

14V THE FRAUD

28/3/2008

6 PAGES REWRITE
IN 2011

Workplace Relations Act 1996

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ORIGINAL REQUEST UNDER SECTION 576C(1) - AWARD MODERNISATION

I, JULIA GILLARD, MINISTER FOR EMPLOYMENT AND WORKPLACE RELATIONS, pursuant to section 576C(1) of the Workplace Relations Act 1996 (the Act), request that the President of Australian Industrial Relations Commission (the Commission) undertake award modernisation in accordance with this request.

This award modernisation request is to be read in conjunction with Part 10A of the Act.

Objects

1. The aim of the award modernisation process is to create a comprehensive set of modern awards. As set out in section 576A of the Act, modern awards:

- (a) must be simple to understand and easy to apply, and must reduce the regulatory burden on business; and
- (b) together with any legislated employment standards, must provide a fair minimum safety net of enforceable terms and conditions of employment for employees; and
- (c) must be economically sustainable and promote flexible modern work practices and the efficient and productive performance of work; and
- (d) must be in a form that is appropriate for a fair and productive workplace relations system that promotes collective enterprise bargaining but does not provide for statutory individual employment agreements; and
- (e) must result in a certain, stable and sustainable modern award system for Australia.

N.B. * 2. The creation of modern awards is not intended to:

- (a) extend award coverage to those classes of employees, such as managerial employees, who, because of the nature or seniority of their role, have traditionally been award free. This does not preclude the extension of modern award coverage to new industries or new occupations where the work performed by employees in those industries or occupations is of a similar nature to work that has historically been regulated by awards (including State awards) in Australia;
- (b) result in high-income employees being covered by modern awards;
- (c) disadvantage employees;
- N.B. (d) increase costs for employers; ←
- (e) result in the modification of enterprise awards. This does not preclude the creation of a modern award for an industry or occupation in which enterprise awards operate. However section 576V of the Act provides that a modern award is to be expressed not to

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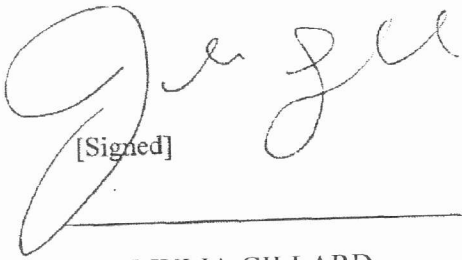
- 36. In modernising awards, the Commission must have regard to whether it is appropriate to include a definition of shift worker in a modern award that applies to these types of employees for the purposes of the proposed NES annual leave entitlements.
- 37. The proposed NES apply to a piece worker.
- 38. The proposed NES rely on modern awards to define a piece worker and set out rules relating to the payment of NES entitlements (based on ordinary hours of work) for a piece worker.
- 39. In modernising awards, the Commission must have regard to whether it is appropriate to include:
 - (a) a definition of piece worker in a modern award that applies to these types of employees (if an employee is employed on the basis of hours worked, it is not expected that such employees would be defined as piece workers); or
 - (b) a provision that would provide a calculation of payment, a payment rate, or a payment rule in relation to a piece worker employee with respect to paid leave or paid absence under the proposed NES. For example, a method for making payment to a piece worker employee when that employee is absent on annual leave.

Ordinary hours of work

40. Many entitlements in the proposed NES rely on modern awards to set out ordinary hours of work on a weekly or daily basis for an employee covered by the modern award. The Commission is to ensure that it specifies in each modern award the ordinary hours of work for each classification of employee covered by the modern award for the purpose of calculating entitlements in the proposed NES.

Minimum wages

41. In accordance with section 576J of the Act, minimum wages are a matter that may be dealt with in modern awards. In dealing with minimum wages in modern awards, the Commission is to have regard to the desire for modern awards to provide a comprehensive range of fair minimum wages for all employees including, where appropriate, junior employees, employees to whom training arrangements apply and employees with a disability in order to assist in the promotion of employment opportunities for those employees.


[Signed]

THE HON JULIA GILLARD
MINISTER FOR EMPLOYMENT AND WORKPLACE RELATIONS
28 March 2008

SIGNATURE = DATE
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REQUEST.

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