
FAIR WORK ACT

New workplace relations laws

A quick overview

By **Barbara Bradshaw**

The Fair Work Bill 2008 was introduced in the Federal parliament on 25 November 2008 and passed on 20 March 2009. The new workplace relations laws replace the current Workplace Relations Act 1996.

The new laws have six main objects:

- Providing workplace relations laws that are fair to employees and flexible to employers and promote productivity and economic growth;
- Ensuring a guaranteed minimum safety net of fair, relevant and enforceable wages and conditions;
- Ensuring that the guaranteed minimum safety net cannot be undermined;
- Assisting in balancing work and family responsibilities;
- Enabling fairness and representation at work, prevention of discrimination, freedom of association, right to be represented and protecting against unfair treatment; and
- Achieving productivity and fairness through an emphasis on enterprise-

level collective bargaining underpinned by simple good faith bargaining obligations.

The new legislation applies to employers in the Federal workplace relations system, including constitutional corporations, the commonwealth and its authorities, employers in the Northern Territory.

The new laws will operate from 1 July 2009 with the exception of the new award system introducing Modern Awards and National Employment Standards (NES) which will operate from 1 January 2010. Transitional provisions have been set in relation to certain aspects of the new laws and phasing in arrangements will be established for the "Modern Awards", to address some of the administrative and cost impacts of the legislation.

Law practices and other business organisations employing staff need to ensure they understand the new laws and how it will affect them. They will be required to comply with the new legislation, ensuring their workplace agreements meet with the new requirements and National Standards (NES). They also need to identify what Awards will apply to them, along with any

new relevant employment terms and conditions.

The new laws make a number of changes affecting employee entitlements and wages, termination of employment, union rights, collective bargaining and employee rights and protections. Business organisations including law practices should note that all workplace agreements made on or after 1 July 2009 will be known as 'enterprise agreements'.

The implementation of the new legislation will result in the following changes:

- Fair Work Australia will be the new governing body enforcing the legislation and will investigate and prosecute any breaches of the legislation and awards.
- Business organisations including law practices will be legally required to bargain with their employees and the relevant union for a collective enterprise agreement. Refusing to bargain and recognise the will of the employees may lead to Fair Work Australia determining the content of the agreement.
- Business organisations including law practices may

be required to participate in industry-wide bargaining if Fair Work Australia believes that the employees in a particular industry are low-paid. This means that businesses may be required to provide wages and entitlements above the award and legislated minimum standards if Fair Work Australia believes this would assist low-paid employees.



- Business organisations including law practices with less than 100 employees will no longer be able to dismiss an employee without giving proper warnings to ensure that the dismissal is not viewed as being unfair. However, until 1 January 2011, business organisations including law practices with less than 15 full-time equivalent employees are exempt from unfair dismissal claims during the employee's first 12 months of employment. After 1 January 2011, the exemption will be based on a strict headcount of businesses with less than 15 employees.

- Unions will be given greater power to enter workplaces to discuss and consult with employees. This means that in workplaces with no union members, a union representative can enter the workplace to organise a meeting with employees and the employer can not hinder that.

Many law practices as well as employing staff may be required to provide legal advice and therefore would presumably be doing some detailed research on the new legislation.

The Society is looking to hold information seminars. We are also liaising with business organisations.

This article is just a guide on some matters you would need to look at relating to the Fair Work Act and does not constitute the provision of legal advice and should not be relied on as such. You should do your own research.

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