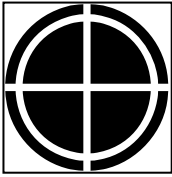




**Employer
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RELATIONS

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NEWSLETTER

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Level 1 26 Wharf Street, Brisbane, Q. 4000 G.P.O. Box 2747, Brisbane, Qld. 4001.
Phone: (07) 3220 3500; Fax (07) 3220 3511; E-Mail: es@employerservices.com.au; Internet: <http://www.employerservices.com.au>
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National Plan for Paid Maternity Leave; Future of Queensland's State Industrial System;
Inflation Hits 13 year High – What may be the Effect on Wages?; Our New Website.**

Federal Labor's Planned Changes to Workchoices

With only 3 parliamentary sitting weeks left this year, a Federal Government spokesperson confirmed the Government was on track to introduce its significant piece of IR legislation this year. In fact, the Deputy Prime Minister had invited the Federal Opposition to meet her in the week beginning 10 November to discuss passage through Parliament.

In a National Press Club briefing, the Deputy Prime Minister had outlined several features of the proposed new laws; including –

- Establish Fair Work Australia (FWA) to replace the Australian Industrial Relations Commission;
- Introduce a Fair Wages Panel;
- Allow compulsory arbitration by FWA, but in limited circumstances;
- Make good faith bargaining obligations largely procedural;
- Introduce 4-yearly reviews of Awards;
- Severely limit the unfair dismissal rights of employees of small businesses;
- Introduce assistance with bargaining for low paid employees.

Changes to bargaining framework and unfair dismissal laws will arrive 6 months earlier than previously announced. Significantly, small businesses (under 15 employees) would be subject to a "Fair Dismissal Code", which will be a 6-paragraph code and the Deputy P.M explained it this way:-

"In cases where dismissal was justified, employers would simply have to:

1. *Give the employee a warning, based on a reason that validly related to the employee's conduct or capacity to do the job; and*
2. *Provide a reasonable opportunity for the employee to improve his or her performance.*

It's as simple as that. Multiple warnings are not required. There is no requirement for 'three strikes and you're out'. It's desirable, but not necessary, for a warning to be in writing. If employers complied with the code, the dismissal 'will be held to be fair', but compensation would follow if the dismissal was unfair."

Note that employees of small businesses with less than 12 months service will be excluded.

No code will apply to businesses above 15 employees and the qualifying term is 6 months. In these cases the Employer will have to attend before Fair Work Australia, but simplified, non-legalistic processes have been promised as part of the new system.

FWA to assist bargaining for new “low paid stream”

Julia Gillard has spelt out how the new provisions for multi-employer bargaining for low-paid employees with poor bargaining power will work. Unions or bargaining representatives will be able to apply to Fair Work Australia “to enter a ‘low paid stream’ to bargain with a specified list of employers”, she said. FWA would only be able to make a binding agreement if parties agreed, she said.

However, recent press reports suggest FWA will be given powers to enforce outcomes on non-consenting employers.

Fair Wages Panel to take over from AFPC

She also announced that the Fair Pay Commission would be replaced with a new specialist Minimum Wages Panel within Fair Work Australia, to be headed by its President.

It would be made up of up to seven full and part-time members. Julia Gillard said the members would be “both specialists and generalists, drawn from the wider community with relevant experience in economic and social policy: and the panel will take a non-adversarial, inquisitive approach”.

Apart from changes to Dismissal Laws and Bargaining Processes, the remainder of the new laws are planned to operate from 1 January 2010.

National Plan for Paid Maternity Leave

The Productivity Commission has handed down an Interim Report proposing 18 weeks paid maternity leave at the Federal Minimum Wage currently of \$543.78 per week. This would be Government funded but would impose costs on business, such as -

- Employers have to finance maternity leave payments before seeking reimbursement from the government;
- Employers will incur administrative costs in making these payments through their payrolls;
- Employers will incur the loss of cash flow before getting reimbursement from government;
- Employers will incur extra costs in higher superannuation payments to employees on leave; and
- Employers may incur higher payroll tax and workers compensation payments, if maternity leave payments are run through payrolls.

It is important to note, however, that the Productivity Commission’s report is not final and may be modified before the final report is issued in February 2009. Also, the Federal Government is not bound to implement a paid maternity leave scheme in the form proposed by the Productivity Commission.

The Government has indicated that it is committed to the introduction of a paid maternity leave scheme and is considering the Productivity Commission’s draft report. The Government has previously indicated that it is committed to a scheme that does not impose additional costs or administrative complexity on small businesses.

Future of Queensland’s State Industrial System

Prime Minister Kevin Rudd’s vision for Industrial Relations is one Federal system for Australia. He has asked the State Governments to hand over their systems at least as far as the Private Sector is concerned.

Like all States, except Victoria, the Queensland Government has refrained from doing so and deferred any decision until mid 2009. Queensland would, however, maintain its own Work Cover system; Workplace Healthy and Safety laws; Child Labour Laws, Training and Anti-Discrimination system. It is to be hoped, for business' sake, that the State Government does so to remove the confusion that surrounds competing State and Federal Industrial Systems.

Inflation Hits 13 Year High – What may be the effect on wages?

The CPI for the September Quarter, released on 22 October, shows inflation rising by 5%, the highest increase since September 2000.

Senior economists do not expect a flow through to wages due to the anticipated slowdown in the labour market caused by the current credit crisis. Unemployment was expected to rise to 6% by mid 2010 taking the pressure off wages.

However, in a recent announcement the Queensland Government offered the bulk of its Public Sector Workforce an increase of 4.5% for 2008 with 2 x 4% increases to follow. This is despite supposedly holding firm to a wage outcome for 2008-2011 of 3.25% a year. It remains to be seen whether Unions accept this offer. The offer follows sustained industrial action in areas of the State Public Sector.

Award Modernisation process Rolls On

The process, begun by the Australian Industrial Relations Commission (AIRC) – under direction by the Deputy PM – rolls on with the initial drafting of the 14 Priority Modern Awards being finalized and debated. Those 14 Awards will be finalized and made available on 19 December 2008. However, no "Modern Award" will be effective until 1 January 2010. On 31 December 2009, all NAPSA's and Federal Pre-Reform Awards will expire. True Federal Enterprise Awards are exempted from the Modernisation Process. The AIRC has split the process up in 4 stages, with the Awards in Stage 2 being finalized on 4 April 2009; Stage 3 in September 2009 and Stage 4 in December 2009.

So far, the priority drafts made available give little encouragement to businesses reliant on award conditions. Using the draft "Modern Retail Award" as an example, its terms have been described as a "catastrophe" and potentially devastating to employment levels.

The AIRC has determined, for instance, in all drafts that the Casual Loading will be "25%" and reintroduced "Redundancy Pay" for employees of small business.

The directive of Julia Gillard that –

"The creation of modern awards is not intended to:

- *Disadvantage employees;*
- *Increase costs for employers"*

may well prove illusionary with employers simply facing increased wages and conditions and reduced flexibility. The final Awards (stage 1) are eagerly awaited to see if the AIRC has listened to employer concerns. Award Modernisation will continue to be a standing item in our newsletters. Please contact us if you have any queries.

ES' New Website

Our upgraded website is now operational and together with a new hosting company we aim to make utilization easier for our Clients. Please take the time to check it out at www.employerservices.com.au and let us know what you think about it.

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.