

National Wage Case 2005



Workers and the Commission are waiting on the Federal Budget

The ACTU has lodged a claim for a \$26.60 a week pay increase in this year's national wage case. The decision is usually handed down in early May but it is likely to be slightly later this year as the Federal Government has requested that the Commission delay its decision until after the Federal Budget has been handed down. This is intended to allow the Commission to consider the latest economic forecasts prior to determining the size of this year's increase.

Each of the state industrial relations commissions usually follow the decision of the Federal Commission and so increases in each state can be expected later in the year.

Federal Government plans

The Federal Government is keen to make a range of significant changes to the industrial relations laws once they gain control over the Senate in July 2005. It is expected that the following legislation will be passed shortly after this:

Workplace Relations Amendment (Fair Dismissal Reform) Bill 2004

The Government's key priority is to allow small businesses to dismiss staff without having to worry about the unfair dismissal laws. This is the legislation that has been rejected by the Senate over 40 times in the last few years. The legislation will define small business as a business with up to 20 employees. The Government believes that it will encourage small business to recruit staff if they know that they can dismiss them easily.

However, it should be noted that these employers will not be exempt from the unlawful (as opposed to the unfair) dismissal law. This means that they will not be able to dismiss an employee on the grounds:

- that they are temporarily absent from work because of illness or injury;
- they are members of a trade union or have participated in trade union activities;
- they are not members of a trade union;
- they have acted as a representative of employees;
- they have filed a complaint against their employer alleging violation of laws or regulations;
- of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
- they have refused to be covered by an AWA,
- they are absent from work during maternity or other parental leave;
- they are temporarily absent from work because they are involved in voluntary emergency management activity.

Whether small business employers will be able to differentiate between being able to dismiss an employee unfairly but not unlawfully will become clearer once the legislation is in place. WorkSight recommends that all employers should always take care before dismissing an employee. You are unlikely to maintain a committed and productive workforce if you are willing to dismiss staff in a manner which might be considered to be harsh, unfair or unreasonable if

the Industrial Relations Commission were ever to look into your practices.

Workplace Relations Amendment (Small Business Employment Protection) Bill 2004

This legislation intends to exempt small businesses from the increased redundancy provisions established in 2004 by the Australian Industrial Relations Commission. Before this decision of the Commission, small businesses did not have to pay redundancy pay. However, the Commission concluded that it is no longer reasonable that small businesses can make employees



Changes pending in building and construction

redundant and pay them no severance pay. The Federal Government does not accept this point of view and so has introduced legislation that will allow small businesses to be exempt from redundancy pay.

Small businesses should note that under the "Fair Dismissal" bill the Government has defined a small business as one with fewer than 20 employees but in relation to removing the

requirement to pay severance pay a small business must have fewer than 15 employees.

The Government has also introduced legislation aiming to:

- to restrict the right of union officials to enter workplaces;
- prevent unions from requiring non-union members to pay a "bargaining fee" to the union when the union has negotiated an enterprise agreement; and
- make significant changes to the industrial relations culture within the building and construction industry.

WorkSight Sydney Office

With Rae-Anne Medforth's return from her 12 month stint in Europe, our Sydney office is up and running again. Whilst in Europe, Rae-Anne worked on a range of issues with the International Labor Organisation (ILO) and Public Service International. She will continue to be responsible for our international contracts, such as training and development for finance service professionals in the Middle East, but will also be working with our Australian clients particularly in NSW and Queensland.

This newsletter is intended to provide a general outline and is not intended to be and is not a complete or definitive statement of the law on the subject matter. Further advice should be sought before any action is taken in relation to the matters described in this newsletter.

Focus looks at

The Fine Print



Choice of Funds

All employers must ensure they are aware of the implications of the introduction of the requirement to give employees a choice as to which superannuation fund their contributions go into. The choice of funds legislation comes into effect on 1 July 2005.

The Australian Tax Office plans to mail an information

pack to all employers in April 2005. Make sure you keep an eye out for it to ensure you understand your obligations from 1 July 2005.



**Workplace
Relations
Specialists**

Practical and personal employee relations advice

If you need information or advice about any employee relations issues affecting you or your employees contact Siân Owen, Janet Nicolson or Rae-Anne Medforth at WorkSight.

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