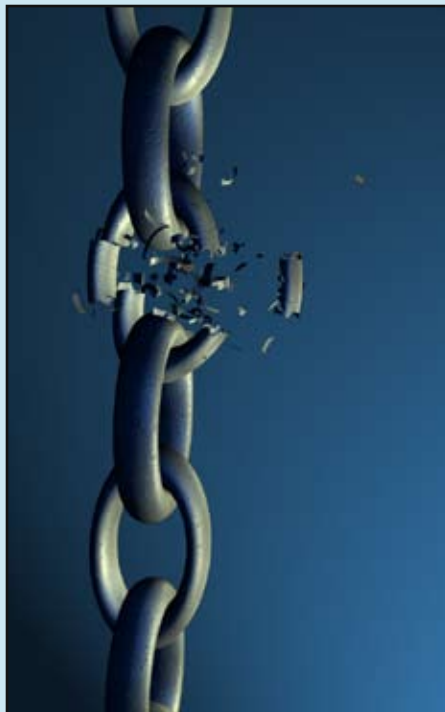


What will the IR system look like under a Rudd Government?

With the new Rudd Government in place we are once again facing major change in the industrial relations system. Whilst the complete system will not come into effect until January 2010 some changes will be made early in 2008. The key changes that have been proposed are:

1. Fair Work Australia will be established to replace the array of existing organisations that govern the industrial relations system including the Australian Industrial Relations Commission, the Fair Pay Commission and the Workplace Authority. Fair Work Australia will provide information, advice and assistance through a series of shop-front offices. Fair Work Australia will also have responsibility to settle disputes, oversee compliance, deal with unfair dismissals and hold inquiries into the minimum employment conditions.
2. AWAs will be abolished although existing AWAs will continue to operate until their expiry date.
3. The existing Fair Pay and Conditions Standard will be replaced with 10 minimum employment conditions.
4. Awards will be reduced in number and simplified. All awards will have the 10 minimum employment



- conditions and up to 10 additional employment conditions.
5. A national industrial relations system will be established in co-operation with the states for all private companies.
6. Unfair dismissal provisions will be re-introduced into the legislation. Employees in businesses with less than 15 employees will be required to have been employed for 12 months before they can make a claim of unfair dismissal. Employees in larger businesses will be required to have been

employed for a minimum of 6 months before they can make such a claim. The Government intends to develop a Fair Dismissal Code with small businesses to provide a guide on how to dismiss employees fairly.

What are the 10 Minimum Employment Conditions?

1. The full time working week will be 38 hours.
2. Parents will have an entitlement to 12 months' unpaid parental leave each (currently parents can only have a maximum of 12 months' unpaid leave between them). One parent will be able to request up to 2 years' of unpaid parental leave. Employers can only refuse such a request on reasonable business grounds.
3. Parents will have the right to request flexible working arrangements until their child reaches school age. Employers can only refuse such a request on reasonable business grounds.
4. 4 weeks annual leave for full time employees with an additional 1 week for shift workers.
5. 10 days paid personal leave for full time employees, 2 days

- paid compassionate leave and a further 2 days unpaid carer's leave.
- 6. Community service leave including paid leave for jury duty and unpaid leave for emergency services volunteers.
- 7. An entitlement to a paid day off on public holidays (if an employee usually works on that day) and an entitlement to penalty rates if an employee is required to work on them.
- 8. All employers will be required to provide Fair Work Information Statements to all employees relating to an employee's rights and entitlements at work.
- 9. Severance pay for employees of small businesses (i.e. less than 15 employees) of up to 4 weeks (plus an additional week for those over 45) and up to 16 weeks for all other businesses (in line with the Australian Industrial Relations Commission test case standard introduced in 2004).
- 10. Long Service Leave – the Government's intention is to work towards a nationally consistently long service leave provision. Until that is achieved employees will be entitled to leave in accordance with the relevant state legislation or award or agreement.

What else can be in an award?

- 1. Minimum rates of pay
- 2. The forms of employment available in that workplace eg part time, casual, flexible work options
- 3. Hours of work and breaks
- 4. Overtime
- 5. Penalty rates
- 6. Annualised salaries as an alternative to the payment of penalty rates
- 7. Allowances
- 8. Leave arrangements

- 9. Superannuation
- 10. Consultation, representation and dispute settling provisions

National Building and Construction Industry Pay Scales



WorkSight has commented in the past on the unnecessary complication caused by the separation of the rates of pay from rates of allowances paid under awards such as the National Building & Construction Industry Award. Under the existing WorkChoices system the Fair Pay Commission determines the rates of pay and the Australian Industrial Relations Commission determines the rates of allowances. Until recently employers and employees had to check the award for the allowances that were payable and then the WorkChoices website for the wage rates.

However in mid-November the WorkChoices website amended the National Building & Construction Pay Scale to include allowances. Whilst this may seem to be a step forward in developing a rational, user-friendly system, in reality it has just added further confusion.

The rates of allowances that have been included are the rates as at 26 March 2006 and not the current rates. There have been two increases in the rates of allowances since then which employers are required to pay. We are therefore strongly recommending that clients do not rely upon the WorkChoices Pay Scales to calculate the rates of allowances.

To determine the current rates of allowances you should continue to rely upon the rates published by the Australian Industrial Relations Commission. To determine the current rates of pay you should continue to use the Pay Scales on the WorkChoices website.



Practical pay and conditions advice

If you are uncertain as to what you should pay your employees or what other employment conditions you should provide, ring WorkSight for practical advice and assistance or visit our website for information on what WorkChoices means for your business.

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For on-line advice and assistance visit:

www.worksight.com.au

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.