

Labor's New Workplace Relations Policy

Following the election of the Labor Government in November, MJSP would like to provide clients with a summary of the new workplace relations policy and the dates on which the changes will be implemented.

Fair Work Australia

Labor's "one shop stop" Fair Work Australia (FWA) will replace the Australian Industrial Relations Commission, the Fair Pay Commission, the Workplace Authority and the Workplace Ombudsman. The Australian Building and Construction Commissioner will also be repealed, effective 2010. FWA will review and approve agreements, inspect and ensure compliance, act as the judicial arm and provide advisory services to the public.

Unfair Dismissal

Unfair dismissal laws will be reintroduced subject to employees being employed beyond a qualifying period of 6 months (for workplaces with more than 15 employees) or 12 months (for workplaces with less than 15 employees). A claim for unfair dismissal must be lodged with FWA within 7 days.

Unlawful Termination

Unlawful Termination legislation will remain as it stands with claims being heard by FWA.

Minimum standards

Labor plans to introduce 10 minimum conditions of employment (extending upon the 5 introduced under WorkChoices). Commencing no later than 1 January 2010, these will include:

- 38 hour week with reasonable additional hours
- 4 weeks annual leave + 1 additional week for shift workers
- 10 days personal and carers leave, 2 days compassionate leave, 2 days unpaid personal leave for emergencies
- 52 weeks unpaid parental leave for each parent
- Public Holidays
- Community Service Leave
- Right to request flexible work arrangements until child reaches school age
- Fair Work Information Statement
- Fair notice of termination and redundancy pay (workplaces > 15 employees)
- Long Service Leave

Awards

Awards will continue to be simplified and reduced. In addition to the 10 minimum conditions listed above, Awards will contain 10 minimum employment standards including: minimum wages; type of work performed; when work is to be performed; overtime rates; penalty rates; minimum, annualised wage or salary; allowances; leave, leave loading and arrangements for taking leave; superannuation; and consultation, representation and dispute settling procedures.

Transitional Arrangements

- Existing AWAs will continue to operate until their terms expire
- Where an AWA finishes before 31 December 2009, the parties may enter into an 'Individual Transitional Agreement' (ITEA) with a nominal expiry date of no later than 31 December 2009

Making Agreements

Following the full implementation of Labor's workplace relations policy on 1 January 2010, the following types of agreements will be available: Collective Agreements (Employee or Union), Union Greenfields Agreement and Common Law Agreement (for employees earning more than \$100 000).

Note, employers will still have the option to engage employees under Common Law Contracts provided they meet the 10 minimum conditions of employment and provide for conditions no less favourable than any applicable Award.

For further information on the new Government's workplace relations policy, please contact Kylie Reed, Partner, on (07) 3839 1233 or via email, kylie@mjsp.com.au

MJ Smith & Partners would like to take this opportunity to wish you a very safe and happy Christmas and New Year. We hope you enjoy a well deserved break and we look forward to working with you again in 2008.

