

IR POLICY AND GOVERNANCE UPDATE



INTRODUCTION

This week we look at the upcoming federal budget, the recently released Skills Priority List, interest rate increases, COVID related amendments, New Zealand Labour day, upcoming legislative amendments and more.

FEDERAL BUDGET

The Federal Treasurer, Jim Chalmers, will deliver the 2022-23 October Budget at approximately 7.30 pm (AEDT) on Tuesday 25 October 2022. In what may be seen as the first post-pandemic budget, the country is currently in complex economic territory, both domestically and from a global perspective.

We are requesting the Treasurer ensure any government spending and taking on any further debt as a result brings about real improvement to Australia's economy and business conditions. What we want to see from this budget, and the Treasurer generally, is a long term fiscal strategy that prioritises sovereign manufacturing capabilities and economic incentivisation. This should include:

- > No greater compliance burdens for business.
- > Measures that help businesses overcome skills and worker shortages. This should include fairly distributed funding to incentivise the uptake and completion of trade apprenticeships across all trades.
- > A reduction in migrant visa application costs along with investing in, and streamlining of, visa application processes to attract global talent.
- > Increase funding and training assistance for small businesses on technology training, particularly cyber-security.
- > Make temporary full expensing/instant asset write-off permanent.
- > Measures that encourage and incentivise investment in the Australian economy.
- > Allocating funding towards useful and beneficial infrastructure improvements.

RELEASE OF SKILLS PRIORITY LIST 2022

Further to last week's bulletin, the National Skills Commission (NSC) has released its 2022 Skills Priority List (SPL). This labour market report shows that 31% of occupations assessed are in shortage (286 out of 914). The number of occupations rated in shortage has almost doubled, jumping from 153 to 286 over the year. The remaining occupations were rated as not in shortage nationally, although the NSC notes some of these are in shortage in some states and territories. However, and in what would come as a shock to the industry, the newly released SPL states there is no shortage of Printing Machinists and as an occupation it has a soft future demand.

The SPL informs government thinking around skilled migration and VET, among other things. The results of the SPL flow directly into the creation of the Australian Apprenticeships Priority List (AAPL), which determines the level of government prioritisation, support and incentives for apprentices and their employers. As a result of this process and methodology our industry's skills and apprenticeships are not sitting in the AAPL.

We have been highly critical over the methodology behind the Skills Priority List and have voiced those criticisms in discussions with the new Minister for Jobs and Skills, Mr Brendan O'Connor. Identifying skills demands based on internet job vacancies, and without industry consultation or

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input is ultimately flawed. This has resulted in skewed data and results across various occupations and trades, including those across the print, packaging and paper related industry. The approach taken in the SPL, and therefore the AAPL, is unifying and results in preferential treatment towards certain skills and occupations.

Jobs and Skills Australia

In some optimistic news on these issues, we look forward to the establishment of Jobs and Skills Australia, which will replace the NSC. The new agency will be responsible for providing advice to government to underpin Australia's response to current, emerging and future labour market and workforce skills and training needs, to improve employment opportunities and economic growth. Minister O'Connor, has stated that Jobs and Skills Australia will have a tripartite approach with state and territory governments, industry, employers, unions and training providers, and promote a training system that meets the needs of employees, employers and the economy.

Advising the federal government on our industry, its needs, and its future in the Australian economy is a priority for the PVCA. We are hopeful this government stays true to their election promise that this new agency will prioritise close relationships with industry to rebuild the vocational training sector and improve its approach to national workforce planning. Given the current skills crisis in Australia we understand results won't come quickly, but we are committed to these issues and given our initial discussions with Minister O'Connor we are taking him at his word that these are critical issues for his government and will be appropriately and fairly addressed for all industries.

RBA RATE INCREASE

Last week the Reserve Bank of Australia lifted its cash rate target by 25 basis points to 2.6 per cent. Although it was expected to lift by 50 basis points, it is nevertheless the sixth monthly increase in a row. The RBA Board expects to increase interest rates again, forecasting CPI inflation to be around 7¼% over 2022, increasing in the months ahead, before falling to a little above 4% during 2023 and around 3% over 2024, at the top of its target range. With the federal budget two weeks away, the government must turn to building supply-side capacity in order to strengthen our defences against deteriorating international economic conditions.

COVID ISOLATION REQUIREMENTS AMENDED

Current rules requiring people to isolate for five days if they test positive to COVID-19 will end from 14 October, with support for some workers to be able to continue isolation if needed. The National Cabinet also agreed to scrap support payments for people infected with Covid-19 except for workers in some high-risk settings like aged care, disability care, Aboriginal health and hospitals. Support payments for people infected with COVID-19 who aren't in these sectors will end on 14 October.

Notwithstanding the removal of the obligatory isolation period, the official health advice for people who test positive and have symptoms is to work from home and avoid attending the workplace. The removal of the mandatory isolation period raises the prospect of employees attending work while infected, even if they are displaying symptoms, as it's unlikely that everyone will follow suggested health advice. This means members will need to consider their own internal policies and procedures around managing COVID-19-infected employees. Where an employee is COVID-19 positive and

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displaying symptoms turns up to work, employers have a strong basis to direct the employee to go home. Where the employee can work from home, they could then be directed to do so and to not return to the workplace until they are, at the very least, asymptomatic.

