



Workplace Relations Alert March 2009

What is happening with the *Fair Work Bill*?

This important Bill is passing relatively quickly through the process of consultation, review and redrafting.

This Alert summarises the major points and dates. We recommend that you keep in touch with the process and consider whether you need to make any changes at your workplace before the law comes into effect.

The Senate committee inquiring into the *Fair Work Bill (the Bill)* handed down its report on 27 February 2009. The Labor majority recommended that the Bill be passed without delay – but with some amendments in respect of:

- > flexible working arrangements under the NES;
- > the fair work information statement;
- > enterprise bargaining;
- > unfair dismissal and transfer of business provisions; and
- > the provision of a safety net for out-workers.

Opposition senators' criticisms of the Bill were limited to issues they say went beyond the Forward with Fairness policy or that they considered to be flawed or unfair, including:

- > right of entry provisions;
- > union rights to access employee records;
- > transfer of business provisions;
- > greenfields agreement making; and
- > the new bargaining regime.

In response, the government announced on 9 March 2009 that it will make changes to bargaining rules for greenfields agreements, including not requiring the employer to notify every union that might have coverage at its workplace. However it will not make changes to the union right of entry provisions, except to adopt the Privacy Commissioner's recommendation of an 'anti-disclosure' provision with penalties for misuse of information obtained by union officials. Other changes will include increasing the powers of and flexibility available to Fair Work Australia in a number of areas.

Meanwhile, the government has also confirmed that it expects to publish the draft transitional legislation during March; and the award modernisation process continues, with consultation sessions on the stage 2 awards now completed and submissions due shortly on stage 3.

It now appears that most of the Bill will come into effect on 1 July 2009, although the National Employment Standards and modern awards will operate from 1 January 2010, and changes to regulation of the building industry will probably occur at the end of January.



We recommend that employers:

- > review the transitional legislation closely to understand how your enterprise arrangements will be affected;
 - > consider whether (particularly in light of the modernised awards already published) it will be helpful to make an enterprise agreement before 1 July;
 - > in preparing for mergers, acquisitions, outsourcing and insourcing, identify awards and agreements that might 'transfer' to your business, and consider how to accommodate this;
 - > consider whether you need to adjust plans for restructuring, and/or internal processes for termination of employees before 1 July;
- > review employment contracts and agreements being negotiated now, to ensure they can accommodate the NES; and
 - > educate your managers and staff about the changes that are coming, to ensure as smooth a transition as possible.

If you would like more information, or would like us to help you assess the impact of the new law on your workplace, please contact:



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