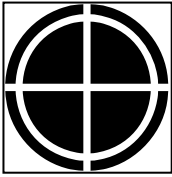




**Employer
Services**



RELATIONS

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NEWSLETTER

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(All care has been taken in compilation of this publication but no responsibility is accepted for reliance on its contents)

Contents:

Federal Labor's Transitional Bill; Award Modernisation Process; Fair Pay Commission to Begin Review of 2008 Minimum Wage Increases; NSW Unions Seek 4.5% Increase in State Industrial Commission; National Employment Standards (NES) Exposure Draft; Our Training/Information Days.

Federal Labor's Transitional Bill

True to its pre-election promises the Federal Labor Government have introduced on 13 February into Federal Parliament a Transitional Bill which is principally intended to –

- Ban all new AWA's (Australian Workplace Agreements);
- Establish Individual Transitional Employment Agreement's (ITEA's);
- Reintroduce a full No Disadvantage Test (NDT) for ITEA's and Collective Agreements;
- Enable the Australian Industrial Relations Commission to begin the modernisation of Australia's Federal Award system;
- Remove the need for the Employer Fact Sheet;
- Extend the end date for NAPSA's (Notional Agreements Preserving State Awards) to 31 December 2009;
- Extend the end date for registration of Transitional Organisations (Unions of Employees or Employers) to 31 December 2009;
- Removal of the 90 day rule for unilateral termination of Collective Agreements and require a Public Interest Test before the Australian Industrial Relations Commission (AIRC);
- Agreements that failed the NDT but allowed through on exceptional circumstances test would only have a life of 2 years;
- Very significantly amend the process where lodged agreements applied from date of lodgement to where the agreement becomes effective 7 days after date of written approval. There are exceptions for some ITEA's and Employer and Union Greenfields Agreements.

Note: Under Forward with Fairness (Federal ALP Policy) the future administration of Agreements was to be through Fair Work Australia (FWA) and it was said to have a 7 day turnaround. FWA does not come online until 1 January 2010. Currently the delay under the Fairness Test is extending out to 6-7 months. A totally unacceptable timeframe it is fair to say. A dramatic turnaround in the approval process is required if parties to Agreements made under the NDT are to secure speedy approval of their agreements.

The Government hoped that the Transitional Bill would come into operation by Easter 2008 and given the dramatic change of heart by the Federal Opposition, which is to support the Bill in total, that date looks achievable. The change in attitude was announced on 19 February.

Until then the Workchoices Laws and the Fairness Test continue to apply and AWA's can still be lodged but time is running out for AWA's. Please contact us for urgent clarification.

ITEA's will only be available to be utilised by those Employers who at 1 December 2007 had AWA's in place or an approved individual employment agreement.

There are no changes proposed to the Unfair Dismissal Laws in this Transitional Bill. They will come in legislation to be introduced later this year. The Deputy Prime Minister (Julia Gillard) has announced that membership of the Business Advisory Group and a Small Business Working Group will be announced shortly.

The Working Group will be the key group charged with drafting a "Fair Dismissal Code" to underpin the proposed new laws.

Whilst only a Transitional Bill there are still considerable details in the proposals being made. The Bill extends to 125 pages; the Explanatory Memorandum to 99 pages.

Award Modernisation Process

The Bill sets out a timetable for modernizing over 4000 Awards. For example:

Upon request by the Minister for Employment and Workplace Relations the AIRC must, by 30 June 2008, -

- “ 1. **identify** a list of priority industries or occupations to undergo the award modernisation process, after consulting with “major workplace relations stakeholders and other interested parties”;
2. **set** a timetable for completing the process with a view to having the priority industries or occupations completed by the end of this year; and
3. **develop** a proposed model award flexibility clause that the Deputy Prime Minister said would provide for agreements that met employees’ genuine individual needs while ensuring they were not disadvantaged.”

In addition it obliges the AIRC’s president, Justice Geoffrey Giudice, to publish quarterly reports that will detail the industries or occupations about to undergo award modernisation and the individual Commission member responsible for it, and include an update on any developments in the past or coming quarter, or any changes to the modernisation timetable.

The Commission will be required to publish an exposure draft of each modernised award and will have the power to hold conferences with award parties when developing the draft. Consultation on exposure drafts will be “open and transparent”. Clearly significant time will be involved in procedural matters; hearings; etc.

Importantly there is the ability to seek up to a 5 year phasing in where state based differences cannot be reconciled by 1 January 2010.

We will continue to update our clients on the progress of this Transitional Bill.

