

Common Rule Awards for Victoria

From 1 January 2005 common rule awards will start to replace minimum wage orders and the narrow range of minimum employment conditions that have covered approximately 350,000 Victorian workers since 1993. This will have a major impact on all employers who have relied on the minimum wage orders to pay their employees.

A common rule award applies to all employees in a particular industry whether or not their employer is named in the award. However they do not apply to employees already covered by a certified agreement or an AWA.

The Australian Industrial Relations Commission has started to make the new common rule awards in preparation for their introduction in January 2005. So far the following awards have been made:

- Catering Victorian Common Rule Award 2005
- Building Services Victorian Common Rule Award 2005
- Clerks (Road Transport Industry) Victorian Common Rule Award 2005
- Clerical And Administrative Employees Victorian Common Rule Award 2005
- Clothing Trades Victorian Common Rule Award 2005
- Transport Workers Victorian Common Rule Award 2005
- Poultry Industry Victorian Common Rule Award 2005
- Storage Services - General - Victorian Common Rule Award 2005
- Horticultural Industry Victorian Common Rule Award 2005
- Pastoral Industry Victorian Common Rule Award 2005
- Security Employees Victorian Common Rule Award 2005

There are at least another 170 applications being considered by the Commission



Annual leave loading will be reintroduced

In the common rule awards already made, employers need to take the following key issues into account:

- Annual leave loading will be reintroduced, however only in relation to periods of annual leave commencing on or after 31 January 2005.
- Employers will be required to pay severance pay if they make an employee redundant. If the employer has less than 15 employees, only service on or after 1 January 2005 is to be taken into account for the purpose of calculating the amount of severance pay. Employers who have 15 employees or more will be required to count service from 1 January 2004 when calculating severance pay.
- An accident make-up pay clause is to apply in relation to any injury on or after 3 August 2004.
- The wages clauses (including all allowances and penalty payments) are to commence operation from the first pay period on or after Monday 3 January 2005 and no later than 5 January 2005.

Victorian employers who are not already covered by a federal award or a certified agreement are strongly advised to seek advice as to what pay and employment conditions they will be required to give their employees as of January 2005.

Wage limit on unfair dismissal applicants

Dismissed employees who were earning \$90,400 or more in remuneration when they were dismissed and who were not covered by a federal award are excluded from the unfair dismissal provisions in the Australian Industrial Relations Commission.



The ACTU seeks to increase family leave

Family Leave Test Case

The Australian Industrial Relations Commission has just started hearing a test case brought by the ACTU that aims to significantly increase the amount of family leave employees are entitled to. The ACTU is seeking four key improvements in employment conditions.

These are to:

- Allow parents up to two years unpaid leave after the birth of a child.
- Allow parents to work part-time for up to five years until children are at school.
- Give parents more flexibility in working hours so that parents can cope more easily with school or childcare pick up and drop off times.
- Allow parents to take up to six weeks additional leave to deal with school holidays. This leave would be unpaid. However in order to assist employees in budgeting, their annual salary would be reduced by the equivalent of six weeks pay and the remaining salary would be averaged out over the year. This provision has been in place in many public sector workplaces for well over a decade.

No decision in this case is expected for several months.

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



Small businesses and severance pay

In our last newsletter we advised clients of the new requirement that small businesses (i.e. those with less than 15 staff) would be required to pay severance pay when making staff redundant. The payment of severance pay increases in line with the years of service an employee has with his or her employer.

We can now report that the Commission has stated that service prior to their original decision of 26 March 2004 will not be taken into account for small businesses. This means that if an employer with less than 15 employees was planning on making an employee redundant the employer would only be required to count the employee's service after 26 March 2004 when calculating severance pay.

It is important to note that this applies to those employers covered by a federal award that has had this new requirement inserted into it. Different provisions will apply to employers covered by a Victorian common rule award as of January 2005 (see front page).



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

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