

"Success Together"

Employment law – “work choices” to “fair work”

From 1 July 2009 Employment Law in Australia will again change dramatically with the commencement of some parts of the Federal Government's Fair Work Legislation.

With the raft of changes is the creation of Fair Work Australia a body which will effectively absorb the Australian Industrial Relations Commission, the Workplace Authority, the Workplace Ombudsman and the Australian Fair Pay Commission and will be a one stop shop to deal with all issues from policy to complaints.

There will be transitional provisions such as allowing Australian Workplace Agreements which are outlawed under the new legislation to run full term stated in the agreement. This will apply to AWAs that are in existence as at 30 June 2009. The new system will effectively be up and running by 1 January 2010.

Some of the highlights of the changes which will come into effect on 1 July 2009 and 1 January 2010 are as follows:

- Immunity from unfair dismissal claims for employers with less than 100 employees is reduced to less than 15 employees but those employees must serve a 12 month qualifying period.
- The claim must be made within 7 days of dismissal which it is believed will probably result in more reinstatements after such a short period.
- Constructive dismissal has been enshrined in the legislation.
- Unlawful dismissal such as discriminatory reasons, union activity or family commitments remains unchanged regardless of the number of employees.
- Fair Work Australia can make a decision on the spot on both unfair and unlawful dismissals.
- Ten minimum national employment standards have been set, such as maximum weekly hours, request for flexible working arrangements, parental leave, public holidays, etc.
- An entitlement of up to 16 weeks redundancy pay now a legislated entitlement.
- Long service leave entitlements are now Federal and not State.
- Now two streams of collective agreements - Single Enterprise Agreements and Multi Enterprise Agreements.
- Collective agreements have a maximum term of 4 years.
- Award modernization process is to be completed by 31 December 2009.
- The Fair Work Australia will apply the “BOOT” (Better Off Overall Test).

- Greater rights of access by unions even where there is no union employee on site. It is permitted entry where an employee is entitled to union's representation but there are guidelines for this including 24 hours' notice, time of inspections, compliance with WH&S and the location of the meeting.

Are you leasing? Land tax is soon to be a recoverable outgoing!

Under current Queensland legislation, a landlord is prohibited from forcing the tenant to pay or reimburse the land tax for leases commenced after 1 January 1992.

However, a bill introduced on 16 June will repeal the prohibition in certain circumstances allowing parties to negotiate who will pay the land tax under leases (excluding options) commencing after 30 June 2009).

It covers industrial premises, commercial offices and certain retail lease premises not governed by the Retail Shop Leases Act. A prudent landlord should instruct its solicitor to include land tax in the definition of outgoings for any new leases but a commercial decision should be made as to whether a tenant can afford this additional cost.

The Lease may already allow for such recovery so check your Lease.

Recession-proofing your business

In these difficult economic times, there is a good opportunity to review your business structure and practices to ensure that you survive and be in a stronger position when the better times return. We suggest you focus on the following:

- Business Acumen – Monitor business drivers closely by looking at from where your business comes and focus on what is best for your business.
- Relationships – Strengthen your relationships with your customers/clients by maintaining or increasing your level of service and maybe just staying in touch with them to make sure that you are still meeting their needs.
- Leadership – Look after good staff because whilst it might be easy to simply sack some staff, we all know how expensive it is to find, recruit and train new staff. It is better to keep good staff even if on reduced hours, etc than find them again later.

We recommend that you look at the fundamentals of your business, review your strategies and understand your costs or expenses.

Now could be a good time to look at those expenses which have simply been allowed to continue when there may not necessarily be any real need for them or maybe you could find a supplier who will provide those same goods or services at

a more competitive price as all of these things will add up to saving money.

Cash flow is the critical issue for all businesses in good and bad times but especially in the latter. This does not mean slashing your prices to simply sell product or services but looking at your core business and deciding what are the most profitable parts of your business. Focus on providing quality goods and services at a price to ensure long term sustainability.

“The business landscape has changed fundamentally; tomorrow’s environment will be different, but no less rich in possibilities for those who are prepared.”

Ian Davis
Worldwide Managing Director
McKensy

March 2009

Jungle warfare - survival tactics

With the economic downturn some businesses are struggling but with the right approach to business structuring, planning and cash flow, you can give yourself the best opportunity of surviving through the tougher times.

Now is a good time to review your Credit Account Application and Terms and Conditions of Trade, get personal guarantees where appropriate and ensure your debtors do not drag out payment to unacceptable limits and have a good debt recovery system.

We can provide you with advice in these areas and improve your existing documents or develop them from scratch to give you the best protection. Subtle changes can make a difference and we can include a title retention clause commonly referred to as a “Romalpa” clause to enable you to recover your goods if not paid for and sometimes your money.

Insurance - the necessary evil!

O’Neills have always taken an holistic approach to our clients’ affairs to ensure that all issues are addressed and they achieve the right advice from the right advisor at the right time.

Insurance is one of those planning tools we consider is essential for all sorts of reasons and on various “assets” such as your life, spouse, income, health, home, contents, cars and of course, business.

Our experience is that clients tend to ignore the last and don’t think about what will happen upon the retirement, death or illness of themselves, business partners or even key personnel. How will you buy out the share of a deceased business partner?

We believe you should review all insurances on a regular basis as part of your estate planning but those in business should pay special attention to the critical issues raised above.

For those experiencing a slower market now is an ideal opportunity to review all of your business practices to streamline your structure, save money and prepare for the return to good times.

Call us now!

We can assist you to review your business affairs and offer a free half hour consultation to complete a Business Health Checklist and discuss any issues and see what we or our business alliance partners can do for you.

We believe this will help us to help you and achieve Success Together.

FEEDBACK: We welcome your comments on our Newsletter and its contents. Is it useful? What sort of information would you like to see included/excluded? We also welcome comments on our quality of service and ways to improve it.

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