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□ POST ELECTION UPDATE

Post election wash up...

A new workplace relations system is foreshadowed under the new Rudd Government. The Australian Labor Party (ALP) has put the wheels in motion to implement a new workplace relations system by 1 January 2010. In the meantime, the ALP is formulating a 'Transitional Bill', which is expected to be introduced to Federal Parliament early next year.

Under the proposed changes:

1. Minimum conditions

Employment contracts will need to incorporate a minimum of ten guarantee standards in relation to:

- hours of work;
- parental leave;
- flexible work for parents;
- annual leave;
- personal, carers and compassionate leave;
- community services leave;
- public holidays;
- information in the workplace;
- termination of employment and redundancy; and
- long service leave.

2. Awards

The ALP has committed to establishing a modernised and simplified award system to be rationalised by the Australian Industrial Relations Commission over the next 12 months. The new government has also proposed to create new protected award conditions. These protected conditions are:

- minimum wages;
- type of work performed;
- arrangement for when work is performed;
- overtime;
- penalty rates;
- provision for minimum annualised wage or salary arrangements;
- allowances;
- leave, leave loadings;
- superannuation; and
- consultation, representation and dispute settling procedures.

3. Right of entry

The ALP has opted to maintain the existing right of entry rules. These rules include that the union official must have a right of entry permit and give 24 hours notice. However,

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Watch this space for the Transitional Bill...

in profile



Alice DeBoos has more than eight years experience in employment and industrial relations law. She has previously held roles inhouse for a major construction company and a trade union. Alice provides strategic advice in all aspects of employment law and industrial relations and is also a litigator with experience in the state and federal industrial jurisdictions as well as the civil jurisdictions and other tribunals including the Anti Discrimination Board and HREOC.

Alice's background in the construction industry has given her wide exposure to the complex range of laws which effect employment structures. The application of the National Code of Practice and recent legislative changes is an area where Alice has a particular focus. She has also developed a skill in providing training to clients in the various areas of her expertise.

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the 'fit and proper person' test for granting permits and extended grounds on which such permits may be revoked.

Next step for employers

The balance of power in the Senate

Despite the changes proposed by the ALP, the extent to which the changes to be implemented may be affected by the balance of power in the Senate. At present, the Coalition controls 37 seats, opposed to the 32 seats held by the ALP, and this arrangement will remain until the new elected Senators take office in 1 July 2008. In such circumstances, the ALP may be confronted by obstacles in passing their proposed legislation with a largely hostile Senate. Some suggest that this balance of power between the Senate and the new government may result in the implementation of the Transitional Bill after 1 July 2008. However, it remains to be seen how the coalition senators react to the WorkChoices 'backlash' delivered by the electorate. There appears to be significant pressure to pass the transitional legislation recognising the mandate given to the Rudd Government.

Australian Workplace Agreements (AWAs)

Employers who have entered into AWAs prior to the passing of the Transitional Bill, can be ensured that they will continue their full term. These AWAs have a maximum expiry date in

2012 but may be terminated in accordance with the present rules under the current system.

Employers who have used AWAs prior to the election will have the option of utilising the new Individual Transitional Employment Agreements (ITEAs) as part of the transitional arrangements to the new system. According to the ALP's policy, ITEAs will be available in the near future and will expire no later than 31 December 2009 with the complete introduction of the new system.

Impact on employers

The key reform changes proposed by the ALP are proposed to be implemented in 2010. However, employers should consider the limited opportunity to introduce AWAs into their businesses prior to the Transitional Bill being passed.

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