



Oct 18, 2018

The times they are a-changing (a lot)

We are seeing one of the more challenging periods of change in the world of workplace relations. SO many things are happening on so many different fronts. The purpose of this article is to inform you about the most significant of these developments.

2017/2018 Annual Wage Review

There are a number of changes that took effect from 1 July 2018 as a result of the decision in the 2017-2018 Annual Wage Review...

1. The national minimum wage and award rates have been increased by 3.5%.
2. The filing fee for dismissals, general protections and anti-bullying applications made to the Fair Work Commission increased to \$71.90.
3. The high-income threshold in unfair dismissal cases increased to \$145,400 and the compensation cap to \$72,700

New Fair Work Information Statement

The Fair Work Ombudsman has published a modified version of the Fair Work Information Statement effective from 1 July 2018.

Under National Employment Standards, employers must provide any new employee with a copy of the current Fair Work Information Statement. The document provides basic information on employee entitlements, right as well as the roles of the Fair Work Ombudsman and the Fair Work Commission.

You can access to current version at www.fairwork.gov.au/employee-entitlements/national-employment-standards/fair-work-information-statement.

Labour hire licensing

The Victorian Labour Hire Licensing Act has been passed by Parliament and is expected to come into full effect early in 2019.

This means that labour hire firms will not be able to legally operate in Victoria unless they have a licence by passing a fit and proper person test and satisfied a number of other requirements.

A regulatory authority is to be established and the use of an unlicensed labour hire operator will be an offence and subject to penalties.

Similar legislation is already operating in Queensland and in the process of implementation in South Australia.



Long service leave

The Long Service Leave Act 2018 makes a number of changes to long service leave entitlements in Victoria.

These apply to employees who are not covered by Coinvest and include...

- Employee access to long service leave after 7 years of eligible service (down from 10 years).
- Unpaid parental leave will count as service (whereas currently it does not count but doesn't break service)
- If an employee resigns and is reemployed within 12 weeks, service will be deemed to be continues
- Long service leave service will transfer from one employer to another where there is a transfer of tangible and/or intangible assets and the employee performs duties in connection with those assets
- The method of calculating entitlements where there have been changes in an employee's working hours is changing
- Penalties for non-compliance will go from civil to criminal penalties

The legislation is expected to come into operation on or about 1 November 2018.

New leave to deal with family and domestic violence

All modern awards have been varied with effect from 1 August 2018 to provide all employees including casuals with an entitlement of up to 5 days unpaid leave per annum to deal with family and domestic violence.

The leave entitlement is credited on an employee's service anniversary but does not accumulate.

Annual leave accrues while on WorkCover

Following decisions in two cases by the Fair Work Commission that provided for the accrual of annual leave during absences on WorkCover, the Fair Work Ombudsman has accepted that position as a general rule.

ATO Reportable Payments regime biting

A client who is in the construction industry and utilizes sub-contractors to perform work has recently been tackled by the ATO.

Essentially, the demand was to convert the subcontractors to employees or face prosecution for sham contracting.

The business complied with the demand but lost a number of good workers who preferred to continue elsewhere as sub-contractors.



Penalty Rates and Fair Pay Select Committee report in

This Committee was established by the Victorian Government in the wake of the Fair Work Commission decision to reduce Sunday penalty rates in the hospitality and retail industries.

Most of the recommendations relate to lobbying of the federal government to bring about change. Others that are of more concern for employers in general are...

- Making dishonestly underpaying wages a criminal offence
- Setting up a state enforcement agency
- Inclusion of a penalty rates guarantee in Victorian Government procurement contracts

New decision granting a casual annual leave

In a recent Federal Court decision (*WorkPac Pty Ltd v Skene*), a fly in fly out employee engaged as a casual was deemed to have an entitlement to annual leave.

This was essentially because the Court had the view that the character of the relationship was not casual because there was a clear expectation of ongoing employment notwithstanding the fact that the employee was engaged as a casual.

The decision has significant implications for anyone using labour hire services with workers engaged for prolonged periods.

Please note: Under the Building and Construction General On-site Award 2010, casuals engaged regularly and systematically for 6 months must be offered the opportunity to convert to full-time or part-time employment.

Conclusion

If you have any doubts about the compliance of your business with employment laws and related requirements, give us a call and we will provide you with free phone advice as part of your CCF membership.

Enquires can be directed to Peter Maguire on 0438 533 311 or email pmaguire@ridgelinehr.com.au