

Industrial Relations Reform is Upon Us

The Federal Government's sweeping changes to the industrial relations system were passed in the Senate on the 2nd November 2005. After spending \$55 million in a five week TV advertising campaign, the government allocated just four days for the House of Representatives to examine and debate its IR laws.

Many people are very worried about the loss of protection from unfair dismissal not just for people in business with less than 100 employees, but also in larger businesses that restructure to take advantage of the 100-employee rule. In addition, the new legislation has the potential to be abused by unscrupulous employers to unfairly dismiss any existing worker for 'operational reasons' and replace them with cheaper workers employed on AWA individual contracts that may cut wages to minimum rates and remove conditions like overtime, public holiday pay and shift penalties.

Under the proposed legislation employees currently covered by state industrial relations systems may be moved into the federal system if the organisation is deemed a Constitutional Corporation. Some Church and charitable organisations are finding they are classified as such. Each organisation is encouraged to clarify their status through independent enquiries as to whether they will fall under the new regime. If the organisation has an Australian Corporation Number (ACN), chances are it is a Constitutional Corporation. However, each case is judged on merits and circumstances will vary depending on the legal framework of each constitution.

The community sector remaining under State awards may be faced with significant challenges to the maintenance of conditions of employment, lobbying power and the quality of service standards in the SACS Industry.

The Workplace Relations Amendment (Work Choices) Bill could adversely affect disability employment unless changes are made to it. While the Government has said that it will not change the purpose or main features of the Bill it would consider making modest amendments. The most difficult impacts would relate to wage determination in Business Services and the protection given to employees with a disability in the open workforce.

The Bill gives the proposed new Australian Fair Pay Commission (AFPC) the power to determine or adjust a Federal Minimum Standard covering:-

- basic rates of pay and casual loadings;
- maximum ordinary hours of work;
- annual leave;
- personal leave; and
- parental leave and related entitlements.

The AFPC may also determine a *special Federal Minimum Wage* for employees with a disability. This rate may be specified through a particular *method* using a wage assessment instrument (rather than minimum dollars). ACROD has strongly advocated for a Bill to state clearly its intent to recognise a number of methods, rather than "a method".

The Bill requires the AFPC to have regard to the principles contained in anti-discrimination law, including the Disability Discrimination Act, and it will be illegal to dismiss an employee because of his or her disability. While this is welcome, an employee with a disability is defined narrowly in

the Bill as someone who qualifies for a disability support pension (in the Social Security Act sections 94 or 95). Although these provisions exclude the means test, they still amount to a very narrow definition of disability in terms of protecting employees with disabilities from unfair dismissal. ACROD will make further representations on these and other matters to the Government and the new Fair Pay Commissioner.

MHCC Workplace Relations Seminar

MHCC is currently planning a Sydney Seminar/ Workshop in March 2006 at which we will present a balanced view of the impacts of Industrial Relations reform and impacts the Work Choices Bill may have on community organisations and the SACS award. We will also provide practical advice and the opportunity to explore the advantages and disadvantages of Workplace Agreements.

If members have any specific issues they would like addressed at the seminar, please contact Stephanie Maraz at MHCC on 9555 8388 or email: Stephanie@mhcc.org.au. More information and dates for the seminar will soon be made available to members.

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