

EMPLOYEE RELATIONS UPDATE – AUGUST 2005

QUEENSLAND RESPONSE TO PROPOSED INDUSTRIAL RELATIONS FEDERAL REFORMS

In an attempt to counteract the proposed Federal industrial relations reforms and consequently 'protect Queensland workers' rights', legislation was passed in the State parliament on 12 August 2005. This legislation was fast-tracked through parliament following the release of the *Industrial Relations Amendment Bill 2005*.

Effective from 1 September 2005, this new legislation seeks to ensure the protection of entitlements such as long service leave, superannuation, overtime, casual loading, annual leave loading, shift loadings, redundancy pay, ordinary working hours and meal breaks.

These minimum protections are detailed in the table below and are derived from standards established by the Queensland Industrial Relations Commission (QIRC) and the Australian Industrial Relations Commission (AIRC), common standards in State and Federal awards and current minimum entitlements in the *Industrial Relations Act 1999 (Qld)*. The provisions will also extend to employees under Federal awards and agreements.

As the amendments will only apply to new awards and agreements, and only if the instrument is silent with respect to the relevant employment entitlement, the amendments will have no impact on:

- current state or federal awards and agreements;
- non-award employees; and
- new awards and agreements made or varied after 1 September 2005 that address the minimum entitlements.

This means that where an agreement specifically provides for the exclusion of certain conditions, the agreement will override the provisions in the Act.

As to the effectiveness of this legislation in relation to the proposed Federal reforms, the Commonwealth Constitution states that in the event of inconsistency between State and Federal laws, the Federal legislation will prevail. As a result, until such time as the Federal laws specifically override the proposed Queensland legislation, the Act will to some extent preserve the existing set of workers' rights in Queensland.

Queensland Employee's Minimum Entitlements – <i>Industrial Relations Amendment Bill 2005</i>	
<i>Entitlement</i>	<i>Amount</i>
Casual loading	23%
Annual leave loading	17.5%
Shift work loading (calculated as a % of ordinary time earnings)	
(a) afternoon shift	(a) 12.5%
(b) night shift	(b) 15%

<i>Entitlement</i>	<i>Amount</i>
Redundancy pay (small businesses with 15 full-time employees or less will be exempt)	
Weekend penalty rates (in addition to ordinary hourly rate) (a) Saturday (b) Sunday	(a) 25% (b) 50%
Ordinary working week	38 hours
Meal breaks (unpaid) (a) 5 hours' work (b) 4 hours' work	(a) 30 mins (b) 10 mins
Notice of termination (a) By employers (b) By employees	(a) 1 - 4 weeks ¹ (b) 1 week
Jury service leave	Difference between ordinary earnings and Government daily allowance for jury service
Public holiday penalties (where a public holiday falls on a day when the employee is ordinarily required to work, with a minimum of 4 hours' pay)	Ordinary time + time and a half for hours worked
Overtime rates for employees worked in excess of: (a) 6 days in any consecutive 7 day period (b) 38 hours in any consecutive 6 days (c) 7.6 hours per day (d) ordinary start and finish times (e) More than one shift per day	(a) Time and a half (b) Time and a half (c) Time and a half (d) Time and a half (e) Double time
¹ Depending on years of service. Add one week if employee is over 45 years of age and has more than 2 years of service.	

Further information

For further information about this legislation, please contact Emma Howse at emma@mjsp.com.au or on (07) 3839 1233.