



YOUR OUTCOME ■ OUR PURPOSE

Forward with Fairness

Jim Rutherford, Principal

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“Forward with Fairness” – discussion on the Federal Government’s proposed changes to workplace laws and the implications for business.



National industrial relations system

- Uniform national industrial relations system
- Referral of powers by State Government
- No disadvantage promised



Safety net

■ National Employment Standards:

- Parental leave: guarantee both parents have separate periods of up to 12 months unpaid leave and one parent may take a further 12 months unpaid leave
- Flexible work hours for parents until child reaches school age
- Annual leave: 4 weeks (5 weeks for shift workers)
- Hours of work: 38 f/t plus reasonable additional hours
- Paid personal/ carer's leave: 10 days
- Paid compassionate leave: 2 days
- Unpaid personal leave: 2 days



Safety net (cont'd)

- Community service leave
 - Guarantee public holidays
 - Information in the workplace
 - Termination of employment and redundancy: redundancy available to all employees, not just Award employees
 - Nationally consistent long service leave entitlements
- Standard commences on 1 January 2010



Awards

- National system
- Fair Work Australia to simplify/ rationalise Awards
- Minimum employment standards:
 - Arrangements for when work is performed: hours of work: rostering and rest breaks
 - Leave, leave loading and arrangements for taking leave



Awards (cont'd)

- Penalty rates: unsocial, irregular, unpredictable hours, weekends/ public holidays/ shift work
- Overtime rates
- Allowances
- Consultation, representation and dispute settling procedures
- Type of work performed: family responsibilities/ job sharing
- Superannuation



Awards (cont'd)

- Managerial employees excluded
- Awards to be reviewed every four years by Fair Work Australia
- Minimum annualised wage: alternative to penalty rates – no disadvantage safeguard

Minimum wages

- Reviewed by Fair Work Australia
- Review to occur each year



Industrial action

- Little or no change
- Industrial action not protected:
 - During the life of an agreement
 - Industrial action outside good faith bargaining processes
 - If in support of industry wide agreement
- Mandatory secret ballot
 - Supervised by Fair Work Australia



Industrial action (cont'd)

- Unlawful to pay strike pay
- Employers can lockout employees in response to industrial action by employees



Industrial action (cont'd)

■ Good faith bargaining

- Attending and participating in meetings at reasonable times
- Disclosing relevant information in a timely manner
- Timely response to proposals
- Genuine consideration in response
- Refrain from capricious or unfair conduct



Role of independent umpire

- Fair Work Australia – one stop shop:
 - Provide information, advice and assistance
 - Settling grievances
 - Ensuring compliance with workplace laws
 - Offices in suburbs and regional centres
 - Resolving unfair/ unlawful dismissal claims
 - Facilitating collective bargaining



Role of independent umpire (cont'd)

- Enforcing and facilitating good faith bargaining
- Reviewing and approving collective agreements
- Adjusting minimum wages and Award conditions
- Regulating registered industrial organisations
- Reviewing and adjusting national employment standards
- Promoting work arrangements to balance work and family responsibilities
- Overseeing secret ballots



Unfair dismissals

■ Exclusions:

- Genuine operational reasons
- Seasonal workers
- Fixed term employees
- Employees employed to perform a specific task
- Probationary employees
- Casual employees
- Employees employed under a traineeship agreement
- Non-Award employee earning excess of \$98,200 (indexed)



Unfair dismissals (cont'd)

- Employees employed during a qualifying period
 - Employer who employs 15 or more employees: 6 months qualifying period
 - Employer who employs fewer than 15 employees: 12 months qualifying period
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- Small Business Fair Dismissal Code
 - Application to be made within 7 days
 - Conferences to resolve disputes



Unfair dismissals (cont'd)

- Fair go all round
- Preferred remedy: reinstatement
- Cap on compensation
- Discourage demands for “go away money”



Agreement making

- AWA's abolished
 - No new AWA's
- Introduction of individual transitional employment agreements ('ITEAs')
- No disadvantage test reintroduced
- Employee collective agreements



Agreement making (cont'd)

- Union collective agreements
- Fair Work Australia to consider if agreement meets Labor Safety Net
- Obligation to inform employees of right to representation



Agreement making (cont'd)

- Collective agreements based on bargaining at enterprise level
- Fair and flexible employment arrangements
- Bargaining participants free to reach agreement on whatever matter suits them

Agreement making (cont'd)

- Collective agreements to be approved within 7 days
- Collective agreements last up to 4 years



Issues for businesses

- Continuation of enforcement arm of Workplace Ombudsman
- Heavy fines imposed by Courts for breach of Awards
- Significant cost to business



Issues for businesses (cont'd)

- Pressure to increase employer contribution to superannuation from 9% to 15%
- Introduction of statutory redundancy
- Uniformity of long service leave entitlements
- Introduction of no disadvantage test



Issues for businesses (cont'd)

- Limited reintroduction of unfair dismissal laws
- Abolition of AWA's
- Introduction of part time work arrangements due to family responsibilities

