



Workplace Relations Update

New Workplace Relations System - Key Elements

The key elements of the new workplace relations system are as follows:

- a safety net of 10 legislated National Employment Standards for all employees
- a modern award system that incorporates the National Employment Standards
- an enterprise-level collective bargaining system focused on promoting productivity
- unfair dismissal laws for small business
- establishment of Fair Work Australia

Fair Work Australia

Fair Work Australia will be established to support all workplace relations issues and enforcement of legal entitlements:

- Operational by 1 February 2010.
- “one-stop shop” which is designed to deal with most issues relating to the employment relationship.
- It will replace the following Australian Government Agencies:
 - ❖ Australian Industry Relations Commission
 - ❖ Australian Industry Registry
 - ❖ Australian Fair Pay Commission
 - ❖ Australian Fair Pay Commission Secretariat
 - ❖ Workplace Authority
 - ❖ Workplace Ombudsman
 - ❖ Australian Building & Construction Commission

- The Federal Government states that - “Fair Work Australia will oversee the new, fair, simple and modern workplace relations system. It is based around a user-friendly culture that moves away from the adversarial and often legalistic processes of the past in favour of less formal processes. The focus will be on providing fairness and efficiency, and excellent levels of service to the users of the system”.
- Fair Work Australia will have the power to:
 - ❖ Vary awards
 - ❖ Make minimum wage orders
 - ❖ Approve agreements
 - ❖ Determine unfair dismissal claims
 - ❖ Make orders on good faith bargaining
 - ❖ Make orders on industrial action
 - ❖ Assist employees and employers to resolve disputes in the workplace

Legislation – First Stage

- The first step in the new reforms was the implementation of the Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008 which came into effect on 28th March 2008.
- This Act prevented any more individual Australian Workplace Agreements being made and enabled the Australian Industrial Relations Commission to start the process of Award Modernisation.

10 National Employment Standards

- As from 1 January 2010, the Australian Fair Pay and Conditions Standard will be replaced by a set of ten legislated National Employment Standards applicable to all employees.
- A document has been released outlining these standards and they 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
 - ❖ A Fair Work Information Statement to be made available to employees

Award Modernisation

- Currently an award modernisation process is being undertaken.
- There are different phases of the process with varying levels of consultation.
- AFIF have put forward a written submission requesting that consideration be given for the freight forwarding industry to have our own specific Award.
- Currently the following Awards are being dealt with in the grouping called Private Transport Industry (road, non passenger) which we have argued is not relevant for the FF industry.

Clerical and Administrative Staff – International Freight forwarding and Customs Clearing Industry Award 2003

Transport Workers (Air Freight forwarders and Custom Clearance) Award 2000

Transport Workers (Air Freight forwarding) Superannuation Award 1988

- View the AFIF submission as per the below web link:

http://www.airc.gov.au/awardmod/fullbench/industries/awardmodindustry.cfm?award=private_road

Legislation – Second Stage

- Labor's substantive IR legislation was introduced into Federal Parliament – Tuesday 25th November 2008.
- The Fair Work Bill 2008 (631 page Bill) replaces the Workplace Relations Act 1996.
- The Fair Work Bill 2008 will commence on 1 July 2009, however the National Standards and Modern Awards will commence on 1 January 2010.
- Julia Gillard, Workplace Relations Minister believes the legislation will be passed by the House of Representatives within a fortnight.
- She hopes to have the Senate deal with the legislation in February 2009.
- She stated that "inevitably there will be a Senate committee process and we will be asking the Senate to deal with that expeditiously".
- The legislation will rewrite workplace laws to promote collective bargaining, toughen the employment safety net with the 10 Employment Standards and reinstate unfair dismissal rights for small business.

- Unfair Dismissal – several provisions of the bill apply to ‘small business employers’ with less than 15 employees.
 - ❖ the bill includes the small business code for dismissal and criteria for determining if a dismissal is harsh
 - ❖ the employer with fewer than 100 employees exemption has been removed

Activities Required – 2009

- 2009 will be about ensuring your employment contracts, agreements and policies reflect the 10 National Employment Standards ready for January 2010.
- Keep an eye on the Award Modernisation process and the ramifications. AFIF will keep you up to date on how it will be affecting our industry.
- Understand the Unfair Dismissal provisions if you are an employer with less than 15 employees.
- Look out for separate legislation will be introduced in the first half of 2009 to set out transitional and consequential changes for the move to the new system.
- The Australian Government intends to commence key elements of the new system including the bargaining framework, unfair dismissal and associated protections on 1 July 2009, following passage of the Substantive Bill.
- Until the Modern Awards process and the National Standards, starts operation on 1 January 2010, existing minimum entitlements will continue to apply.

Websites

www.workplace.gov.au

www.airc.gov.au

www.fairpay.gov.au

www.workplaceauthority.gov.au

For further information or advice:

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