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# Fair Work laws to make hard work even harder

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HATE to be negative at this festive time of the year, but the most enduring topic of small business discussions is the failure rate of small businesses.

However, when you look at the traps set by governments and even employees, you can understand why.

And while it is always nice to blame someone else for your failure, US comedian Jerry Seinfeld, I think, sheds some light on the topic. He once joked that scientists say men are programmed to want to do big things — build bridges, tall buildings, etc. However, they generally don't succumb to their genetic programming. Why? It's too hard.

In the past it was argued that four out of five failed within five years. No statistics have ever backed up this claim or anything like it.

Ten years ago, William Dennis of the National Federation of Independent Business' Education Foundation in the US, analysed 36,000 households each year for the Wells Fargo/NFIB Series on Business Starts and Stops.

He found that about half of businesses that employed people

were still operating five years after they opened. But that does not mean the others went broke.

The NFIB estimated that over the lifetime of a business, 39 per cent are profitable, 30 per cent break even, and 30 per cent lose money, with 1 per cent falling in the "unable to determine" category.

In another study, where failure was defined as bankruptcy, the number dropped to less than 1 per cent annually.

So what makes business too hard for some small business owners? In a week's time a new Fair Work Act starts and a new survey says one in two employers' business lives is about to get a lot harder.

"What is clear from this study is that more than 50 per cent of companies remain unaware and unprepared for the final phase of the Fair Work Act, which commences on January 1," says David Griffiths, executive director of CompliSpace.

Changes such as the extension of unpaid parental leave from 12 to 24 months and entitlement for carers of pre-school and disabled children to request flexible working arrangements could bring a few employers undone.

Where are the government ads for this?

"Employers who fail to understand these changes or respond appropriately to employee requests could find themselves subject to costly discrimination claims," warned Griffiths.

This comes as recent interest rate rises have apparently hit retailers hard. The Australian Re-

tailers Association has found that 54 per cent of retailers are trading below the same time in 2008.

ARA executive director Russell Zimmerman blames the three successive interest rate hikes and consumers trending towards conservatism for the slow trading.

Running a business is hard enough without these imposts from government and other bodies such as the RBA.

In an election year, you have to hope policy offerings will show that political parties want to lessen the load on business owners.

The worst small business story I came across this year was about Cyber Monday in the US.

Traditionally, Black Friday is the first retail Friday after Thanksgiving, which ushers in the start of the Christmas shopping season and it's when retailers get out of the red and into the black.

Since the advent of the internet, retail experts look to Cyber Monday to calculate online sales.

But why is this data checked on Monday and not Friday? Well, that's when employees get back to work and can use the boss's fast computer to shop and it all happens on the boss's time. Who said being in business was hard?

**ONLINE** For a full copy of the national benchmark report, "Fair Work — the road ahead", visit [www.complispace.com.au](http://www.complispace.com.au).

*Peter Switzer appears on Sky News Business Channel [www.switzer.com.au/small-business](http://www.switzer.com.au/small-business)*