

**Blake Dawson**

# The New Federal IR Laws – What are the Changes?

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16 October 2009

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# The *Fair Work Act* 2009 (Cth)

- Changes to minimum conditions of employment
- Introduction of adverse action claims to enforce workplace rights
- Changes to laws about rights of entry

# Minimum Conditions

- Rationalisation
- Phase out of Australian Fair Pay and Conditions Standard
- Replaced with National Employment Standards (NES)
- Modernisation of awards

# Quarrying Award 2010

- Comes into effect 1 January 2010
- Covers employees performing general labouring duties, have basic quarry competency (or training towards it)
- Thirteen core competencies
- Does not cover persons excluded by the Act (eg high income earners)

# National Employment Standards

- Maximum weekly hours
  - Part time
  - averaging
- Flexible work
  - No orders
- Parental leave
  - Employee couple
- Annual leave
  - Cashing out
- Personal/carers leave
  - Cashing out (award/enterprise agreement only)

# National Employment Standards

- Compassionate leave
- **Community service leave**
  - Paid jury service leave for 10 days
- Long service leave
- **Public holidays**
- Notice of termination
- **Redundancy**
  - Consultation, notification, job search obligations
- Fair Work Statement

# Protection of workplace rights

- General Protections
- Adverse Actions
  - Dismissal
  - Injury in employment
  - Prejudicial alteration
  - Refusal to employ
- Workplace rights
  - Right to a benefit under workplace law
  - Role or responsibility under workplace law
  - Right to initiate or participate in proceedings
  - Right to complain

# Protection of Workplace Rights

- Freedom of association
  - Union membership
  - Right to engage in lawful industrial activities
- **Discrimination**
  - Race or national extraction
  - Sex
  - Sexual preference
  - Age
  - Physical/mental disability
  - Marital status
  - Family responsibilities
  - Pregnancy
  - Religion
  - Politics
  - Social origin



# Protection of workplace rights

- Other unlawful conduct
  - Coercion to exercise a workplace right
  - Undue influence or pressure to make an enterprise agreement
  - Misrepresentation of a workplace right
- Examples of adverse action
  - What not to do
  - Conduct for reasons including a workplace right
  - Conduct for reasons including freedom of association
  - Conduct which may be discriminatory

# Right of Entry

- Investigate breaches
- **Hold discussions**
- Investigate safety

# Right of Entry

- Specific provisions:
  - ROE to hold discussions no longer subject to employees being subject to an award or agreement binding on the union
  - Act specifies when requests regarding location of meetings and interviews will be unreasonable
  - Union officials have rights to inspect or make copies of any records or documents related to a suspected breach, even re non-union members (NB: Privacy obligations – s.504)
  - Entry notice – declaration re union coverage