

TOP 10 TIPS TO AVOID BEING CAUGHT OUT BY WORK CHOICES BY MARCH 27 COMPLIANCE DATE

According to two of Australia’s leading workplace lawyers, Joydeep Hor and Louise Keats, from Harmers Workplace Lawyers, there are 50 questions you need to have answered about the Work Choices reforms in order to ensure you are not caught unawares.

Hor and Keats have written a new book, Work Choices Q&A: The Top 50 in order to help businesses, both large and small, ensure they are complying with sections of Work Choices that have the potential to cause confusion

Mr Joydeep Hor, Managing Partner of Harmers Workplace Lawyers, says that Work Choices represents one of the most significant changes to Australia’s workplace landscape in the last century, yet very few employers or employees understand the full implications on their responsibilities and rights.

Some of the top tips to comply with Work Choices include:

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| <p>1. Does Work Choices apply to you? Most Australian companies are covered by Work Choices. So, if you are a company, you are now likely to be in the Federal, rather than the State, system and will be covered by the Federal <i>Workplace Relations Act 1996</i> (“Act”), rather than State industrial laws.</p> | <p>2. What is this new Australian Fair Pay and Conditions Standard? Work Choices introduced a new Federal minimum standard called the “Australian Fair Pay and Conditions Standard”. The Standard provides minimum entitlements to most employees in five key areas: rates of pay, maximum hours of work, annual leave, personal leave and parental leave. Watch out – if you breach the Standard, you face a \$33,000 penalty.</p> |
| <p>3. What are the minimum wage rates I have to pay my staff? A new body called the Australian Fair Pay Commission has been established to determine and adjust minimum rates of pay and casual loadings. Last year, it increased the standard Federal Minimum Wage to \$13.47 per hour.</p> | <p>4. Do we now have a 38-hour week in Australia? Be careful if you have employees working long hours. The hours of work component of the new Standard provides that employers must not require or request their employees to work more than 38 hours per week, plus “reasonable additional hours”. What is “reasonable” will vary from job-to-job.</p> |
| <p>5. What is personal leave? Is it the same as sick leave? Sick leave has been replaced by a broader type of leave known as “personal leave”. Under the Standard, full-time employees are entitled to 10 days’ paid personal/carer’s leave per year, which may be used as sick or carer’s leave. They are also entitled to 2 days’ unpaid carer’s leave for each occasion that they require it, as well as 2 days’ paid compassionate leave.</p> | <p>6. We have an EBA – what has changed for us? If you have collective agreements at your workplace, you will be pleased to know that they no longer need to be certified by the Australian Industrial Relations Commission and do not need to pass a “no disadvantage” test. They are now simply lodged with the Office of the Employment Advocate.</p> |
| <p>7. What about our State instruments? Just as you have transitioned to the Federal system, so too have any State awards and enterprise agreements which applied to you before the Work Choices reforms took effect. However, all transitioned State awards will cease to exist on 26 March 2009. Transitioned State</p> | <p>8. Have the unfair dismissal laws been abolished? The Federal unfair dismissal laws have not been abolished, but they have been significantly eroded with the introduction of some broad new exclusion categories. If you have 100 or fewer employees, you</p> |

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| enterprise agreements continue to operate until terminated or replaced by a new workplace agreement | are completely protected from an unfair dismissal claim. Also where an employee is dismissed for "genuine operational reasons" or they have been with you for less than 6 months, they can no longer bring an unfair dismissal claim. |
| <p>9. What is unlawful termination? You should be aware that Work Choices has left the unlawful termination provisions in the Act largely intact. An employee is entitled to bring a claim if he or she has been dismissed on certain prohibited grounds (including race, sex, age, disability and union membership) or without the minimum period of notice in the Act (between 1 and 5 weeks).</p> | <p>10. Do I still have to let unions enter my workplace? Despite much of the post-Work Choices rhetoric, unions do still have a right of entry in three circumstances: to investigate suspected breaches of the Act, an award or agreement; to hold discussions with employees; and to exercise a power under a State occupational health and safety law. Generally, they have to give you 24 hours' notice.</p> |

"Work Choices is extremely complex, and many employers could potentially fall foul of the law, leaving them open to prosecution or monetary fines, completely unintentionally," Hor said. "Bringing a large number of responsibilities under the Federal system for the first time changes things dramatically for everyone, and education about the system is vital."

Mr. Hor advises both employees and employers to know their obligations under Work Choices. "March 27, 2006 represents a significant date for Australia. A large raft of Work Choices legislation becomes enforceable, and businesses need to ensure they have all their 't's' crossed, and, 'l's' dotted."

Work Choices Q&A: The Top 50 is available through CCH by calling either 1300 300 224 or by visiting <http://www.cch.com.au>.

Note: information in this Media Release should not be taken as legal advice. For advice on specific situations, a legal practitioner should be consulted

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| <p>For further information or to arrange an interview with either Joydeep Hor, Managing Partner of Harmers Workplace Lawyers, or Louise Keats of Harmers Workplace Lawyers, please contact David Skapinker at Markson Sparks Publicity on 02 9775 7000 or david@marksonsparkspr.com</p> |
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