



Mediation and Employment Relations Service

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SADA Member Update March 2018

MARCH 2018 IR NEWS

By Chas Cini

ARE YOU READY FOR THESE INDUSTRIAL RELATIONS CHANGES?

The following changes are going to occur in the first 6 months of 2018 and are provided for your information.

1. 1st January 2018 Award Variation To Minimum Engagement Provision – DAIRIES ONLY

There has been an amendment to the Pastoral Award's Provisions for the minimum engagement period for part time and casual dairy employees effective 1st January 2018.

Sub-Clauses 10.3 and 10.4 if the Award relate to part time and casual employees who work in a dairy. These category of employees are required to be rostered for or paid a minimum of 3 hours at the appropriate rate. These provisions apply to each engagement (not each day).

If the employee however, is aged 18 years or younger and is a full time secondary school student they can be engaged for a minimum of 2 hours.

Clause 10.3(f) and 10.4(g) states as follows:

“On each occasion a casual employee is required to attend for work, the employee is entitled to a minimum payment of 2 hours work where all the following apply:-

- (i) The employee is engaged to perform the work of a dairy operator;
- (ii) The employee is aged 18 years or younger; and
- (iii) The employee is a full time secondary school student.”

2. 1st March 2018- Labour Hire Licensing Act comes into effect on

New legislation will come into effect on 1st March 2018 regarding employers who engage labour hire and possibly contractors.



SADA Member Update March 2018

Substantial penalties will apply for breaches.

South Australia has passed the [Labour Hire Licensing Act 2017](#), which will come into effect on 1st March 2018. This follows a critical focus on the food production industry, led in part by a Four Corners investigation which uncovered rampant exploitation mostly affecting labour hire workers.

Section 6 of the Act defines labour hire services as “a person (a provider) who provides labour hire services in the course of conducting a business.”

Labour hire services are defined as “engagement arrangements” generally understood to mean ‘on-hire’ but which will capture other engagement arrangements.

Employers and Businesses must be aware that:

1. It is unlawful to
 - (a) Operate as a labour hire provider without a licence; and
 - (b) for a person to enter into “an arrangement” with another person for labour hire services when they do not hold a licence
 - (i) Maximum penalty: up to \$140,000 for individuals or 3 years imprisonment
 - (ii) and \$400,000 for a body corporate
 - (c) to advertise or hold out that a person can provide labour hire services without a licence
 - (i) Maximum penalty: \$30,000;
2. To enter into an arrangement for the supply of a worker to avoid an obligation under the Act (referred to as an avoidance arrangement)
 - (i) individuals or 3 years imprisonment and
 - (ii) \$400,000 for a body corporate.



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3. There is a positive obligation to report another person who has supplied them with a worker in circumstances where the supply of the worker is an avoidance arrangement.
 - (i) Maximum penalty: up to \$30,000.
4. Individuals will be tested as to whether they are a “fit and proper person” to hold a licence, including whether they are honest, have integrity and professionalism.
5. Licence holders are required to report annually to the Commission. Reports are to contain a number of matters including (but not limited to) the number of workers supplied by the holder of the licence and a description of the arrangements entered into.
6. Licence holders are to pay an annual fee to the Commission as prescribed by the Regulations (yet to be drafted).
7. License holders may only be absent from the licence holder’s business for a period of 30 days. In their absence they must appoint an individual who is a responsible person as a substitute responsible person for the licence.
8. If a licence holder is absent from the business for a period of more than 30 days the Commissioner may, on application appoint another individual as a substitute responsible person.

What does this mean for employers and businesses?

1. An urgent review should be conducted of all service provision contracts;
2. An assessment must be made of the requirements to be met by businesses and labour hire employers in time for March 2018;
3. Penalties for breach are at the higher end of the scale; and
4. Employers who supply labour hire services will be subjected to stringent reporting requirements and annual fees.
5. Before you engage a labour hire organisation or contractor who supplies you with labour ask to see and keep a copy of:
 - a. Their current licence
 - b. Their Return to Work Registration number
 - c. The default Superannuation Fund used



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- d. A written assurance that they only engage employees who can work in Australia (all overseas employees have a current and active Visa).
6. Visit www.abnlookup.gov.au to make sure that the ABN on their Tax Invoice has been registered.

Failure to ensure compliance can result in substantial penalties with not only this new legislation but also the Fair Work Act 2009, Tax Assessment Act, Return to Work Act 2014, Payroll Tax Act 2009, and other legislation in relation to Migration and, Superannuation.

3. 1st July 2018 Changes to Occur

(a) Employer Superannuation Contribution Increase

The Superannuation Levy will increase from 9.5% to 10% on 1st July 2018.

(b) Single Touch Payroll (“STP”)

The Australian Taxation Office has given all Australian businesses with 20 or more employees a “Single Touch Payroll” system effective from 1st July 2018.

Employers with 19 or less employees will be subject to the same provisions from 1st July 2019.

The Single Touch Payroll “STP” is a reporting change for employers who will be required to report payments such as salaries and wages, PAYG withholdings and, superannuation information to the Tax Office directly from their payroll solution at the same time they pay their employees.

The ATO office is currently working with Payroll Software and Surface Providers to meet the reporting requirements for their clients. To assist employers the ATO is finalising and about to publish the technical documents on the Software Developers website as soon as possible.

For providers who cannot meet the 1st July 2018 deadline, the ATO will provide guidelines so that consideration can be given to deferrals for those employers.



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Find out about the following at the ATO website www.ato.gov.au

- [What you need to report](#)
- [Guidance for pay event reporting](#)
- [Correcting a pay event report](#)
- [Commencing and ceasing employment](#)
- [Finalising your Single Touch Payroll reporting](#)
- [Transitioning to Single Touch Payroll](#)
- [Remitting PAYG withholding](#)

See also:

- [Streamlined reporting with Single Touch Payroll](#)

A short video providing an overview of the Single Touch Payroll is available at www.ato.gov.au website.

We will provide further updates as we get closer to those deadlines.

Summary

If you require further information about these changes, please do not hesitate to contact us.