



Making the pieces of the IR puzzle fit

National Workplace Relations System

Information for NSW employers and employees

The Fair Work Act now delivers a national workplace relations system.

The following information is provided by NSW Industrial Relations to assist NSW employers and employees who are moving into the new system during 2010.

Who is covered by the Fair Work legislation?

The *Fair Work Act* now covers all NSW private sector employers and their employees.

Parts of the national system commenced on 1 July 2009, such as the new enterprise bargaining laws and unfair dismissal provisions.

The final parts commenced on 1 January 2010. This includes the new modern award system and the ten new National Employment Standards (NES).

For employers and their employees who were in the NSW state system as at 31 December 2009 (mainly sole traders and partnerships), there is a 12 month transition period in relation to moving to the new modern awards.

The ten National Employment Standards commenced on 1 January 2010.

All NSW employers will need to ensure that they comply with these new employment requirements from this date.

Which award covers my business?

All awards (both federal and state) have been streamlined into around 120 modern awards.

If you were covered by a federal award on 31 December 2009 (generally Pty and Pty

Ltd companies) you must now use the appropriate modern award.

Information about which modern award now applies to your business may be obtained from the Fair Work Infoline on 13 13 94.

If you were covered by a NSW state award on 31 December 2009, that award has been preserved as a **state reference award** for a period of 12 months and you can continue to refer to this award until the end of January 2011. From 1 February 2011, your business will be required to use the appropriate national modern award.

If you are starting a new business as a sole trader or partnership, you are covered by the appropriate modern award.

National Employment Standards

From 1 January 2010, all NSW employers must comply with the requirements of the ten new National Employment Standards as follows:

- **Maximum weekly hours of work** – 38 hours per week, plus reasonable additional hours.
- **Requests for flexible working arrangements** – allows parents or carers of a child under school age or of a child under 18 with a disability, to request a change in working arrangements to assist with the child's care.
- **Parental leave** and related entitlements – up to 12 months unpaid leave for every employee, plus a right to request an additional 12 months unpaid leave, plus other forms of maternity, paternity and adoption related leave.
- **Annual leave** – 4 weeks paid leave per year, plus an additional week for certain shift workers.
- **Personal/carer's leave and compassionate leave** – 10 days paid

personal/carer's leave, two days unpaid carer's leave as required, and two days compassionate leave (unpaid for casuals) as required.

- **Community service leave** – unpaid leave for voluntary emergency activities and leave for jury service, with an entitlement to be paid for up to 10 days for jury service.
- **Long service leave** – a transitional entitlement for certain employees who had certain LSL entitlements before 1/1/10 pending the development of a uniform national long service leave standard.
- **Public holidays** – a paid day off on a public holiday, except where reasonably requested to work.
- **Notice of termination and redundancy pay** – up to 4 weeks notice of termination (5 weeks if the employee is over 45 and has at least 2 years of continuous service) and up to 16 weeks redundancy pay, both based on length of service.
- **Provision of a Fair Work Information Statement** – employers must provide this statement to all new employees.

More information about the NES may be obtained from the Fair Work Infoline on 13 13 94.

Unfair Dismissal laws

New unfair dismissal laws now apply to all NSW employers and employees.

Importantly, the time frame in which to lodge an unfair dismissal claim has been reduced to 14 days.

To lodge an unfair dismissal claim, qualifying periods apply depending upon whether the business has less or more than **15 employees**.

For businesses with 15 employees, the qualifying period is 6 months, for businesses with less than 15 employees, the period is 12 months.

A new Small Business Fair Dismissal Code applies to businesses with fewer than 15 employees. This provides guidance and assistance for small business when considering dismissing an employee.

For further information on unfair dismissal laws, call the Fair Work Infoline on 13 13 94.

Employment records

From 1 January 2010, all NSW businesses must display their ABN on employment records and on pay slips given to employees.

Employers must also create an individual written record for every person they employ in their business containing this specific information:

- the employer's name
- the employee's name
- whether the employee's employment is full-time or part-time
- whether the employee's employment is permanent, temporary or casual
- the date on which the employee's employment began.

Supply written pay slips

Pay slips are important documents because they not only confirm to an employee how much they have been paid, but they also provide a written record for employers to show their workers what they are being paid.

An employer must provide every employee with a pay slip which shows:

- the full legal name and the Australian Business Number (ABN) of your business
- the employee's name
- the employee's classification under any applicable award (recommended only)
- the date on which the payment was made
- the period of employment the payment covers
- any amount paid as overtime or enough information to allow the employee to calculate the amount of overtime they have been paid
- the gross amount of remuneration (including overtime and other payments) - this is the total amount of pay before any tax has been taken out
- the amount deducted for taxation purposes
- any amount deducted as employee contributions for superannuation purposes
- particulars of any other legal deductions that the employee is authorised to make
- the net amount paid to the employee (this is the final amount paid to them after all the deductions have been made).

Fair Work Information Statements

All employers must give each new employee a Fair Work Information Statement before, or as soon as possible after, the employee starts employment.