

Blake Dawson

The New Federal IR Laws – What are the Changes?

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The *Fair Work Act* 2009 (Cth)

- Changes to minimum conditions of employment
- Introduction of adverse action claims to enforce workplace rights
- Changes to laws about rights of entry

Minimum Conditions

- Rationalisation
- Phase out of Australian Fair Pay and Conditions Standard
- Replaced with National Employment Standards (NES)
- Modernisation of awards

Quarrying Award 2010

- Comes into effect 1 January 2010
- Covers employees performing general labouring duties, have basic quarry competency (or training towards it)
- Thirteen core competencies
- Does not cover persons excluded by the Act (eg high income earners)

National Employment Standards

- Maximum weekly hours
 - Part time
 - averaging
- Flexible work
 - No orders
- Parental leave
 - Employee couple
- Annual leave
 - Cashing out
- Personal/carers leave
 - Cashing out (award/enterprise agreement only)

National Employment Standards

- Compassionate leave
- **Community service leave**
 - Paid jury service leave for 10 days
- Long service leave
- **Public holidays**
- Notice of termination
- **Redundancy**
 - Consultation, notification, job search obligations
- Fair Work Statement

Protection of workplace rights

- General Protections
- Adverse Actions
 - Dismissal
 - Injury in employment
 - Prejudicial alteration
 - Refusal to employ
- Workplace rights
 - Right to a benefit under workplace law
 - Role or responsibility under workplace law
 - Right to initiate or participate in proceedings
 - Right to complain

Protection of Workplace Rights

- Freedom of association
 - Union membership
 - Right to engage in lawful industrial activities
- **Discrimination**
 - Race or national extraction
 - Sex
 - Sexual preference
 - Age
 - Physical/mental disability
 - Marital status
 - Family responsibilities
 - Pregnancy
 - Religion
 - Politics
 - Social origin

Protection of workplace rights

- Other unlawful conduct
 - Coercion to exercise a workplace right
 - Undue influence or pressure to make an enterprise agreement
 - Misrepresentation of a workplace right
- Examples of adverse action
 - What not to do
 - Conduct for reasons including a workplace right
 - Conduct for reasons including freedom of association
 - Conduct which may be discriminatory

Right of Entry

- Investigate breaches
- **Hold discussions**
- Investigate safety

Right of Entry

- Specific provisions:
 - ROE to hold discussions no longer subject to employees being subject to an award or agreement binding on the union
 - Act specifies when requests regarding location of meetings and interviews will be unreasonable
 - Union officials have rights to inspect or make copies of any records or documents related to a suspected breach, even re non-union members (NB: Privacy obligations – s.504)
 - Entry notice – declaration re union coverage