

The Industrial Relations Revolution

The Federal Government has now released the details of its proposed changes to the industrial relations system that is set to transform the way businesses employ their employees. The Government advertising campaign calls these changes "WorkChoices - A simpler, national workplace relations system for Australia" - but will it be?

A National Industrial Relations System

The major change is to bring up to 85% of all workers into the federal industrial relations system. The vast majority of all businesses (i.e. all those that are incorporated) in NSW, Queensland, South Australia, Tasmania and Western Australia will no longer be covered by their state industrial relations systems. These businesses will move into the federal system and can continue to use their state awards or agreements for a three year transition period although they will be able to make a new agreement with their employees as soon as they move into the federal system.

Those businesses that are not incorporated but are already party to federal awards or agreements can remain under their existing awards or agreements for a five year transition period but cannot make any new agreements. If, at the end of the transition period, they are still unincorporated they will be required to return to the relevant state system. The exception to this rule is that unincorporated businesses in Victoria will be allowed to operate indefinitely in the federal system.

At the federal level there will be the following bodies operating:

- The Australian Industrial Relations Commission basically dealing with industrial disputes and



What lies ahead for Australian workers?

- unfair dismissals for businesses with over 100 employees;
- The Office of the Employment Advocate which will be where businesses lodge agreements and Australian Workplace Agreements (AWAs - i.e. individual agreements);
- The Fair Pay Commission will be setting the minimum wage rates;
- The Office of Workplace Services will be responsible for ensuring that businesses comply with the minimum wage rates and minimum employment conditions.
- The Award Review Taskforce will be aiming to reduce and simplify the number of awards that apply.

The state industrial relations systems will still remain as not all businesses can be covered by the federal system (for instance, unincorporated

businesses, partnerships and probably state government employees).

Making an Agreement

When making an agreement or an AWA, businesses currently have to compare the agreement with the relevant award to show that they are not disadvantaging their employees by entering into the agreement. However, under the new system, an agreement must only meet the Fair Pay and Conditions Standard. The employment conditions in the box below make up this standard.

As long as an agreement contains at least these employment conditions it will be acceptable. If an award applies to a business and contains better employment conditions than the agreement, those conditions can continue to apply. However, if the agreement specifically states that the award will no longer apply, the agreement will override the award employment conditions.

In another significant change, an agreement (or AWA) will become enforceable as soon as it is lodged with the Office of the Employment Advocate. There will be no hearing or other assessment done either by the Office of the Employment Advocate or the Australian Industrial Relations Commission.



Those businesses with over 100 employees will be able to dismiss an employee within a 6-month probationary period without risking a claim of unfair dismissal (it is currently 3 months). Employees who have been made redundant will also not be able to claim unfair dismissal.

National Wage Cases

The Australian Industrial Relations Commission will no longer hold annual, national wage cases. Instead the Fair Pay Commission will decide on the minimum wage levels as and when it sees fit. It will consult with relevant parties to decide on the appropriate level instead of hearing claims. The Government has said the Fair Pay Commission will adjust wages for the first time in Spring 2006.

Awards

The number of awards and what they can cover will be reduced significantly so they will only be used by those businesses that have not made, or do not want to make, an agreement with their employees.

Fair Pay and Conditions Standard

- **38 hours a week (these hours can be averaged over a year)**
- **4 weeks annual leave (2 weeks can be cashed out each year)**
- **10 days paid personal/carer's leave**
- **2 further days of unpaid carer's leave - for unexpected emergencies when all paid leave has been taken or for casual employees**
- **2 days of paid compassionate leave**
- **52 weeks of unpaid parental leave**
- **20% casual loading**

Unfair Dismissals

Those businesses with up to 100 employees will no longer be covered by the unfair dismissal provisions and so will be free to dismiss employees without the risk of being taken to the Australian Industrial Relations Commission. However, the unlawful dismissal provisions that prevent employees being dismissed for discriminatory reasons will still cover all businesses.

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.



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If you need information or advice about how these changes will affect your business or any other employee relations issues affecting you or your employees contact Siân Owen, Janet Nicolson or Rae-Anne Medforth at WorkSight.

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