



Industrial Relations & Employment Changes Post Election 2007

IR & Emp.Changes Post Election
2007



Labor Election Victory

- Labor's "Forward with Fairness" Plan:
 - ◆ Application
 - ◆ Industrial bodies
 - ◆ Minimum entitlements
 - ◆ Agreement making
 - ◆ Industrial action
 - ◆ Unfair dismissal



Application

- Transitional Period from 1 January 2008 to 31 December 2009
 - ◆ Transitional Bill
 - ◆ Australian Workplace Agreements
 - ◆ Award simplification
- Main Bill will introduce Labor's IR System from 1 January 2010



Application

- Labor's IR system would apply to the private sector in its entirety
 - Including all sole traders and partnerships.
- State Governments free to determine IR arrangements for own employees and local government employees.



Industrial Bodies

Labor's IR system:

- ◆ Independent umpire established called "Fair Work Australia"
- ◆ Workplace Authority, Workplace Ombudsman, AIRC and AFPC will cease to exist



Industrial bodies

- Fair Work Australia:
 - ◆ “One Stop Shop” overseeing Labor’s IR system
 - ◆ Range of functions include:
 - ★ Resolving workplace grievances
 - ★ Umpiring unfair and unlawful dismissal claims
 - ★ Facilitating collective bargaining
 - ★ Approving collective agreements
 - ★ Setting minimum wages & conditions
 - ★ Monitoring and enforcing compliance with workplace laws



Minimum Entitlements

- Labor's IR system:
 - ◆ Safety net
 - ◆ 10 national employment standards
 - ★ 38 hours of work plus overtime unless unreasonable
 - ★ Up to 2 years parental leave
 - ★ Right to request flexible work arrangements until child reaches school age
 - ★ Guaranteed 4 weeks' paid annual leave



Minimum Entitlements

- Labor's IR system:
 - ◆ 10 national employment standards (cont.)
 - ★ Personal, carer's & compassionate leave
 - ★ Community service leave
 - ★ Public Holidays
 - ★ Fair Work Information Statement
 - ★ Notice on termination & redundancy pay
 - ★ Uniform Long Service Leave entitlements



Minimum Entitlements

Labor's IR system:

- During the transition period awards will be simplified by the AIRC, focusing on developing industry-specific awards



Minimum Entitlements

- New awards will commence from 1 January 2010 and will provide a further 10 minimum employment conditions:
 - ★ Minimum wages
 - ★ Nature of employment & flexible working arrangements
 - ★ Rostering arrangements
 - ★ Overtime rates



Minimum Entitlements

Award minimum conditions (cont.):

- ◆ Penalty rates
- ◆ Alternative annualised wage or salary arrangements
- ◆ Allowances
- ◆ Leave, leave loadings & arrangements for taking leave
- ◆ Superannuation
- ◆ Consultation, representation & dispute settling procedures



Minimum Entitlements

- Awards will provide for individual flexible arrangements:
 - ◆ Must be in writing
 - ◆ Deal with such matters as:
 - ★ Rostering
 - ★ All up rates
 - ★ Certain award provisions not applying
- Fair Work Australia may review arrangement on request



Agreement Making

- Under Labor's IR system:
 - ◆ Employees employed before 1 January 2010 earning more than \$100,000 may remain covered by award or negotiate new arrangement
 - ◆ New employees earning more than \$100,000 after 1 January 2010:
 - ★ Not covered by award
 - ★ Covered by 10 National Employment Standards



Agreement Making

- During Transitional Period:
 - ◆ Employers may still use current collective agreements
 - ◆ AWAs continue to apply and can be entered into until Transitional Bill commences operation
 - ◆ Availability of Individual Transitional Employment Agreements (ITEAs) after commencement of Transitional Bill



Agreement Making

- ITEAs may be made during transitional period after Transitional Bill passed
- Employers can use them if they have AWAs in place before 1 December 2007
- Only use them for new employees or current AWA covered employees
- ITEA cannot disadvantage employee
- Nominal expiry date of 31 December 2009



Agreement Making

- From 1 January 2010:
 - ◆ Cannot use AWAs/ITEAs or any other statutory individual contracts
 - ◆ Collective agreements
 - ★ If a majority of employees want to bargain collectively, their employer must bargain collectively with them in good faith
 - ★ Employers must inform employees of representation rights
 - ★ Bargaining participants can agree on whatever lawful matters suit them
 - ★ Introduction of the “Boot”
 - ★ Approved “on the papers” within 7 days
 - ★ Operate for up to 4 years once approved



Agreement Making

- Collective Agreements (cont'd):
 - ◆ Union no automatic right to be involved in bargaining process unless request made by employees
 - ◆ Include a Flexibility Clause allowing for individual flexibility arrangements
 - ★ In writing and copy to employee



Industrial Action

- Labor policy still light on detail
- Secret ballot mandatory
- No strike pay
- Pattern bargaining not allowed



Unfair Dismissal

- Current system will continue until 31 December 2009:
 - ◆ Small/medium employers with 100 employees or less are exempt from unfair dismissal laws
 - ◆ Large employers with more than 100 employees must comply with unfair dismissal laws, subject to exceptions



Unfair Dismissal

- Labor's system will operate from 1 January 2010:
 - ◆ Employers with fewer than 15 employees are exempt from unfair dismissal laws for the first 12 months of employment
 - ◆ Employers with 15 or more employees are exempt from unfair dismissal laws for the first six months of employment



Unfair Dismissal

- Under Labor's unfair dismissal system:
 - ◆ Claims must be lodged within seven days
 - ◆ Conference to be held before FWA member
 - ◆ Parties may be represented at conference but no written submissions, cross-examination or hearing
 - ◆ At conference, FWA member required to reach conclusion on dismissal
 - ◆ Where dismissal unfair, FWA member can order reinstatement or compensation



Unfair Dismissal

- Introduction of “Fair Dismissal Code” for small business
- Where small business employer complies with the Code, dismissal will be fair



Building & Construction Industry Regulation

- Current rules and industrial bodies will continue until 31 January 2010
- From 1 February 2010, the ABCC will be transferred to a specialist division in Fair Work Australia
- Principles of current framework will continue



Questions?