

**Law  
Update**  
December 2009

# Fair Work Act

## THE NEW SCHEME COMES INTO EFFECT!

The operation of the Federal Workplace Relations system known as the *Fair Work Act* ("FWA") comes into full effect on 1st January 2010.

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The interim employment arrangement that has existed in Australia between the former Howard Government Work Choices legislation and the Rudd Government Fair Work legislation comes to an end on the 31<sup>st</sup> December 2009.

Under the *Fair Work Act*, Federal Awards have been modernised. The modernisation involves simplifying them, reducing their number, and broadening their application to a wider range of employees than before.

The National Employment Standards brought in some time ago continue to apply to all employees in Queensland.

Any existing employment contracts or common law agreements (appointment letters or the like) that are inconsistent with the National Employment Standards ("NES") or the new Federal Awards (Modern Awards) will be unenforceable / void to the extent of that inconsistency.

Employers can face claims for back pay, default interest, and penalties for failing to comply and pay the proper amounts under the new regime and Modern Awards.

Redundancy entitlements are back in a substantial way. (Some exceptions apply).

Contractual arrangements previously entered into above the Modern Award standards or providing for terms not covered by the NES or Modern Awards will still bind employers.

There are a range of sources of information about the Modernised Awards, the National Employment Standards and how existing contractual employment arrangements fit into this structure into the future.

If you have any doubts or questions about these changes, have a look online at Wage Line ([www.wageline.qld.gov.au](http://www.wageline.qld.gov.au)) or Fair Work online ([www.fairwork.gov.au](http://www.fairwork.gov.au)) or contact Rudkin Hitchcock.

### QUEENSLAND CHANGES

The State Government in Queensland have also assigned their State control and involvement in workplace relations to the Federal system, meaning that we now have an employment environment that is consistent for all Queensland employers being companies, partnerships, trusts and individuals under the federal system.

### OTHER CHANGES

New employees starting after 1 January 2010 are entitled to a Fair Work Information Statement before, or as soon as possible, after they start. The Statement must contain information about the Fair Work Modern Awards, the NES and a variety of other rights and remedies advisable to employees. This is a new and important obligation. Again check the Government websites or feel free to contact Rudkin Hitchcock.

Clients who we have assisted in the past with employment-related issues and employment contracts and conditions need to be aware of the new legislative environment. If you require your employment arrangements reviewed or considered, contact us to discuss the position, but all arrangements will be affected to some extent.

*If you have any enquiries, please contact Jonathan Hitchcock*

Tel: (07) 5532 2021

Email: [jhitchcock@rudkinhitchcock.com.au](mailto:jhitchcock@rudkinhitchcock.com.au)