

LegalTalk

Electronic Bulletin
of Australian Legal
Developments

Special edition: 28 March 2008

PRICEWATERHOUSECOOPERS LEGAL

A business unit of

PRICEWATERHOUSECOOPERS 



Employment Law



First part of Labor Government's new workplace relations laws commence now

In our *LegalTalk* special edition of 25 February 2008, we reviewed the *Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008 (Bill)*, which constituted the first proposed step in the new Labor Government's workplace relations reforms.

After a Senate Committee review and some minor amendments to the Bill, the Bill has become law, effective today.

Since our last edition, a number of changes were made, including amendments which:

- enable the Workplace Authority Director to have regard in certain circumstances to State and Territory laws about long service leave as part of the new no-disadvantage test for collective agreements and individual transitional employment agreements (ITEA);
- enable an eligible employer to make an ITEA with a former employee, provided that the employee's employment was not terminated in order to re-engage the former employee on an ITEA;



- provide for outworker conditions to continue to have effect despite any less favourable terms of a workplace agreement; and
- enable preserved State agreements to be extended and varied in limited circumstances.

As a result of the new Act having commenced:

- an employer and employee can no longer enter into an Australian Workplace Agreement (AWA);
- employers and employees may enter into ITEAs in limited circumstances

but ITEAS must have a nominal expiry date of no later than 31 December 2009;

- a new no-disadvantage test applies to collective agreements and ITEAs, which replaces the old fairness test;
- parties to a collective agreement cannot unilaterally terminate the agreement on 90 days notice. Instead a party wishing to terminate the agreement must now apply to the Australian Industrial Relations Commission. Where an agreement is terminated, employees will be entitled to be covered by whatever

award or collective agreement would have applied to them but for the terminated agreement;

- notional Agreements Preserving a State Award will now cease to have effect on 31 December 2009 (as opposed to 27 March 2009); and
- employers no longer have to provide employees with the Workplace Relations Fact Sheet.

The above is not an exhaustive list of the changes implemented by the new Act.

The Federal Government is expected to release a further bill containing its more substantial reforms later this year, which it intends to be operational by 1 January 2010. It is expected that this bill will contain the finalised National Employment Standards.

For further information please contact your usual PricewaterhouseCoopers Legal adviser, or:



Neil Napper, Partner
Legal Transactions &
Disputes Services Team
+61 (2) 8266 6647
neil.napper@au.pwc.com



Brett Feltham, Director
Legal Transactions &
Disputes Services Team
+61 (2) 8266 9375
brett.feltham@au.pwc.com

LegalTalk

Editor

Rayka Bor
Phone: +61 3 8603 3602
rayka.bor@au.pwc.com

Sydney

Tower 2, 201 Sussex Street
Sydney NSW 2000
DX 254 Sydney
Phone: + 61 2 8266 6666
Facsimile: + 61 2 8266 6999
info@pwclegal.com.au

Melbourne

Freshwater Place,
2 Southbank Boulevard
Southbank, VIC 3006
DX 291 Melbourne
Phone: + 61 3 8603 5600
Facsimile: + 61 3 8603 5601
info@pwclegal.com.au

© 2008 PricewaterhouseCoopers Legal. All rights reserved. PricewaterhouseCoopers refers to the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.

The information in this publication is provided for general guidance on matters of interest only. It should not be used as a substitute for consultation with professional legal or other advisers. Before making any decision or taking any action, you should consult with your regular PricewaterhouseCoopers Legal professional.

No warranty is given to the correctness of the information contained in this publication and no liability is accepted by the firm for any statement or opinion, or for any error or omission.