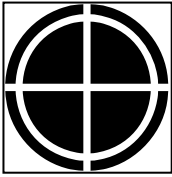




**Employer  
Services**



# RELATIONS

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NEWSLETTER

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## Contents:

**Federal Labor's Transitional Bill now Operational; AIRC Requested to Begin Award Modernisation Process; AFPC Considering Next Federal Minimum Wage Increase; New Superannuation Rules from 1 July 2008; ES IR Information Sessions in May 2008.**

### Federal Labor's Transitional Bill now Operational

The Governor General has signed into law the Transitional Bill which introduces several reforms to the WorkChoices Laws. The Government has acted consistently with its election platform as enunciated in its "Forward with Fairness" documents. The new laws operate from 28 March 2008.

Most significantly new AWA's (Australian Workplace Agreements) cannot be entered into after midnight on 27 March 2008.

Contrary to some media reports AWA's made prior to 28 March 2008 continue on until their nominal expiry dates and beyond subject to either party seeking to withdraw from an AWA. All other Agreements also continue on. The Deputy Prime Minister Julia Gillard in proclaiming the new laws with the Governor General effective from 28 March 2008 had this to say:-

*"The proclamation of the Act is the beginning of the end of the previous Liberal Government's extreme Work Choices laws which were introduced two years ago today.*

*The legislation reflects the Rudd Government's election commitments, which were set out in Forward with Fairness and the Forward with Fairness Implementation Policy Plan. The key provisions of the Transition to Forward with Fairness Act:*

- *Prevents the making of new Australian Workplace Agreements;*
- *Allows employers using AWAs as at 1 December 2007 to offer Individual Transitional Employment Agreements (ITEAs) to new employees and employers already on AWAs, for the transition period while award modernisation takes place;*
- *Introduces a genuine no-disadvantage test for new collective agreements and ITEAs;*
- *Enables the Australian Industrial Relations Commission (AIRC) to undertake the process of award modernisation; and*
- *Removes the requirement for employers to provide the Workplace Relations Fact Sheet to their employees.*

*Following the nominal expiry date of an AWA made under Work Choices, it may be terminated unilaterally by either the employer or employee on 90 days' notice. The employee would then be entitled to the benefit of the whole of an applicable collective agreement or award in the workplace.*

*As requested by employer and employee representatives, the Act will allow parties to retain pre-Work Choices certified agreements and to extend or vary those agreements in limited circumstances to avoid a double transition prior to the commencement of the Government's new workplace relations system in 2010.*

*The Government will introduce its substantive workplace relations reforms into Parliament later this year after extensive consultation, to ensure that the Rudd Government's new workplace relations system is fair, flexible and productive."*

The terms of the new Laws are still quite complex and clients are encouraged to contact us on (07) 3220 3500.

Clients may wish to utilise ITEA's but their application is quite limited and detailed advice is necessary before proceeding with this type of instrument. Please refer to our January 2008 and February 2008 Relations Newsletters for more detailed explanations.

### AIRC to Begin the "Award Modernisation Process"

Julia Gillard as the Minister for Employment and Workplace Relations has issued an award modernization request to the Australian Industrial Relations Commission.

In a media release dated 1 April 2008 the Minister has announced that:-

*"This request asks the Commission to begin the important job of creating new modern awards. The request was developed in consultation with members of the National Workplace Relations Consultative Council.*

*The Government understands that modernising and simplifying our award system is a huge job, but it is a job that needs doing to ensure this nation moves forward with fairness.*

*Together with the 10 National Employment Standards, modern awards will ensure a fair and simple minimum safety net for all employees when the Government's new workplace relations system commences full operation in January 2010.*

*Modern awards will:*

- *be able to build on the 10 National Employment Standards with industry-specific detail;*
- *protect a further 10 important conditions for employees such as minimum wages, penalty rates, overtime and allowances;*
- *promote flexible modern work practices and the efficient and productive performance of work; and*
- *be simple to understand and easy to apply and reduce the regulatory burden on business.*

*The Commission will develop modern awards in consultation with key stakeholders including unions and employer groups.*

*In addition there will be open and transparent consultation on exposure drafts of modern awards so members of the public can have their say.*

*The Commission is to complete the award modernisation process by 31 December 2009."*

The request is quite lengthy and complex but as extracted the initial steps require the AIRC to:-

19. *The Commission is to complete the award modernisation process by 31 December 2009.*
20. *To that end, the Commission should endeavour by 30 June 2008 to have identified a list of priority industries or occupations for award modernisation, developed a timetable for completing the award modernisation process and developed a proposed model award flexibility clause. In developing its priority list, the Commission will have regard to those industries and occupations with high numbers of Australian Workplace Agreements and Notional Agreements Preserving State Awards (NAPSAs).*
21. *In identifying a list of priority industries or occupations for award modernisation, developing a timetable for completing the award modernisation process and developing a proposed model award flexibility clause, the Commission is to consult with major workplace relations stakeholders and other interested parties. It is acknowledged that the Commission will require the full support and cooperation of major workplace relations stakeholders and other interested parties in order to conduct that consultation.*
22. *In developing a timeframe for completing the award modernisation process, the Commission should endeavour to have created by the end of December 2008 modern awards for each of the priority industries or occupations it has identified following the consultations with key workplace relations stakeholders."*

The AIRC has been given a "huge task" and must seek to modernise up to 4300 Federal Awards and NAPSA's. Enterprise Awards will be excluded from this process. Remaining State Awards are not affected by this process. It is extremely unclear at this stage just how the AIRC will deal with the process or which Awards will be swept up in the "priority industries or occupations".

We will be directly representing a wide range of clients in this process and will continue to update all our clients through our Relations Newsletters.

#### AFPC Considering Next Federal Minimum Wage

The Australian Fair Pay Commission is currently considering the various submissions it has received to assist in its determination of the 2008 Minimum Wage Increases.

The ACTU has argued for a \$26.00 per week increase for the low paid whilst submissions from Employers seek increases of only \$11.00 to \$13.00 per week.

The Federal Government, contrary to media reports, did not recommend any dollar figure in its submissions to the AFPC. A determination is not expected until July 2008 with an operative date of the first pay period on or after 1 October 2008. Note that the AFPC decision does not apply to awards remaining subject to State Industrial Tribunals.

#### New Superannuation Rules From 1 July 2008

From 1 July 2008 the only definition of Ordinary Time Earnings (OTE) allowed under Federal Superannuation Laws is the Australia Tax Office (ATO) ruling on OTE.

Any Award or Contracted Agreement which is not equivalent to the ATO ruling will be in deficit and severe penalties can apply.

The ATO ruling can be viewed at: <http://www.ato.gov.au/super/content.asp?doc=/content/39205.htm>

Please check your OTE calculations to ensure compliance.

#### ES Information Sessions

Employer Services will be holding information sessions in May covering the following topics:

- The Transitional Bill;
- No Disadvantage Test;
- Award Modernisation;
- National Employment Standards;
- Union Right of Entry;
- Balance of Forward with Fairness;
- New Super Rules 'OTE';
- Strategies to deal with existing and future legislative change.

These sessions will be held in our Brisbane office and are limited to 12 attendees per session to ensure plenty of interaction and time for questions.

These dates are 8 May; 15 May and 22 May. Sessions will run from 9.30 to 12.30 with morning tea plus handouts. More sessions will be programmed if necessary.

If you would like to attend please contact us on (07) 3220 3500 to request a registration form.

We look forward to your attendance.