



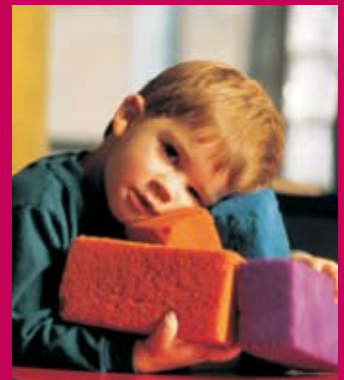
Australian Fair Pay Commission's Federal Wage Decision

On 26 October 2006, the Australian Fair Pay Commission (AFPC) handed down its Federal Wage Decision under the new Federal WorkChoices Legislation.

The operative date is from 1 December 2006 (commences midnight 30 November 2006).

- An increase of \$27.36 per week in all Australian Pay and Classification Scales up to and including \$700.00 per week; and
- An increase of \$22.04 per week in all Pay Scales above \$700.00 per week.

These increases will apply in all Federal Awards relative to organisations covered by the WorkChoices legislation (i.e. Constitutional Corporations). Employers and employees covered by collective agreements and individual agreements made after the introduction of WorkChoices (27 March 2006) are required to pay wages at least equal to the new minimum wages. Employees are entitled to receive the minimum wage rates included in a Pay Scale (previously reliant on a federal or state award (NAPSA).



IN THIS ISSUE

Record Protection – Off-Site Alternative

In the perfect world our relationships with employees would be all smooth sailing. However, we live in the real world and they can be anything but.

Sound record keeping is your safeguard should an employee or any other business relationships turn sour.

While it may seem fundamental, committees are advised to keep the employment details and other matters relating employees, particularly those of their key employees such as Director/Coordinator/Managers, off site.

There are two reasons why.

- 1) To maintain the privacy necessary for your most senior employees so that their employment file may not be viewed, deliberately or accidentally by other employees;
- 2) And even more importantly, so that the employee cannot remove, destroy or amend their own file.

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It is an unfortunate state of affairs, but we do deal with matters, on behalf of our members, where entire employment files disappear.

In a recent employee dispute, a Director's employment file vanished, but the saving grace was that our member had taken our advice and kept a photocopy of all file details off site.

If you haven't done so already, take a copy of all your employment files and other relevant information and keep them somewhere safe, away from your general office.

And, while you're at it, do the same for your other important paperwork including your accreditation and licensing documents.

Please also be aware that some Directors/Coordinators/Managers keep entire files on memory sticks.

Does Money REALLY Motivate?

Retaining a quality workforce is a concern for all employers. However it is important for our members to realise that offering above-Award pay packets, may not provide the solution.

Indeed, careful consideration should be given to individual situations before going down this track. Remember, offering a higher rate of pay, will have a significant ripple effect to other employee entitlements and that could cost you dearly.

Remember, if you increase an employee's pay rate, you automatically increase payment of the following entitlements:

1. Superannuation contributions
2. Annual Leave accruals
3. Annual Leave Loading
4. Long Service Leave accruals

For many employees, remaining in their job has more to do with feeling valued by their employer, than being paid more.

Before offering extra money, consider the individual needs of the employee, as money may not be their motivation.

A simple thank you; recognition before their peers for a job well done; FREE movie passes; paying for a special dinner with their partner; even a one-off financial 'bonus' will cost you significantly less than the full extent of a weekly pay rise.

AND, it's very likely that these gestures of appreciation will cement your employee's dedication.

As usual, it is strongly recommended that you discuss any taxation ramifications with your accountant or tax advisor before offering gifts or bonus payments to staff members.

Annual Census for School Age Care – Worth the time!

All school age care services are encouraged to complete a Child Care Services Census form during November. By taking the time to complete this questionnaire you'll contribute valuable information that will impact on the development of the child care sector in Queensland.


Conducted by the Department of Communities, the Census provides an opportunity to update your service details and to increase recognition of the important contribution made by school age care services to the economic and social development of Queensland.

The Department of Communities values your input through their annual Census, which allows them to compile an accurate picture of child care services in Queensland.

