

Forward with Fairness - An Update

Further to the MJSP December 2007 Employee Relations update, the Federal Government has released additional information on Labor's new workplace relations policy following the introduction of the *Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008* into Parliament last week. The Bill commences the phase out process of some of the fundamental aspects of WorkChoices. A summary of the key amendments is set out below:

Australian Workplace Agreements (AWAs)

No new AWA's will be permitted after the Bill's commencement date. Any AWAs made and lodged before the Bill's commencement will continue to operate until terminated or replaced. An AWA which passes its nominal expiry date may be terminated by the employer or employee, provided they give the other party 90 days notice. Employees would then be entitled to the coverage of an applicable workplace agreement or Award.

Individual Transitional Employment Agreements (ITEAs)

ITEAs are new statutory individual agreements between an employer and employee. Employers who used AWAs as at 1 December 2007 will be able to offer ITEAs to new or existing employees for a term expiring no later than 31 December 2009. ITEAs will commence operation when lodged with the Workplace Authority; however approval will be subject to the new 'no - disadvantage test'.

No - Disadvantage Test

The previous government's Fairness Test will be replaced by a no - disadvantage test. Operating in a similar way to previous tests, the no - disadvantage test will use any applicable collective agreement, Award or Australian Fair Pay and Conditions Standard to ensure a workplace agreement does not reduce an employee's overall terms and conditions of employment.

Termination of Agreements

Unilateral termination of collective agreements will no longer be permitted. An agreement will only be able to be terminated where both parties agree, or by the Australian Industrial Relations Commission (AIRC). On termination of an agreement, employees will be entitled to the applicable workplace agreement or Award that would have applied to them but for the terminated agreement.

Workplace Relations Fact Sheet

Employers will not be required to provide employees with the WorkChoices "Workplace Relations Fact Sheet".

Pre-WorkChoices Certified Agreements

The Bill will allow parties to retain pre - WorkChoices certified agreements and to extend or vary (for a maximum period of 3 years) these agreements on application to the AIRC. Both parties to the agreement must support the motion to extend or vary the agreement.

10 National Employment Standards (NES)

The NES will form the new 10 minimum entitlements for all employees. Although still in draft stage, the proposed NES include:

- Maximum weekly hours of work
- Requests for flexible working arrangements
- Parental leave (and related entitlements)
- Annual leave
- Personal/carer's leave and compassionate leave
- Community service leave
- Long service leave
- Public holidays
- Notice of termination and redundancy pay
- Fair Work Information Statement

Where to from here?

In the interim, business must continue to operate as practically as possible, during this transition period. There are a number of options available for workplaces whose agreements are due to expire during transition.

The Bill has been referred to the Education, Employment and Workplace Relations Committee for inquiry and comment by the end of April 2008. At this stage it is difficult to predict how the Bill will progress in the Senate and the likely commencement date of the Bill. However, we will continue to provide you with information as it becomes available.

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