

WorkSight Focus

March 2003

News, opinions, events and more from the WorkSight team

Victorian Shops Award

The Australian Industrial Relations Commission handed down a decision in January that has dramatically increased the number of shops covered by the Victorian Shops Interim Award. Previously this award covered only 1,323 shops with more than 35,000 covered by Victoria's minimum wage rates and conditions.

In 2000 the Shop Distributive and Allied Employees Association asked the Industrial Relations

Commission to bring these shops under the award. By the time of the hearing of the case in 2002 the union had cut down the number to be covered to

17,628. The Commission agreed that they should be covered by the award as the minimum wages and conditions were so inferior compared to the employment conditions in the award. For instance those employees not covered by the award were not entitled to paid overtime, penalty rates, annual leave loading, shift

loadings or severance pay.

It is very rare for so many employers to be brought under an award at one time. This decision will have a very significant impact on those shops that were previously not covered by the award. The Commission has recognised this by delaying the introduction of the requirement to pay penalty rates until 17 May 2003 (the rest of the award will apply to all shops covered by it from 17 February 2003).

Changes to penalty rates

The Commission also made a significant change to the level of penalty rates that will apply under this award. It is proposed that the Sunday penalty rates will be reduced from double time to time and a half as Sunday is considered



to be a common shopping day. The Saturday penalty rate will drop to time and a quarter and employers will no longer have to pay a minimum of three hours overtime when overtime is carried out (i.e. they will just pay for the number of hours worked).

Improved employment conditions in Victoria

This is obviously a very important decision for those businesses in the retail sector. However it may well have significant impact on



other industries should unions chose to make the effort to bring all those small businesses operating under Victoria's minimum wages and employment conditions under award conditions.

Businesses also need to take into account that the State Government wants to significantly improve the employment conditions of those Victorian workers who are not currently covered by an award. It is therefore likely that one way or another Victorian employers are going to have to expect to increase the range of employment conditions they offer their workers over the next 12 months.

ACTU Living Wage Claim

The ACTU has launched its claim for a national wage case increase of \$24.60 a week for all federal award workers. In 2002 the Australian Industrial Relations Commission awarded an \$18.00 a week increase to award rates of pay. A decision on this claim is likely in May 2003.

Focus looks at

The Fine Print

Redundancy for non-award employees



In a decision in December 2002 the Australian Industrial Relations Commission decided that employees who had been made redundant were entitled to redundancy pay even though an award did not cover them.

The Workplace Relations Act allows the Commission to apply the International Termination of Employment Convention in situations where employees have no other way of receiving compensation for being made redundant (e.g. there is no award provision). In order for the Commission to do this there must be an application by an employee or a trade union (i.e. it does not happen automatically) and it cannot apply in cases where there are less than 15 employees made redundant. In addition it does not apply to casual or

fixed term employees or those still on probation.

The compensation awarded is dependant upon the length of service and is the standard severance pay that is contained in most awards i.e.:

Less than 1 year	nil
1 year and up to the completion of 2 years	4 weeks
2 years and up to the completion of 3 years	6 weeks
3 years and up to the completion of 4 years	7 weeks
4 years and over	8 weeks

The payment is based on the ordinary rate of pay.

This decision is important as businesses may not be aware that they could be required to pay severance pay when they are not party to an award.



Workplace Relations Specialists

Here are some examples of our recent work:

- advice on unfair dismissal claims;
- advice on redundancies;
- drafting employment agreements;
- certifying employment agreements in the AIRC;
- advice on the use of performance appraisal systems;
- advice on disciplinary matters;
- reviewing the staffing and work practices of businesses;
- advice on salaries.

Next time you have a staffing problem call WorkSight and see what we can do for you.

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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.