Additionally, information about the various types of care and the hours of operation provided by your service will be used to update the information provided to parents via the Child Care Information Service – both by telephone and Internet.

The department will use aggregated data from the Census to:

- Monitor trends within the child care and early education sector;

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YEARS TO	COMPOUND AVERAGE* RETURNS % P.A.
30 JUNE 2005	BALANCED GROWTH OPTION
1 YEAR	13.90
2 YEARS	13.70
3 YEARS	9.93
5 YEARS	7.77
10 YEARS	9.34
SINCE INCEPTION (1989)	9.65

* AVERAGE IS THE COMPOUND AVERAGE OF THE ANNUAL RETURNS FOR THE NUMBER OF YEARS SHOWN.

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Workchoices & Community Organisations

What about a "Fair go"

Community non-profit organisations rely upon a very close and co-operative relationship between voluntary committees (who become employers) and employees who are, in many cases, the constant factor in the ongoing operation of organisations.

While industrial relations in Australia has been based on the concept of a "fair go" in the past, the Commonwealth Government's Workchoices Legislation represents a major swing of the pendulum in favour of small employers to the possible detriment of employees.

For instance some small employers may now dismiss employees who will not have recourse to any review of that decision.

Certainly, there is sufficient evidence to suggest that the use by employees of the "reinstatement application" provisions of past industrial relations legislation had become corrupted and in some cases farcical in its application, Workchoices does not, in my opinion, represent a fair solution when applied to community non-profit organisations.

Over my 40 years of involvement with community organisations there have been many occasions where personal differences between employees and one or more committee members have occurred.

My greatest fear is that such circumstances, which can often be resolved with proper intervention, will lead to overreaction and result in dismissal of otherwise loyal employees sometimes with long and faithful service behind them.

In my opinion, it is still not clear whether some smaller community non-profit incorporated associations are necessarily covered by workchoices and there is some case - law which supports this view. Some of the transcript from the High Court case also suggests that the Judges had some questions about the application of "trading activities" and "purposes" when related to community non-profit religious, educational and charitable organisations.

- Inform program development;
- Compare performance with other states and territories; and
- Inform policy and strategic planning.

A report of the Census results will be sent to all services and provides valuable data on a range of issues including planning and program development by the sector.

Information in relation to service fees, staffing and children attending will not be reported at the service level and will not be used to monitor compliance with the legislation.

If you have any queries, please contact the Child Care Information Service (Department of Communities) on 3224 4225 (Brisbane) or 1800 637 711 (freecall outside Brisbane).

I strongly recommend that committees continue to wait on the forthcoming ruling of the High Court before committing to Workchoices.

I further recommend that employees of committees who have moved to implement Workchoices take care about any agreement proposal to them by their employer to insure that they still have "a fair go" in the event of a dispute.

Allan Fazldeen

ACSEA Secretary/Treasurer

Nothing 'Casual' About Termination

We have written about the terms and conditions of casual employment in earlier newsletters, but we feel it is such an important issue that we've decided to revisit it again, so that we impress upon you this

simple message: Never underestimate the rights and entitlements of your Casual workforce.

Generally speaking there are two types of Casuals:

Short Term – those who have employed for less than 12 months and as such are not entitled to the dismissal "Due Process"; and

Long Term – Casuals who have been employed for longer than 12 months and who are entitled to the provisions of "Due Process" including "Procedural Fairness" prior to dismissal.

While it is widely understood that Casual employees with less than 12 months service do not have access to the Queensland Industrial Relations Act "Unfair Dismissal Provisions", employees may still bring an action against an employer who terminates their employment for what is considered an invalid or unlawful reason. According to the Queensland Industrial Relations Act Section 73 (2) any of the following reasons would be considered "unlawful" termination;

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1. Temporary absence from work because of illness, injury or emergency duty;
2. Trade Union Membership;
3. Trade Union Non-Membership;
4. Filing a complaint against an employee based on Pregnancy;
5. Discrimination of any kind;
6. Seeking to act or acting as a representative of employees;
7. Refusing to make, sign or cancel a Certified Agreement or an Australian Workplace Agreement.

When it comes to terminating the employment of Casual employees, it is important that they are treated in the same way as any other employee.

