

CRITICAL WORKPLACE CHANGES APPLY FROM TODAY – 1 JULY

JULY 2011

Fair Work Australia has had a busy June 2011 with the Annual Wage Review and the related increases in minimum rates of pay.

In addition, businesses should be mindful that monetary thresholds contained in the *Fair Work Act 2009* (Cth) have also increased due to the Annual Wage Review. This bulletin outlines these increases and the potential effect on workplace entitlements.

In addition, there has been an important variation made to the *General Retail Industry Award 2010* (the **Retail Award**) and employers need to be aware of their obligations in relation to the government funded paid parental leave scheme as of 1 July 2011.

ANNUAL WAGE REVIEW

Don't forget the Annual Wage Review increases apply from 1 July 2011. This means from the first pay period after 1 July 2011, businesses ought to ensure the new wage rates are in place.

INCREASE IN THE HIGH INCOME THRESHOLD

As of 1 July 2011, the high income threshold is \$118,100 per annum. It is therefore important to calculate how much employees are earning from 1 July 2011, as depending on the arrangements you have in place these may be affected.

If you have any employees on a guarantee of annual earnings you ought to review their remuneration to see if it is still above the high income threshold. Earnings for the purposes of the high income threshold include:

- wages;
- amounts applied on the employee's behalf and;
- the agreed monetary value of benefits such as a company vehicle, computer or mobile phone.

Payments that cannot be valued in advance (such as commissions or certain bonuses), reimbursements and employer contributions to superannuation do not form part of an employee's income for the purpose of the high income threshold.

A benefit for employers is that employees who earn above the high income threshold and are not covered by a modern award or an enterprise agreement are not eligible to commence a claim for unfair dismissal.

Nonetheless, high income employees who are covered by a modern award and have entered into a guarantee of earnings with their employer may still bring an unfair dismissal claim.

UNFAIR DISMISSAL CAP

The maximum compensation payable for an unfair dismissal is now capped at \$59,050 or the equivalent of an employee's six month salary, whichever is the lesser.

MINIMUM ENGAGEMENT FOR EMPLOYEES IN THE RETAIL INDUSTRY

In a recent decision handed down by Fair Work Australia, the minimum engagement period for high school students who are casual employees of a retailer has been reduced from three hours to one and a half hours.

The National Retailers Association (**NRA**) had been campaigning for some time to have the Retail Award varied to reduce the minimum engagement period. One of the arguments put forward by the NRA was that the reducing of the minimum engagement would enable high school students to work after school as the three hour minimum engagement period included in the Retail Award has prevented them from doing so due to the trading hours of many retail establishments.

The variation to the Retail Award provides that a one and a half hour minimum engagement period may apply where:

- a. the employee is a full time high school student;
- b. who works between the hours of 3:00pm and 6:30pm on a school day;
- c. the employee agrees to work and has a parent or guardian's permission; and
- d. employment for a longer period is not possible due to the operational requirements of the employer or if the employee is unavailable.

The above variation is intended to take effect from 1 July 2011.

PAID PARENTAL LEAVE AND EMPLOYER OBLIGATIONS

As of 1 July 2011, if an employee has a child (or adopts a child) from 1 July 2011 and they have twelve months of continuous service with their employer (or, if the parent is a casual employee, has worked a series of engagements during at least 12 months on a regular and systematic basis), the employer will be the "paymaster" of the government-funded paid parental leave. The intention of this aspect of the scheme is to maintain the connection between the mother and her employer, with a view to her returning to work after the period of parental leave.

However, if your employee chooses to access less than eight weeks of their parental pay then the employer is not obliged to be the "paymaster", the payments may be made directly to the employee by the Family Assistance Office.

Employers ought to ensure they provide all the necessary details to the Family Assistance Office to ensure they receive the funds for the employees paid parental leave period and administer it in the employee's usual pay cycle.

If you have any questions in relation to this bulletin then please do not hesitate to contact any of the members of CG Law's workplace relations team.

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