



THE POST

BE FIRST PAST THE POST WITH "THE POST"



ISSUE NO.1, 18 DECEMBER 2012

WELCOME TO THE FIRST EDITION OF "THE POST". YOUR E-NEWSLETTER DESIGNED TO KEEP YOU UP TO DATE WITH WHAT'S HAPPENING IN EMPLOYMENT LAW & INDUSTRIAL RELATIONS.

WHAT'S MAKING NEWS?

The [Fair Work Amendment Act 2012](#) received Royal Assent on 4 December 2012. This piece of legislation creates change to the fair Work Act 2009 with several of the changes coming into effect on 1 January 2013. We preview these changes below:

Fair Work Commission

The amending Act renames "Fair Work Australia" the "**Fair Work Commission**" (the Commission). The change is aimed at, amongst other things, reducing the confusion between the titles of Fair Work Act (FWA) and Fair Work Australia (also FWA).

Unfair dismissal

The time limit for lodging unfair dismissal applications will increase from 14 to 21 days.

The Commission will be given further powers to dismiss unfair dismissal applications and to make cost orders against parties, lawyers and paid agents in unfair dismissal matters.

General protections

The time limit for lodging a general protections dismissal application will be reduced from 60 to 21 days.

Employees dismissed **prior to 1 January 2013** who wish to lodge an unfair dismissal or general protections dismissal application will still have **14 days** and **60 days** respectively from the date of dismissal to lodge an application.

Employees dismissed **on or after 1 January 2013** will have **21 days** from the date of dismissal to lodge either an unfair dismissal or a general protections dismissal application.

Enterprise agreements

The amending Act includes the following changes in relation to making enterprise agreements:

- a) enterprise agreements cannot be made with a single employee;
- b) a union official cannot act as bargaining representative for an employee unless the union has coverage to represent that employee;
- c) terms allowing an employee to opt out of an enterprise agreement are prohibited;
- d) a bargaining representative applying for a scope order need only take all reasonable steps to give notice to other bargaining representatives, and
- e) employers cannot modify the notice of employee representational rights prescribed by the regulations.

Other changes

Other changes include:

- a) provisions for the appointment of two Vice Presidents to the Commission;
- b) clarifying when a modern award variation application can be struck out, and who can apply to vary a modern award to remove ambiguity or uncertainty or correct an error;
- c) provision for electronic voting in protected action ballots;
- d) employees representing themselves in bargaining may vote in a protected action ballot if they are members of a union that applied for the ballot order;
- e) the Commission will be required to specify a date for the close of voting in a protected action ballot that will enable the ballot to be conducted expeditiously;
- f) the Commission will be required to ensure that all modern awards include a default superannuation term, and conduct four-yearly reviews of default superannuation fund terms in awards (will not commence before 1 January 2014), and;
- g) provisions for appointment of six Expert Panel Members who have responsibilities in relation to annual wage reviews and reviews of default superannuation fund terms in awards (expected to commence on 1 July 2013).

If you require further information on any of the changes set out above and how they may affect your business, please give one of the team at **Waring Legal** and **Waring Employment Advisors** a call on the numbers below.



MERRY CHRISTMAS FROM THE TEAM AT WARING LEGAL & WARING EMPLOYMENT ADVISORS

Address: PO Box W43, Parramatta
Westfield, NSW 2150
Phone: 02 9635 4424
Fax: 02 8313 2125
Mobile: 0448 140 976