WorkChoices summary

The new national workplace relations system, WorkChoices, which covers up to 85 percent of Australian employees, started on Monday 27 March 2006.

The introduction of WorkChoices continues a process of change begun more than 10 years ago and moves Australia towards a simpler system with more choice and flexibility for workplaces.

WorkChoices reduces the complexity of awards by removing matters already covered by legislation, rationalising awards and reviewing existing award classification structures.

It introduces a single set of rules for minimum terms, conditions, awards and agreements to provide a better way for employers and employees to work together.

A new body called the Australian Fair Pay Commission (AFPC) has been established to set and adjust minimum and classification based wages.

Key minimum conditions of employment will be set in legislation and, with the decisions of the AFPC, will form the new Australian Fair Pay and Conditions Standard. All new agreements must meet this standard.

These key minimum conditions are annual leave, personal or carer's leave, parental leave and maximum ordinary hours of work.

Minimum wage rates for juniors will not fall below the level specified in awards after the increase from the 2005 Safety Net Review.

To overcome previous complex certification and approval processes, all agreements will now be lodged with the Office of Employment Advocate (OEA), an independent agency. They will take effect from their date of lodgement.

OEA provides employers with an information statement that they must give to their employees when seeking their approval to an agreement. It also gives free advice on the content of agreements, including the Standard.

Each agreement must be accompanied by a declaration signed by the employer stating that the requirements for agreement making have been met and that the content of the agreement is consistent with the requirements of the WorkChoices legislation.

WorkChoices will ease the burden of unfair dismissal provisions on Australian businesses. It will exempt businesses that employ up to and including 100 employees from the federal unfair dismissal laws.

For businesses with more than 100 employees, a person must have been employed for six months before they can pursue an unfair dismissal claim. In addition, where the employment has been terminated because the employer genuinely no longer requires the job to be done (that is, where the employee's employment has been terminated because of operational requirements), the Australian Industrial Relations Commission will be able to refuse any application for unfair dismissal.

Under WorkChoices, all employees will retain the right to belong to, or not belong to, a trade union. An employer cannot dismiss an employee because they belong, or do not belong, to a union.

All employees have the right to appoint a bargaining agent to help them in negotiating agreements, whether individual or collective. A bargaining agent can be a friend, relative, union representative or lawyer.

WorkChoices will continue to protect the right to lawful industrial action when negotiating a new collective agreement, but will improve the remedies for unprotected industrial action.

Advice and information about the new system is available from www.workchoices.gov.au or by calling the WorkChoices Infoline on 1300 363 264.

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***About the Author**

Greg Krehel is CEO of CaseSoft. CaseSoft develops five software tools for trial teams, including CaseMap, its flagship case analysis product. CaseMap features tight integration with Adobe Acrobat and over 15 other litigation support tools. Additional information and full-featured trial versions are available at www.casesoft.com.