 2005. The new national system now relies primarily on a new guard, Parliament, for these basic core standards which also underpin workplace agreements — maximum hours of work, annual and other types of leave, redundancy pay and minimum notice of termination — whilst modern awards updated by Fair Work Australia provide the safety net for other minimum labour standards.

This lecture will examine the extent to which the guard of minimum conditions has changed from tribunal to Parliament, the implications of the Fair Work Act’s reliance on Parliament to set basic labour conditions and considers whether this will enhance or impede the goals of fairness and flexibility.

Marilyn Pittard is Professor of Law in the Faculty of Law at Monash University, with responsibility for labour and employment law in both the undergraduate and postgraduate law programmes. She has served for two terms each as Associate Dean (Postgraduate Studies) and Associate Dean (Research) in the Faculty of Law, as well as Director of the Honours Programme, Acting Deputy Dean and Acting Dean. Professor Pittard has published several books and publishes extensively in labour law and industrial relations journals. Her most recent book published by LexisNexis in 2010 is Australian Labour Law: Text, Commentary and Materials. She and Phillipa Weeks published the book, Pittard and Weeks (eds) Public Sector Employment Law in the Twenty-First Century (2007), arising from an ARC Grant.

Currently Professor Pittard is working on an ARC Linkage grant project as Chief Investigator with others on employment of people who have a criminal record.

The views expressed in this seminar are those of the presenter and do not necessarily represent the views of the Australian National University.