

WorkSight Focus

March 2004

News, opinions, events and more from the WorkSight team

Employment of children

The employment of children is regulated by most State Governments throughout Australia, either directly through restrictions on employment or indirectly through restrictions in education and child protection legislation. Employers should ensure that they comply with any restrictions on employment where they are employing children as heavy penalties can apply if the legislative requirements are not complied with.

VICTORIA

Children are defined under the Community Services Act 1970 as being under the age of 15. Under this age children are expected to attend school rather than work. The current system requires any child under 15 not attending school to be exempted from school attendance and any child engaged in work to have a permit to do so. The permit for work is sought by the parent or guardian, and must be obtained before work commences.

Where a permit is granted, special conditions apply to protect children at work including the hours, the types of work and the situation in which the child will be employed. Permission from the school principal may also be required where the child will be employed



during school term or from the Directorate of School where the child will no longer be attending school.

The regulation of children at work will, in the future, be subject to the Child Employment Act 2003 which, although it has been passed through Parliament, is yet to be proclaimed. This Act will retain the permit system with some exemptions.

NEW SOUTH WALES

In New South Wales, employers wishing to employ children under the age 15 must have authority to do so and if given authority must comply with a code of practice, which includes issues such as hours of work, travel to and from work, food and drink and supervision. Special provisions apply to the employment of children in door-to-door sales, the entertainment industry and the employment of babies.

New minimum conditions of employment in Victoria



If your business operates in Victoria and is not covered by an award or a certified agreement a number of new minimum conditions of employment apply to your employees from 1 January 2004. The changes include the requirement that you give your employees 8 days of paid personal leave a year, you allow your employees 2 days of paid bereavement leave when a family or household member dies and that you pay your employees for any hours worked above 38 hours in a week. The following sets out the minimum employment conditions that now apply:

- 4 weeks paid annual leave;
- 12 months unpaid parental leave;

- an appropriate period of notice when terminating an employee;
- payment for hours of work in excess of 38 hours a week;
- 8 days personal leave – this includes sick leave and up to 5 days can be taken as carer's leave (i.e. when you are required to look after a dependant relative who is sick).
- 2 days bereavement leave when a member of their family or household dies;
- the appropriate minimum rate of pay.

You can of course give your employees more generous employment conditions but you are not allowed to give them less than these.

Are you paying the correct rates of pay?



While the first 2003 National Wage case increases to award rates of pay started to be handed down last May there are still awards that are only just having their pay rates increased. It is important that you are aware of when your award has been adjusted to ensure that you pay the new rates of pay as soon as they come into effect. If you do not you will find yourself having to pay back pay to your staff later on.

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



Probationary Periods

It is always important to put a new employee on an initial probationary period of up to 3 months to give you and the employee time to establish whether the job and the person will fit. It is equally important to ensure that the employee is fully aware that they are on a probationary period and the date that the period will end. This should always be put in writing prior to the employee starting work.

If you think that there may be a chance that you will want to extend the probationary period at the end of the initial period you should also put this in writing prior to the employee starting work (i.e. that an extension of the probationary period is an option).

If all this is made clear to the employee before they start work with you should you decide to terminate their employment during the probationary period the employee will not be entitled to claim unfair dismissal in the Australian Industrial Relations Commission.




**Workplace
Relations
Specialists**

New Phone Numbers!

If you need information or advice about any employee relations issues affecting you or your employees contact WorkSight. Our new phone numbers are:

WorkSight in Melbourne:

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