



HENRY DAVIS YORK
LAWYERS



WORKPLACE RELATIONS & SAFETY INSIGHT

16 DECEMBER 2009

Is your workplace ready for the New Year?

The National Employment Standards (**NES**) commence on 1 January 2010, along with the modern awards that have recently been made by the Australian Industrial Relations Commission ("**Fair Work Safety Net**").

The modern awards can be accessed at www.airc.gov.au. Generally speaking, you should look at the coverage clause and the classifications specified in the modern awards to determine whether one or more apply to the work performed by employees in your business.

Below is a check list to help you get ready to welcome in the Fair Work Safety Net to your workplace in 2010:

- Which modern award(s) apply to your employees?
- Will the application of the modern award result in you needing to pay a higher casual rate of pay, overtime or other penalty rates to specific employees?
- Do you have an obligation under the applicable modern award(s) to:
 - advise employees of their classification?
 - make a copy of the modern award available in the workplace?
- Are there any exemptions in the modern award(s) that apply to your business?

WHO DOES THIS AFFECT?

All employers who are covered by the *Fair Work Act 2009* (Cth).

HIGHLIGHTS

"The NES and modern awards commence on 1 January 2010. You need to ensure you are compliant."

- If an industrial agreement (including a collective agreement or enterprise agreement) currently applies to a whole or a part of your business:
 - How will the NES interact with that agreement?
 - Will any adjustments to terms and conditions need to be made?
- Do any of your standard contracts of employment or policies and procedures need amending or up-dating to accommodate requirements of the Fair Work Safety Net?
- Will you offer a guarantee of annual earnings to award employees earning in excess of \$108,300¹ so that you do not have to comply with each term of the modern award?
- Have you considered the flexibility provisions of the modern award and considered whether you will offer existing employees the opportunity to enter into an individual flexibility arrangement (IFA)?
- Do you have a system in place to ensure that all new employees are issued with the Fair Work Information Statement (**Statement**) from 1 January 2010?

Note: in the case of casual employees, the Statement only needs to be issued once every 12 months.

Please contact one of the partners in HDY's Workplace Relations and Safety Team if you need assistance in bringing in the "Fair Work" New Year.

¹ As indexed

This newsletter is general in nature and its brevity could lead to misinterpretation. No responsibility can be accepted for those who act on its contents without first consulting us and obtaining specific advice.

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