

## EMPLOYEE RELATIONS UPDATE – AUGUST 2005

### NEW FAMILY FRIENDLY PROVISIONS FOR FEDERAL WORKERS

The Australian Industrial Relations Commission (AIRC) concluded the Family Provisions test case yesterday. As a result of the test case, employees will have the right to request part-time work upon return from parental leave until the child reaches school age, and parents will have a right to request an extension of their unpaid parental leave from twelve months to two years. The provision also grants employees the right to request increased simultaneous unpaid parental leave of up to eight weeks, meaning that fathers will now have the right to take up to eight weeks leave after the birth of their child.

Although workers will have the right to request access to these provisions, employers may still refuse a request on grounds such as effect on the workplace or the employer's business, costs, lack of adequate replacement staff, loss of efficiency and impact upon customer service.

The provisions are modelled upon UK legislation which creates a right to request a change in working conditions but imposes a duty upon employers not to unreasonably refuse any such request.

Other changes which were accepted as a result of the test case include:

- new communication obligations for employers and employees during parental leave (for example, where a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to make certain information available to the employee);
- carrying forward of annual leave to a two-year maximum;
- an increase to the maximum number of single days of annual leave that an employee is able to take per year (from 5 days to 10); and
- new emergency/carers/bereavement leave for casuals of up to 48 hours.

The AIRC rejected the majority of the other claims brought before it by the ACTU and employer groups, such as the ability to allow workers to change their hours, days of work and meal breaks to suit their family life.

In recognising that while employers and employees wanted more flexibility in the workplace, the AIRC noted they were for the most part unable to agree on the manner in which the flexibility should be provided.

While the decision specifically applies to the awards named in the case, unions will be able to rely on this test case to apply for the introduction of the new provisions in other federal awards. At this stage, it is unclear if the changes will be included in legislated minimum standards as part of the Howard government's planned industrial relations reforms.

#### **Further information**

For additional information about the Family Provisions test case or the impact these provisions may have on your organisation, please contact Emma Howse at [emma@mjsp.com.au](mailto:emma@mjsp.com.au) or on (07) 3839 1233.