

In this issue

Workplace Rights Ombudsman
a first for Queenslanders

Christmas trading hours update

Low cost option for breach of
employment contract

Enforceable rights report

Workplace Rights Ombudsman a first for Queenslanders



The past four months have been a busy time for Queensland's first Workplace Rights Ombudsman.

"In just over four months the Queensland Workplace Rights Office has been bombarded with more than 6,000 calls and has also undertaken more than 300 investigations," Ombudsman Don Brown said.

A commissioner with the Queensland Industrial Relations Commission, Mr Brown was appointed to the position on 21 June 2007.

Operating since 2 July 2007, the Ombudsman's office, which includes the Workplace Rights Hotline, formerly known as the Queensland Fair Go Advisory Service hotline, has taken more than 6,000 phone calls from people concerned about their workplace rights.

"Unfair dismissals prompted about half of all calls, with the remainder about

underpayment of wages, including unfairly delaying termination payments or unfair, inaccurate and potentially defamatory statements on separation certificates," Mr Brown said.

One investigation brought justice and lost social security payments to a worker who rejected a job because the pay rate was \$3 an hour less than the required minimum. This worker was then reported by his job network agency to Centrelink who suspended his Job Search Allowance for eight weeks.

The Workplace Rights Hotline is available on 1300 737 841 or visit www.workplacerights.qld.gov.au/index.htm

The new Federal Government is formulating its WorkChoices response.

Christmas trading hours update

Large retail shops will close on Christmas Day throughout Queensland, but will open for trade on Boxing Day, 26 December, and New Year's Day in south-east Queensland and designated tourist areas.

Small independent retail shops will also be closed on Tuesday 25 December, except if they are predominantly food and/or grocery shops.

Shops such as chemists, service stations, newsagents, take away food shops, bakeries and nurseries can trade at any time.

Trading hours for the large department stores and supermarkets on Boxing Day and New Year's Day are from 9.00am to 6.00pm in south-east Queensland and 8.30am to 5.30pm in designated tourist areas.

Westfield Chermside Shopping Complex may trade continuously from 8.00am on Thursday 20 December until 9.00pm Friday 21 December.

Other areas in Brisbane and some major regional cities can trade until midnight on Friday 31 December.

Welcome to the new look *IR perspectives*!

We hope you like our fresh new look and find the articles interesting.

The past two years have been challenging for employers, workers and IR practitioners with many changes as a result of WorkChoices. Further changes are now likely given the result of the Federal Election. We'll keep you posted on the latest news four times a year.

If you subscribe to *IR perspectives* e-newsletter you'll get the latest information and regular updates even faster, direct to your email address. Sign up now at www.wageline.qld.gov.au.



Enforceable rights report

The evidence is in. Workers in the retail and hospitality industries were hardest hit by the introduction of the WorkChoices laws.

The proof is contained in a Workplace Research Centre report examining every collective agreement lodged federally between 26 March and 8 December 2006 in the retail and hospitality industries in Queensland, New South Wales and Victoria.

The research found the impact on wages varied depending on the patterns of hours worked and whether workers were casual or permanent.

The worst cuts were for workers in:

- Liquor stores (from 11.9 to 31.1 per cent)
- Fast food (from 12.5 to 21.3 per cent)
- Bakeries (from 17.9 to 24.5 per cent)
- Restaurants (from 10 to 12.8 per cent)
- Cafes (from 10 to 15.7 per cent).

The agreements were compared with the awards and agreements covering these workplaces prior to WorkChoices.

Few of the agreements addressed important issues such as training (only mentioned in 37 per cent), competences and promotion (34 per cent) and child care and family friendliness (14 per cent).

Many agreements were very similar with employer 'pattern bargaining' evident. In fact it was clear that just six templates had been used to make nearly half of all the agreements in the study.

The majority of agreements discarded or reduced 'protected' award entitlements.

The loss of protected award matters is overwhelmingly the case in non-union collective agreements.

Significant entitlements not 'protected by law' are also being discarded or reduced.

Redundancy rights and severance pay have been largely eliminated, casual loadings have been significantly reduced, and part-time workers in particular have lost important hours provisions to allow for work/family balance.

The only areas where working conditions were not stripped away were where union collective agreements had been put in place. These agreements overwhelmingly (90 per cent) retained the protected as well as many unprotected award matters.

The new Federal Government is formulating its WorkChoices response.

Low cost option for breach of employment contract

Workers earning less than \$101,300 per year who are covered by the federal workplace relations system will now have access to a low cost procedure to pursue breach of employment contract claims.

Changes contained in the *Industrial Relations Act and Other Legislation Amendment Act 2007* (the Amendment Act) to amend the *Magistrates Court Act 1921* were made earlier this year and will take effect from 1 January 2008.

The new legislation establishes a special, low cost employment jurisdiction for breach of contract claims by low incomes workers who would not normally be able to afford the costs of litigation in the courts.

The amendments rely on the existing jurisdiction of the Magistrates Court but reduce the costs of proceedings.

Most employees' terms and conditions of employment are derived from a combination of statutory awards and agreements and common law contracts of employment. Many contracts of

employment cover matters that are not included in standard awards or agreements, such as fringe benefit and salary packaging arrangements, telecommuting agreements or hours of work to suit an individual's family responsibilities. Many contracts of employment also provide for terms and conditions that are higher than those provided in standard awards and agreements, such as bonuses and incentives.

In Queensland, an estimated 35.5 per cent of employees rely either wholly or partly on their contract of employment to set wages and conditions. These contracts may be oral or in writing.

To help resolve claims with maximum efficiency, a compulsory conciliation procedure will apply prior to any hearing at no cost to the parties.

While there will be no requirement for legal representation, the amendments allow representation by unions and employers organisations.

Court filing fees will be lower than those applicable in the Magistrates Court's general civil jurisdiction and will be consistent with the application fee for unfair dismissal claims in the Queensland Industrial Relations Commission.

Costs will not be awarded against a party unless that party has unreasonably caused costs to be incurred or if the claim is frivolous or vexatious.

These measures will help both employers and employees by keeping costs down when a dispute occurs and allowing the dispute to be resolved with a minimum of time and expense.

Feedback

We welcome your feedback on *IR perspectives*.

Contact us at:

irperspectives@deir.qld.gov.au
or phone 07 3234 0864.

Industrial Relations information:

Wageline 1300 369 945
www.deir.qld.gov.au

Disclaimer

The information provided in this publication is distributed by the Queensland Government as an information source only. The information is provided solely on the basis that readers will be responsible for making their own assessment of the matters discussed herein and are advised to verify all relevant representations, statements and information.

© State of Queensland (Department of Employment and Industrial Relations) December 2007