Fair Pay Commission (FPC) to Begin Review of 2008 Minimum Wages

The FPC has begun the 2008 Minimum Wage Review. Note the Federal Labor Government asked the FPC to continue to set and adjust minimum wages until 31 December 2009 when the function will be taken over by Fair Work Australia (FWA).

The FPC will meet the various stakeholders and visit places of employment, employment services providers and training providers to gain a better understanding of the impact of its decision. Commission Chair, Professor Ian Harper, is quoted as saying –

“The processes we have pioneered – conducting consultations, inviting submissions and undertaking research – represent a contemporary approach to the challenges of minimum wage-setting, and will continue to underpin our work.”

The FPC must have regard to:

- The capacity for the unemployed and low paid to obtain and remain in employment;
- Employment and competitiveness across the economy;
- Providing a safety net for the low paid; and
- Providing minimum wages for junior employees, and employees to whom training arrangements apply and employees with disabilities that ensure those employees are competitive in the labour market.

The Commission is seeking submissions and the closing date is 14 March 2008. Contact 1300 139 699, or www.fairpay.gov.au. It is anticipated that a decision will be issued in July with an effective date on or after 1 October 2008.

NSW Unions Seek 4.5% Increase in State Award Wages

The NSW Union movement has at the State Level only sought a general wage increase of 4.5% for all State Award employees. The claim will be heard by the NSW Industrial Relations Commission.

No information relating to wage demands of other State Union bodies is yet available.

NSW's State Industrial Commission generally hands down its State Wage decisions in late May or early June each year.

National Employment Standards (NES) Exposure Draft

The Deputy Prime Minister, Julia Gillard, has made available the Exposure Draft of these proposed standards with written comment due by 4 April 2008. We will be making detailed submissions regarding our concerns as to how the NES will impact business.

The Exposure Draft is not part of the Transitional Bill but will be enshrined in law with legislative changes proposed for later in 2008.

The NES conditions will be part of a legally enforceable set of minimum standards applicable to all employees of Trading Corporations.

On 13 February 2008 Julia Gillard explained the NES in Federal Parliament as follows:-

"National Employment Standards

Tomorrow I will release an exposure draft of the proposed National Employment Standards which will replace the current Australian Fair Pay and Conditions Standard when the new workplace relations system becomes fully operational in 2010. These standards include minimum entitlements such as hours of work, carer's leave, public holidays and notice of termination. Modern awards may build on these Standards with industry specific detail.

From 2010, the National Employment Standards and modern awards will together form the safety net for both employment and collective bargaining."

The full range of matters dealt with by the NES are:

- a) Maximum weekly hours of work;
- b) Requests for flexible working arrangements;
- c) Parental leave (and related entitlements);
- d) Annual leave;
- e) Personal/Carer's leave and compassionate leave;
- f) Community service leave;
- g) Long service leave;
- h) Public Holidays;
- i) Notice of termination and redundancy pay;
- j) Fair Work Information Statement.

It is to be noted that the NES represent key minimum entitlements for all employees in the new system. They will be guaranteed in legislation so that they cannot be excluded or modified in a way that undermines the safety net. This means even for employees considered "award free".

Wage rates are not part of the NES and will be provided for in the new "modernised" awards from 1 January 2010.

Our Training/Information Days

Now that the Transitional Bill is available we will begin planning our days around Queensland. Our next Relations newsletter will include our program, venues etc. For any clarification for "on-site" sessions please call us on (07) 3220 3500.

What can Employer Services do for your Business?

In addition to our ever popular 'Award Update Service', *Employer Services* offers an array of services you may find useful.

Examples of Consultancy Services accessible at competitive rates include:

- Expert advice on composing employment instruments and documents such as -
 - Workplace Agreements (in both State & Federal Systems)
 - Employment Contracts (Common Law Contracts)
 - Policies and Procedures Manuals
- Conducting Payroll Audits, Calculations for Wage Claims, Wage & Salary Reviews, etc;
- Composition of warning letters, appointment letters, 'show cause' documents, letters of termination, etc;
- Training courses structured to your specifications, offered in-house or at our premises. Popular topics include -
 - 'Back-to-Basics' (Understanding Awards/Agreements);
 - Workplace Bullying / Harassment;
 - Anti-Discrimination;
 - Termination & Counselling Procedures;
 - Handling of Grievances;
- Workplace investigations and mediation;
- Representation in various Commissions and Tribunals;
- Comprehensive strategic advice on complex issues such as -
 - Performance management and counselling procedures
 - Handling of grievances
 - Termination and redundancy processes
 - Organisational restructuring

If you would like further information on any of the services listed above (and more), please feel free to contact us on (07) 3220 3500 to discuss.