

# News, Opinions, Events and more from the WorkSight team

The last few months has seen a renewed focus on the development of workplace agreements. WorkSight has been assisting employers with the process of making agreements and the appropriate terms and conditions to ensure that the agreement meets the better off overall test for all employees.

**WorkSight has recently been providing advice to its clients about:**

**Paid Parental Leave scheme to commence from January 2011**

**Fair Work Australia Minimum Wage Increase**

**Transition to Modern Awards**

**Fair Work Australia issues first take-home pay order**

**Copyright and employment**

**Facebook criticism of employer – what are the implications?**

**Small Business Fair Dismissal Code updated**

**Fair work Information statement**

**Paid Parental Leave scheme to commence from January 2011**

The Federal Government's Paid Parental Leave (PPL) scheme will commence from 1 January 2011. The scheme provides for 18 weeks parental leave pay at the federal minimum wage which is currently \$570 per week or \$15 per hour.

Eligibility for payment will be administered through the Family Assistance Office (FAO) which will receive claims and assess eligibility. The scheme commences for babies born or adopted from 1 January 2011. Employers will be required to administer PPL payments to eligible employees through their payroll system, although for the first 6 months of the scheme employers can choose not to administer PPL payments and in this case payments will be made through FAO. From 1 July 2011 employers will be required to make PPL payments to eligible employees. Employers can contact WorkSight for advice about preparing to meet their obligations to make payments under the scheme

It should be noted that at the time of writing, the Federal Opposition is proposing to introduce a private members bill to Parliament which would require the payments to be administered by FAO indefinitely. Employers may want to wait until the outcome of that bill is determined before devoting resources to implementation of PPL.

## **Fair Work Australia Minimum Wage Increase**

Fair Work Australia's minimum wage panel handed down its first annual wage decision adjusting modern award rates of pay by \$26 per week or 69 cents per hour effective from the first pay period commencing on or after 1 July 2010. For those employers using award rates of pay, the increase is passed on in full even where transitional rates apply. Employers with enterprise agreements must ensure that their rates of pay continue to meet the minimum standards in any applicable modern award (including transitional provisions).



The increase will apply on a proportionate basis to employees that are paid a percentage of adult rates (e.g. apprentices, trainees and juniors).

## **Transition to Modern Awards**

Modern awards commenced on 1 January 2010. However, the transitional arrangements contained in most awards had the effect of deferring changes to certain monetary entitlements until 1 July 2010. Where an award contains transitional provisions, the minimum requirement is that changes to pay may be gradually implemented over a four year period, ending on the first full pay period on or after 1 July 2014, providing existing employees do not suffer a reduction in take-home pay as a result of award modernisation.

## **Fair Work Australia take-home pay orders**

Fair Work Australia has issued its first take home pay [order](#) to a Victorian retail employee who suffered a \$6.72 hourly pay cut following the introduction of the General Retail Industry Modern Award. The employer had implemented the rates of pay under the modern award and while they had offered the employee additional hours to make up the shortfall, this is essence meant the employee had to work more hours for less pay.

The decision provides employers with an insight into the considerations of the tribunal in making a take home pay order.

## **Copyright and employment**

In an interesting case an author of online training materials won a share in almost \$100,000 from the copyright agency after establishing in the Federal Court that she retained her rights over the materials despite being in an employment-like relationship because she did not create the material "in pursuance of the terms of her employment". Employers should ensure that their contractual arrangements provide certainty about the ownership of copyright material and intellectual property.

## Facebook criticism of employer – what are the implications?

Are there any repercussions for employment when an employee posts comments about their employer on Facebook?

Some conduct that occurs outside of work may have an impact on the employment relationship and may give cause for an employer to consider whether that conduct has breached the employment contract. The impact of such behaviour will depend on the nature and extent of the conduct in each case. A recent decision of Fair Work Australia (FWA) considered the issue of employees making comments about their employer on Facebook. Employers should consider what policies they have in place around such issues and what information they provide to employees about the implications of posting comments about their employer on Facebook. WorkSight can assist in developing policies about employee obligations to their employer when using social networking sites and provide advice to employers who have concerns about the behaviour of employees.



## Small Business Fair Dismissal Code updated

The [Small Business Fair Dismissal Code](#) has been amended as a result of deficiencies in relation to the requirement for employers to consider employee requests for a support person and in relation to redundancies which were identified by Fair Work Australia. Prior to the changes to the code, FWA Vice President Graeme Watson had commented that a small business employer who complied with the code may still run foul of unfair dismissal laws and Senior Deputy President Matthew O'Callaghan had commented that the checklist was "of dubious value" in part because it failed to address the requirement for employers to consider employee requests for a support person.

The code was amended to provide additional information on redundancy and dealing with employee requests for a support person.

## Fair work Information statement

The Fair Work Ombudsman has updated the [Fair Work Information statement](#) to reflect the increase in the high income threshold.

WorkSight - balanced and practical workplace solutions

WorkSight provides balanced and practical workplace solutions to help your business run more smoothly.

## Contact WorkSight if you need advice on:

**Correct rates of pay and meeting your employment obligations**

**Making an agreement with your employees**

**Award interpretation**

**Investigating workplace conflict**

**Mediation between employees**

**Dealing with employee problems**

**Restructuring your staffing profile**

**Managing termination of employment where necessary**

**Managing redundancy**

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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