

## **THE YEAR AHEAD: ENSURING A COMPLIANT 2019.**

2018 was a year of significant change in employment relations and there are a number of things to consider to start 2019 off right!

### **Changes to the General Retail Industry Award (Award)**

In 2018 we saw some notable changes to the Award and it is important to be mindful of these changes in ensuring compliance in 2019. Some changes to be aware of that are currently in effect in the Award are outlined below.

#### ***Right to Request Casual Conversion***

In 2018 we saw the right to request casual conversion enshrined into 85 Modern Awards, including the *General Retail Industry*. This reflected a significant and important change for many employers and employees in the retail industry.

This change meant that casual employees who are deemed regular are now eligible to request that they converted their employment to permanent.

A regular casual employee is defined as 'a casual employee who has, in the preceding period of 12 months, worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee.'

An employee's request must be in writing and provided to the employer. An employer may refuse on reasonable grounds. Reasonable grounds of refusal must be based on facts and provided in writing within 21 days of the request being made.

If you need advice on how to respond to a request for conversion phone the VANA Employment Relations team for further advice.

#### ***Family and Domestic Violence Leave – now a federal right.***

Since 1 August 2018, all employees covered by a modern award (including casuals) have been able to access 5 days of unpaid family and domestic violence leave.

On 12 December 2018, as a measure to encompass all national system employees, whether covered by a modern award or not, the Government enshrined family and domestic violence leave into the National Employment Standards. This now means that all employees have access to 5 days unpaid family and domestic violence leave regardless of whether they are covered by a modern award.

If an employee needs to take time to deal with the effects of family or domestic violence, then they can access their leave for circumstances which can include, attending court hearings, moving houses or relocating to a safer suburb, making arrangements for the safety of their children or themselves or accessing community services.

#### ***Requests for Flexible Working Arrangements***

Requests for flexible working arrangements have now been inserted into the Award which coincides with Division 4 of the *Fair Work Act 2009* (Cth). This change means employers must discuss the employee's request and genuinely try to reach agreement on a variation in working arrangements that will reasonably accommodate the employee's circumstances.

If an employer cannot accommodate the request on reasonable business grounds, the Award now requires that the written response of the employer must state:

- whether or not there are any changes in working arrangements that the employer can offer the employee so as to better accommodate the employee's circumstances; and
- if the employer can offer the employee such changes in working arrangements, set out those changes in working arrangements.

To ensure that your business is going into 2019 with the right foot forward, below are few items additional we suggest are updated and/or implemented to ensure your 2019 runs smoothly.

### **Employment Contracts**

It is recommended that all employees should have an employment contract regardless of how they are engaged. We understand that businesses may have employed a number of new employees during the Christmas period so it was always recommended businesses have a written contract in place.

Employment contracts are essential in that they outline an employee's minimum entitlements. If a dispute or uncertainty was to ever arise, contracts would be the first point of reference on an employee's hours of work, remuneration, notice period upon termination or resignation, and their obligations during and post-employment.

### **Wages**

It is advised to all members to ensure that they are paying their staff the correct rates of pay to reduce any risk of underpayment. The Award not only outlines the minimum wages of employees but their entitlement to penalty rates (Saturday and Sunday), overtime rates, loadings (e.g. casual employees) and any applicable allowances.

It should also be noted that the Fair Work Commission hands down a wage increase as part of the minimum annual wage review which take effect from the first full pay period on or after 1 July. These changes will be sent out to all members at the time to ensure you are well aware of the update!

### **Policies and Procedures**

Understandably, businesses would generally implement their own policies as the foundation of their business operations. Issues such as bullying & harassment would require policies and procedures to provide businesses with a framework to adhere to if it was to ever arise.

If you have any queries around what to include in your policies and procedures for 2019, please do not hesitate to call the VANA Employment Relations team.

**For more information or for any questions on ensuring compliance in 2019, please contact the VANA Employment Relations Team on (02) 9083 0091.**