

WorkChoices : how it effects service trusts!



WorkChoices legislation will come into effect from Monday 27 March 2006. The legislation covers constitutional corporation employers and employees, including those previously covered by the state workplace relations system. As such, service trusts that have a corporate trustee are bound to the legislation.

Which one are you covered by?

Employers and employees converting from the state system will be covered by one of two types of transitional arrangements:

- A **notional agreement preserving a state award (NAPSA)** for employers and employees covered by state awards and/or laws; and
- A **preserved state agreement (PSA)** for employers and employees covered by a state agreement.

NAPSA

A NAPSA will include any term and condition of employment that was in original state award, except for terms that relate to wages or wage and classification structures. The NAPSA will also include the following state law provisions that were previously determined a condition of employment:

- Annual leave or annual leave loadings;
- Parental leave (including maternity leave and parental leave);
- Personal/carer's leave;
- Bereavement leave;
- Ceremonial leave;
- Notice of termination;
- Redundancy pay;

- Loadings for working overtime or shift work;
- Penalty rates; and
- Rest breaks.

The NAPSA has an expiry date of three years. From this time, the federal award will replace the NAPSA, unless a Certified Agreement or Australian Workplace Agreement is entered into.

PSA

A PSA will include any term and condition of employment that were in the original state agreement. PSA's will also include certain state law provisions that prior to commencement of WorkChoices would have determined a term and condition of employment (as per the entitlements of a NAPSA above).

Changes to consider

The following changes outline the minimum conditions outlined in the Australian Fair Pay and Conditions Standard. Current award provisions relating to annual leave, personal/carer's leave and parental leave will be preserved, meaning that if the current entitlement is more generous than the Standard, the award term will apply.

Annual leave - the standard entitles employees to 20 days annual leave, cumulative, accrued in four week blocks. For example, a fulltime employee engaged to work 38 hours per week will accrue 11.7 hours of annual leave at the end of each completed four week period. Therefore, annual leave will no longer be calculated at the employee's anniversary date, it will be calculated monthly.

Personal/carers leave - the standard entitles employees to ten days personal/ carers leave, cumulative, accrued in four week blocks. The standard also contains the provision for an additional two days of unpaid carer's leave per occasion and an additional two days of paid compassionate leave per occasion.

Minimum rates of pay - the Australian Fair Pay Commission are now responsible for setting and reviewing the Federal Minimum Wage. On commencement (27 March), the minimum wage will be set at \$12.75 per hour.

Parental leave - the standard provides for a maximum of 52 weeks unpaid parental leave, shared between both parents at the time of the birth of a child, or adoption of a child under five years of age.

Ordinary hours of work - the Standard provides a maximum of 38 ordinary hours of work per week. Employees can be required to work reasonable additional hours.

Want more information?

For any questions or more information, please contact:

Grant MacNeill
Human Resource Manager
Business: 02 4928 8500
Email: grant.macneill@cutcher.com.au

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website on
www.workchoices.gov.au