MANDATORY REPORTING OF COVID POSITIVE RATS

NSW

From Friday, 14 October 2022, the NSW government will scrap its mandatory requirement for people to report their COVID-19 positive rapid antigen test results. Nonetheless, NSW state health officers continue to request people continue to voluntarily register a positive test result as it helps to inform its ongoing public health response, and to stay at home if infected.

Victoria

From Thursday, 13 October, the Victorian government will scrap its mandatory requirement for people to report their COVID-19 positive rapid antigen test results. Nonetheless, state health officers continue to request people continue to voluntarily register a positive test result as it helps to inform its ongoing public health response.

Other states

For now, registration of a positive test remains compulsory in Queensland, Western Australia, South Australia, Tasmania, the Northern Territory, and the ACT.

NEW ZEALAND - LABOUR DAY PUBLIC HOLIDAY

Observed on the fourth Monday in October, this year the public holiday takes place on 24 October. Workers get a paid day off on the day if it would otherwise be a working day, and if required to work on the day (as per their employment agreement or as otherwise agreed) they will receive pay rates at time and a half.

POTENTIAL CHANGES TO THE FAIR WORK ACT AND STATUTORY SCHEME

Some of the key areas of note and proposed upcoming changes include:

- > Revising the *Fair Work Act 2009* (Act) to create a simple, flexible and fair new framework that ensures all workers and businesses can negotiate in good faith for agreements that benefit them.
- > Legislating a statutory equal remuneration principle to improve the way pay equity claims can be advanced under the Act.
- > Limiting the use of fix term contracts (which will increase the access of affected employees to unfair dismissal laws).
- > Amending legislation to give workers the right to challenge unfair contractual terms.
- > Setting an objective test in the Act for determining when a worker is casual. (There is no mention made of changing the test for determining who is an independent contractor).
- > Extending the powers of the Fair Work Commission to include "employee-like" forms of work, allowing it to make orders for minimum standards for new forms of work, such as gig work.
- > Ensure workers and businesses have flexible options for reaching enterprise agreements, including removing unnecessary limitations on access to single and multi-employer agreements.

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- > Removing unnecessary complexity by making the Better Off Overall Test simple, flexible and fair (thereby making enterprise agreements more attractive for employers).
- > Give the Fair Work Commission the capacity to proactively help workers and businesses reach agreements that benefit them, particularly new entrants, and small and medium businesses.
- > Restricting the process for enterprise agreement terminations and sunset so called 'zombie' agreements.
- > Ensuring workers have reasonable access to representation to address genuine safety and compliance issues at work.
- > Establishing a right to superannuation in the National Employment Standards (which will make it easier for workers to recover unpaid superannuation).
- > Criminalise wage theft.
- > Implementing recommendation 28 of the Respect@Work Report by expressly prohibiting sexual harassment in the workplace and enabling the Fair Work Commission to resolve disputes relating to workplace sexual harassment (which will be in addition to new anti-sexual harassment order jurisdiction).
- > Strengthen existing reporting standards to require employers with 500 or more employees to commit to measurable targets to improve gender equality.
- > Requiring businesses with 100 employees or more to publicly report their gender pay gap to the Workplace Gender Equality Agency.

This bundle of proposed changes will have broad impacts across the workplace relations landscape and their nature and impacts will reveal themselves over time. We can expect many of these proposed changes in the spring sitting of Federal Parliament, which will make for a busy lead up to Christmas and the new year for HR and IR professionals.

NEW LEGISLATION WILL REQUIRE COMPANIES TO BE PROACTIVE AROUND SEXUAL HARASSMENT PREVENTION

The Federal government has introduced a new Bill to parliament that aims to end sexual harassment at work. The announcement from the minister for women, Katy Gallagher, follows the recommendations of sex discrimination commissioner, Kate Jenkins, in a landmark report titled Respect@Work. The changes introduced under the Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Bill will:

- > Place a positive duty on employers to take reasonable and proportionate measures to prevent and or eliminate sex discrimination, sexual harassment and victimisation, as far as possible;
- > Strengthen the Australian Human Rights Commission with new functions to assess and enforce compliance with this new requirement, including the capacity to give compliance notices to employers who are not meeting their obligations; and
- > Expressly prohibit conduct that results in a hostile workplace environment on the basis of sex.

The main difference for employers is that they will have to move from reactive to a proactive approach in preventing sexual harassment and discrimination in the workplace, rather than just

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responding when it does occur. A policy on its own will no longer be enough. What that means in practice is that all businesses need to have a prevention plan and train workers appropriately.

Members should be ready for this legislation before it commences operation, which means:

- > Revision of policies to cover sexual harassment, sex discrimination and related WHS risks in their workplace (including pro-active measures and appropriate complaint procedures).
- > Meaningful and regular training tailored for leaders, line managers and workers.
- > Enhance WHS practices to include risk assessments to identify the likelihood of discrimination and harassment occurring, and measures to eliminate or control hazards/risks.
- > Pro-active grievance and reporting methods, and other workplace monitoring programs to ensure they are best placed to continue to provide safe work environments.

CONTACT

Any Industrial Relations Member who has a related query should contact Charles Watson, GM – IR, Policy and Governance via email charles@thermc.com.au or mobile:+61 428 568 032.

DISCLAIMER

The content of this update, current at the date of publication, is intended to provide general guidance and consideration for Members only. The content does not constitute advice and should not be relied upon as such. Specific advice about your circumstances should be sought separately before taking any action. We recommend Members ensure any related decisions are made on current and up to date information.