

Employment Alert

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Labor's IR Policy Implementation Plan

ALP Leader Kevin Rudd and Deputy Leader Julia Gillard yesterday announced the Policy Implementation Plan for Labor's "Forward with Fairness" industrial relations policy. The Implementation Plan adds considerable detail to, and resolves issues left hanging by, its earlier principal industrial relations announcement which was analysed in our *Industrial Relations & Employment Alert of May 2007* available at www.bdw.com under Publications.

We summarise below some of the principal features from the Implementation Plan which will be of concern to employers.

Individual Employment Agreements

AWAs entered under the current legislative regime will be able to operate in accordance with their terms during their intended life. In other words, there will be no unilateral opt-out facility. This is to apply to AWAs made prior to the implementation date of Labor's Transition Bill. Whilst such an implementation date may arrive early in the life of a Labor Government, it may be that it will be months or years before the date arrives. A timetable published in the Implementation Plan, however, proposes 31 December 2012 as the last possible expiry date for any such AWA.

During the initial period of Labor's revised system, there will be a facility for Individual Transitional Employment Agreements. These will be available in workplaces where AWAs are presently used. They will operate in a manner akin to AWAs. They may have a nominal expiry date of no later than 31 December 2009.

Individual flexibility for employees earning over \$100,000

Where employees have guaranteed ordinary earnings – pay for ordinary hours of work, guaranteed overtime and any other monetary allowances that are a guaranteed part of an employee's normal remuneration arrangements – the employee and his or her employer will be able to opt-out from the application of any award which might otherwise apply. The 10 National Employment Standards which will be contained in the legislation will be the minimum safety net for these employees.

The award system

Labor proposes a major and urgent revamp of awards. The task will be given initially to the Australian Industrial Relations Commission with a view to modernising and simplifying awards. It is anticipated that the process will be largely completed by 31 December 2009.

There appears to be considerable flexibility about the content and style of awards. The aim will be to have awards appropriate for particular industries and occupations. Additionally and importantly, enterprise awards will be able to continue.

Awards are to deal with the following 10 matters:

1. *Minimum wages* – including skill based classifications and career structures, incentive based payments and bonuses, wage rates and other arrangements for apprentices and trainees.
2. *The type of work performed* – such as whether an employee is permanent or casual, and the facilitation of flexible working arrangements, particularly for employees with family responsibilities, including quality part-time employment and job sharing.
3. *Arrangements for when work is performed* – including hours of work, rostering, rest breaks and meal breaks.
4. *Overtime rates* for employees working long hours.
5. *Penalty rates* for employees working unsocial, irregular or unpredictable hours, on weekends and public holidays, and as shift workers.
6. Provisions for minimum *annualised wage or salary arrangements* that have regard to the patterns of work in an occupation, industry or enterprise as an alternative to the payment of penalty rates, with safeguards to ensure individual employees are not disadvantaged.
7. *Allowances* including reimbursement of expenses, higher duties and disability-based payments.
8. *Leave*, leave loadings and arrangements for taking leave.
9. *Superannuation*.
10. *Consultation, representation and dispute settling procedures*.

