

February 2008

## TRANSITIONAL WORKPLACE RELATIONS BILL INTRODUCED

Deputy Prime Minister and Minister for Employment and Industrial Relations, The Honourable Julia Gillard, MP introduced the *Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008* (the “**Bill**”) in Parliament yesterday morning. The Bill contains the transitional arrangements for the dismantling of the Howard Government’s WorkChoices legislation.

If passed, the Bill will prohibit companies from entering into Australian Workplace Agreements (“**AWAs**”) with their staff and introduce a “no-disadvantage test” to replace the Howard Government’s Fairness Test.

In an act of support for the legislation, Ms Gillard yesterday announced that the Public Service would not be entering into any new AWAs with staff.

### TRANSITIONAL ARRANGEMENTS

Under the transitional arrangements, organisations with staff already operating under AWAs may enter into temporary individual agreements called Individual Transitional Employment Agreements (“**ITEAs**”) with existing staff for the next two years. New staff may also be offered ITEAs as a condition of employment at workplaces where AWAs are already operating.

ITEAs will be subject to the “no-disadvantage test” which means that organisations will be unable to reduce the terms and conditions of employment that are contained in any relevant collective agreement, award or applicable legislation.

While the Government had hoped for the transitional legislation passed through Parliament by Easter, the Opposition have indicated that they may use their current majority in the Senate to oppose the Bill. This may mean that the Bill is not passed until July, when the Australian Labor Party takes the majority in the Senate.

### SENATE INQUIRY

Earlier today, the Opposition used its majority in the Senate to defeat Labor’s proposed deadline of 17 March 2008 for the Senate’s education, employment and workplace relations committee to examine the Bill. A motion is set for later this afternoon to set 14 April 2008 as the deadline for the Inquiry to report.

This means that AWAs will remain in place for at least 2 months.

## NAPSAS

If the Bill is not passed by March 27 of this year it may result in the expiration of hundreds of Notional Agreements Preserving State Awards ("**NAPSAs**"). NAPSAs were introduced by the Howard Government as a transitional step in their WorkChoices reforms. They preserve the terms and conditions contained in State industrial awards while reforms were made towards the national system of industrial relations.

If NAPSAs do expire it will result in the terms and conditions for millions of workers being protected by only the five minimum standards that are contained in the Australian Fair Pay and Conditions Standard ("**AFPCS**"). Ms Gillard has indicated that the Government may extend the expiry date of NAPSAs if the transitional legislation has not been passed by 27 March to ensure that the minimum conditions under NAPSAs do not go unprotected.

### HOW DOES THIS AFFECT YOU?

Currently:

- AWAs will remain available for at least two more months until the Senate Inquiry is completed.
- Entering into at least one AWA prior to the Transitional Bill being passed will entitle employers to utilise ITEAs for all employees until the end of 2009.

If the Senate opposes the Bill:

- The transitional arrangements may not come into affect until July 2008 when the new Senate term commences.
- NAPSAs will expire unless the Government takes action to extend their expiry date. This will result in conditions of employment for many workers being protected by only the 5 minimum standards contained in the AFPCS.

When the Bill is passed through Parliament:

- Employers will no longer be able to enter into AWAs with their employees.
- Temporary ITEAs may be entered into if your organisation already has AWAs operating in the workplace for the next two years.
- The "no-disadvantage test" will replace the Fairness Test for any agreement lodged after the enactment of the transitional legislation.



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