Employers must take care to keep sound records of incidents and conduct termination of employment carefully and in accordance with the correct and lawful process.

For information or advice about Casual employees please contact Charles Hardy on 3852 5177.

Superannuation

The Superannuation Guarantee (Administration) Act 1992 (SGAA) has been in affect since 1 July 1992. To comply, employers must:

- Pay a minimum amount of superannuation in support of their employees (currently 9% of their gross wages); and
- This superannuation contribution must be paid into a superannuation fund or Retirement Savings Account RSA which meets the Government requirements.

Superannuation Contributions from Age 70

It is important to note that when an employee reaches 65 years of age, superannuation funds can only accept employer contributions if the employee

works for at least 40 hours over a continuous 30 day period within that financial year.

For further details in relation to this article please log on to our web site www.acsea.org

Pay Slips

It is a requirement that all employees be issued with a payslip. Pay slips must contain the following information.

- the employer's full name
- the date of payment
- the period covered by the payment
- the number of hours covered by the payment at ordinary rates of pay and at overtime rates of pay
- the ordinary hourly rate and the amount paid at that rate
- the overtime hourly rate and the amount paid at that rate
- the gross wages paid
- the net wages paid
- details of any deduction made from the wages
- the amount of contribution paid to a superannuation fund.

Myth ???

It continues to come to our attention that members are of the opinion that they are required to issue new Letters of Appointment to employees every twelve months. This is a myth. This policy is frowned upon by the Queensland Industrial Relations Commission and is considered to be a frustration of the ongoing employment relationship between the Employee and the Employer. There is no legal or other requirement to issue Employee's with annual or biannual Letters of Appointment unless these employee's are hired for a specific time frame. Should you require any further information as always please contact the ACSEA.

IMPORTANT INFORMATION

Emerging Trend: Less Hours

It appears that one of the casualties of the recent Queensland Childcare case is an emerging trend by a number of Child Care Centres across Queensland, to reduce their employees' hours.

This move is in response to the financial fallout from parents who are no longer able to afford childcare due to the increased wages within the Childcare sector.

While this trend does not currently identify an increase in available staff, as a result of the decrease in occupancy.... it does warrant keeping an eye on.

Child Care- Tax Matters – Payroll Tax Exemptions?

In a recent edition of "Employer Update", I announced that the Australian Taxation Office had issued a notice to the effect that Community Non-profit Child care centres could qualify as "charities" under the Income Tax Assessment Act. If your committee has not made an approach to the Australian Taxation Office for registration as a "charity" you should do so as soon as possible.

In a recent decision in Victoria, a community non-profit health centre succeeded in gaining exemption from payment of State Payroll Tax on the basis that the Australian Taxation Office had exempted the centre from payment of income tax because of its status as a non-profit charitable enterprise.

Committees should seek assistance from their accountant or solicitor and make an application to the Queensland Commissioner of Taxation for exemption from payroll tax.

Allan Fazldeen

ACSEA Hon. Secretary/Treasurer.



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2007 Membership Due Now

As you can see by the topics and issues addressed in this newsletter, ACSEA provides representation and an important resource for our members.

When in doubt – call US!

An employee who had last year returned from a Workplace Injury, presented their employer with a Medical Certificate to say they could only work limited duties.

Thankfully, the employer was an ACSEA member, who asked for our advice.

Because the employee had been cleared by Workcover to return to pre-injury work status, we recommended that the employer ask the employee to show cause as to why they should not be terminated on the grounds that they were not fit to perform the duties and functions for which they were employed.

Miraculously, the employee became better and returned to work!

Imagine the inconvenience and cost to the employer if they had accepted the employee's unsubstantiated claim for limited duties.

When in doubt, please take advantage of your ACSEA membership benefits and call us for advice.

If you have not yet paid your membership fees you may like to deposit directly to our account. When doing so please send us a fax or email to advise, and use your invoice number as a reference to the bank.

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Account No. 4981-39156
Reference Invoice number

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Suite 11, 39 Jeays Street,
Bowen Hills Qld 4006

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All invoices are now due and payable.

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