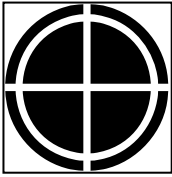




**Employer
Services**



RELATIONS

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NEWSLETTER

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Contents: Fair Work Act – Guaranteed Start on 1 July 2009; Queensland Government joins South Australia and Tasmania in announcing, in principle, support for a National IR System for the Private Sector; State Wage Cases; Federal Minimum Wage; The Proposed Modern Award System; Changes in Definition of “OTE” for Occupational Superannuation; ES Information Seminars.

Fair Work Act – Guaranteed Start on 1 July 2009

The Fair Work Act will definitely commence on 1 July 2009, ushering in many changes, including Fair Work Australia (assuming the functions of the Australian Industrial Relations Commission); changes to Unfair Dismissal Laws; Good Faith Bargaining; leading to a One Stop Shop of Government Industrial Relations Agencies by early 2010.

This has been made possible by the passage of the important “Transitional Provisions and Consequential Amendments Bill 2009” which, in effect, transitions the existing industrial system to the new system under the Fair Work Act.

From 1 January 2010, the Modern Award System and the National Employment Standards (**NES**) are expected to commence.

We thank the almost 200 clients of Employer Services who attended our Information Seminars in Brisbane and Toowoomba and received detailed briefings on the proposed new system. We are taking our seminars to regional Queensland in mid to late July. We remind our clients operating under WorkChoices that the new Unfair Dismissal Laws come into effect on 1 July 2009. They almost return the Unfair Dismissal system to what it was prior to WorkChoices. Please refer to our Relations Newsletter of March for a refresher on the exclusion thresholds.

Queensland Government joins South Australia and Tasmania in announcing, in principle, support for a National IR System for the Private Sector

On 11 June, the Queensland Attorney-General and Minister for Industrial Relations announced, in principle, support for a seamless national (Federal) I.R. system for the **Private Sector**. Local Government and the Public Sector will remain in the Queensland State Industrial System.

In part, the Minister stated –

“The Queensland Government is committed to seeing the implementation of an effective national industrial relations system which provides fair protection to employees and reduces the regulatory burden on employers.

A national industrial relations system for the private sector will provide greater certainty for workers and employers in Queensland.

There are clear benefits for business and for the economy through the reduction of red tape and the increased productivity which will result from a single national system; but these benefits must not be reached at the expense of workers' rights.

Today, I have indicated that our in-principle support for a national system is conditional on a number of key threshold issues first being resolved.

These issues include:

- . Employees transferring to the national system must have their State award or agreement entitlements protected;*
- . State legislation should continue to regulate training arrangements for apprentices and trainees, as well as regulation of conditions of employment for apprentices and trainees, unless modern awards are more beneficial;*
- . Queensland must have a high degree of control and input within the national system, regarding changes to law and policy, to protect Queenslanders from any future ideological crusades, like WorkChoices; and*
- . The national system must maintain acceptable service delivery, particularly in regional Queensland, in the areas of education services, tribunal and compliance services."*

Mr Dick said the conditions placed on the in-principle agreement will ensure the strengths of the Queensland industrial landscape will not be compromised for the sake of pursuing a national system.

We expect that the State Government will specify the terms of the protections agreed with the Federal Government during August with an expected referral date of 1 January 2010.

State Wage Cases

The Western Australian Industrial Commission has announced that State Award Minimum Wages will increase by \$12.30 per week from 1.10.2009. Last year, it awarded \$29.00, but the uncertainty of the West Australian economy has forced it to take a much more careful approach.

In New South Wales, the State Industrial Commission will hear an application for a 3.8% increase on 13 July 2009. It is understood that the NSW Government supports a 2.5% increase.

In Queensland, separate union claims seek a minimum wage increase in State Industrial Awards of \$27.80 per week. It is not known what the attitude of the Queensland Government will be.

Federal Minimum Wage

The Australian Fair Pay Commission, in its last case before it is dissolved on 31 July 2009, is considering a \$21.00 per week claim by the ACTU. A decision is expected in mid-July 2009.

The Proposed Modern Award System

The Federal Government's headlong rush, to reduce the Modern Award system from several thousand awards to perhaps no more than 120, is meeting with public outcry over the imposition of higher wages; penalty rates and casual loadings into industries currently with far lesser wages and conditions; having these conditions significantly increase wage costs, at a time when economic conditions are not improving and unemployment continues to rise.

There is no costing by the government or the Arbitration Commission of how the Modern Awards will impact business. One cannot really blame the Arbitration Commission, as they act in accordance with the deadlines set by the Deputy Prime Minister in her directives to the Commission – which, by the way, she keeps changing.

We have seen the Restaurant/Catering Industries pulled out of the proposed Hospitality Award, because of the evidence the "Hotel" penalty rates may destroy these already vulnerable industries. Farming Groups; Fast Food Companies; and Retailers continue to lobby the government to slow down and reconsider the Modern Awards for their sectors. Many more may yet come forward, but our examination of the 92 available released awards (Stages 1, 2 and 3) indicate significant wage escalations are on the horizon.

Stage 4 Awards haven't been seen yet and they will not be released until 4 December 2009. The system will come on line on 1 January 2010.

Experienced practitioners see nothing but confusion arising.

The Deputy Prime Minister has said that employers have 5 years to implement the Modern Awards where wage conditions /increases occur, but she promised "no increases in employer costs".

The decision to impose costs cannot be validated for no other reason than there is a phasing-in process.

We may not even have the Transitional Clauses for Stage 1 and 2 Awards until August/September 2009.

It is simply not good enough and the Modern Award system should be delayed until 2012 at the earliest if the Government is serious.

Changes in Definition of "OTE" for Occupational Superannuation

The **ATO** has issued a new comprehensive ruling on what is "**OTE (Ordinary Time Earnings)**" for the Superannuation Guarantee Contribution.

This ruling is known as SGR 2009/2 and replaces Superannuation Guarantee Rulings 94/4 and 94/5. It is a significant document and can be downloaded from the Australian Taxation Office Legal Database.

It does require the 9% contribution to be paid on –

- . Termination payments in lieu of notice;
- . Christmas bonuses.

Careful examination of SGR 2009/2 is required by all clients and advice from the **ATO** or your Financial Business Adviser may be necessary if in doubt of your obligations.

ES Information Seminars

We will conduct seminars in regional Queensland during mid to late July, so please look out for the registration forms.

We will also conduct seminars on a monthly basis in Brisbane areas on a demand basis.

If attending a seminar is not possible, let us know and we will see if alternatives can be organised.

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.