

Major changes to workplace laws came into effect from 1 July 2009

It is vital that all businesses, regardless of size, prepare themselves for these changes

Key changes include:

From 1 July 2009

Increased right of entry to workplaces for union officials

New enterprise bargaining rules which require employers to “bargain in good faith”

New unfair dismissal laws which apply to all employers, no matter how small

From 1 January 2010

A new set of 10 National Employment Standards that will apply to all employees

A new national award system

Over the past months ASIAL has been posting articles on our website, running seminars and providing links to relevant sites to provide information to members.

We can help you to understand how your business may be affected by these changes.

To have your questions answered, call Chris Delaney on 02 99707125 or email: ir@asial.com.au

Union rights to enter employer premises have been strengthened under the Fair Work Act. If Right of Entry is an issue for you, read on.

Unions may enter employer premises where they have members or potential members. This is similar to the WorkChoices requirement that the site have members or employees eligible to be members. However, the Fair Work Act permits unions to enter for

- discussions with employees, whereas this was not permitted under WorkChoices for sites where all employees were on AWAs or non-union agreements; and
- for the purpose of inspecting or copying documents associated with breach, which is a new right.

ASIAL

PO Box 1338

Crows Nest

NSW 1585

T: 02 84254300

F: 02 84254343

E: security@asial.com.au

W: www.asial.com.au

Where WorkChoices stipulated that right of entry was contingent on the site being covered by an Award or Agreement binding on the union, this restriction is removed under the Fair Work Act. Unions investigating a suspected breach of an Agreement or Award may have access to member's records. They may also have access to non-member's records, but only if they have written consent from the employee or permission from Fair Work Australia.

However, the Act contains some new protections for employers:

- Unions may only inspect or make copies of documents that are "directly relevant" to an alleged contravention of an Agreement or Award.
- There are limits placed on the use that may be made of copied documents.
- Remember, employers are not hostage to unions on site under either WorkChoices or Fair Work. Unions on employer premises must not intend to, or actually, hinder, obstruct or harass an occupier or employer.

The new National Employment Standards (NES) - the Major Changes

The new National Employment Standards (NES) are generally much the same as the Australian Fair Pay and Conditions Standard introduced by Work Choices. However, there are a few key differences which we identify below -

Parental Leave - a parent employee will now have the right to request up to an extra 12 months of unpaid parental leave. This can only be refused on 'reasonable business grounds' and must give written reasons within 21 days.

There is also a new obligation on the employer to consult with an employee on parental leave if the employer makes a decision that will significantly affect the employee's pre-parental leave position.

Flexible Work for Parents - this is a new entitlement. Employees (subject to qualifying criteria similar to those for parental leave) may request a change in working arrangements if a parent or carer of a child under school-age.

The request must be in writing and as for extending parental leave beyond 12 months, written reasons must be provided within 21 days if refused by the employer.

Community Service Leave - although not necessarily a new condition, this was not previously part of the Australian Fair Pay and Conditions Standard and is highly topical given the Victorian bushfires. Employees are entitled to time off for eligible community service activities, such as fire-fighting, civil defence and rescue activities with recognised organisations. There is also a new entitlement to paid jury service of up to 10 days for non-casual employees.

Redundancy Pay - this is a significant new national standard for employers with more than 15 employees, particularly for non-award employees such as most management workers. In the absence of company redundancy policies, many of these management employees had no right to redundancy pay.

The redundancy standard under the NES is the existing Federal award redundancy standard.

Fair Work Information Statement - similar in function to the defunct Work Choice Information Statement, this statement needs to be given to all new employees and provides general information about the NES, modern awards, agreement making, freedom of association and the role of various government bodies such as Fair Work Australia and the Fair Work Ombudsman.