

# Fair Work | Compliance Checklist

## Preparing for the Fair Work Act 2009 (Cth)

### What do employers need to think about?

#### 1. Minimum statutory employment conditions

How will we respond to queries regarding the reasonableness of “additional” hours?

Do our employment contracts and human resources policies make provisions consistent with statutory minima in respect of National Employment Standards and modern awards, particularly in such areas as:

- a) redundancy;
- b) pay deductions; and
- c) requirement for employee to incur personal expenditure?

Should we insert provisions in employment contracts to require employees to take annual leave by a certain time and to give notice of intention to take leave?

Should we prepare a policy and form to allow employees to request cashing out of annual leave and personal/carer’s leave?

Should we prepare a policy and forms to allow employees to request flexible working arrangements and extensions of the period unpaid parental leave? How will we deal with these requests?

How will we keep employees informed of developments affecting their pre-leave position during parental leave?

#### 2. Modern awards

Do we know which modern awards will regulate employment in our business and what is likely to be contained in those awards?

Should we prepare documents and a policy to enable undertakings to be given as a part of a guarantee of earnings? Do we know which high-earning employees in our business are likely to be covered by modern awards?

Should we prepare documents and a policy to enable us to reach award flexibility agreements with award-covered employees to deal with entitlements to allowances, loadings, hours of work, overtime and penalties?

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### 3. Enterprise agreements

Do we have union members in the business? Are they likely to be organised in support of an enterprise agreement? Do we want a union relationship?

What are the advantages and disadvantages of making an enterprise agreement in our business?

### 4. Unfair dismissal laws

Do we need to review our policies and management practices in light of increased access of casuals and fixed term employees to unfair dismissal laws?

Do we need to review our policies and management practices to ensure that before retrenching employees we will:

- a) meet our obligations to consult employees and unions
- b) assess reasonable opportunities for redeployment, and can prove this?

Do we need to revise our policies and management practices regarding performance management to ensure that before dismissing employees for unsatisfactory performance we have complied with the Code (on the assumption that this will become universally applicable even though it is strictly confined to small employers) and can prove compliance?

### 5. Union rights of entry

Do we know how to respond to union demands to enter our workplace?

### 6. Employee protections and transfer of business

Do we understand the implications of the adverse action and transfer of business provisions for measures designed to improve our business efficiency e.g. restructuring, outsourcing, etc?



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