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## ALP INDUSTRIAL RELATIONS POLICY UPDATE

### What Happens Now?

With the recent election win, the ALP has made it clear that the introduction of significant workplace relations reforms is a priority. However, the ease with which this legislation will be passed will ultimately be determined by the Senate.

The ALP is planning to introduce transitional legislation almost immediately, yet the majority of new senators do not take office until 1 July 2008. Until then, the Coalition is likely to remain in control of the Senate. While there are suggestions that the Coalition may block the ALP's workplace reforms, their intentions are unlikely to be known until a new leader is elected.

After 1 July 2008 the balance of power in the Senate is likely to rest with the Greens, Family First and Independents. The ALP has acknowledged that in order for the legislation to be passed some negotiations will need to be undertaken with these minor parties and Independents.

In this Update we briefly review the ALP's policies and provide an insight as to what employers can expect on the industrial relations landscape into the future.

#### Ten National Employment Standards

The ALP has promised to extend the safety net that will underpin collective enterprise bargaining and common law agreements. They intend to extend the previous 5 guaranteed minimum conditions presently contained in the Australian Fair Pay and Conditions Standard ('AFPCS') to 10 and rename the AFPCS the 'National Employment Standard'.

The National Employment Standard will apply to all Australian employees regardless of their industry or occupation and will not be capable of removal in any circumstances.

#### Australian Workplace Agreements (AWAs)

The ALP plans to eventually abolish AWAs. However, for the moment the following transitional arrangements have been proposed:

- Existing AWAs will continue for their full term. The last AWA's will expire around 2012. Therefore, if AWA's are lodged prior to the ALP's proposed legislation taking effect, these will remain in place until their expiry date.

- Individual Transitional Employment Agreements (“ITEAs”) will be available for employers using AWAs with a nominal expiry date of no later than 31 December 2009. ITEAs must not disadvantage the employee as against a collective agreement, the applicable award or the existing Fair Pay and Conditions Standard.

Assuming that the legislation does pass through the Senate, new AWAs will no longer be an option for employers or employees.

### **Industrial Award Simplification and Rationalisation**

The ALP has designated 2 years in which to simplify and reduce the number of Industrial Awards operating in Australia. The simplification and rationalisation process is expected to commence on 1 January 2008.

Awards will be underpinned by the National Employment Standard and will be a safety net for collective bargaining.

The ALP suggest that the simplification and rationalisation of Awards will reduce the need for AWAs to overcome inflexibilities in the award system.

The ALP also proposes that awards will no longer apply to employees with guaranteed earnings above \$100,000. These employees will be free to enter into common law agreements in any form, without reference to awards, as long as they conform to the National Employment Standard.

### **Long Term Changes**

The ALP proposes to establish Fair Work Australia, a body taking over the roles of the Workplace Authority, the Industrial Relations Commissions and the Workplace Ombudsman. It is expected that Fair Work Australia will be in operation from 1 January 2010.

Further proposed changes include restrictions on award content, reinstating collective bargaining as the mainstay of the industrial relations system and changes to unfair dismissal laws. The consultation stage for these changes is likely to begin with a draft Exposure Bill in 2008 and continue through to 2010.

#### **HOW DOES THIS AFFECT YOU?**

Assuming the ALP’s proposed legislation is passed by the Senate, AWAs will be abolished and the following transitional arrangements will apply:

- AWAs currently in operation will continue until their expiry date.
- For employers intending to enter into new AWAs, this is still possible until the legislation is enacted by Parliament.
- While new AWAs will no longer be available if you currently have AWAs in place, you may enter into ITEAs for a further 2 year period.

The Award rationalisation and simplification will commence on 1 January 2008.

We will keep you informed as these changes are implemented by the ALP.



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