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New tobacco legislation

From 1 July 2009, new requirements will be put in place to regulate the conduct of tobacco retailers and suppliers:

Selling of tobacco products on premises

- ▶ Tobacco products must not be able to be seen;
- ▶ The occupier of premises on which tobacco products are sold must ensure that those products are sold from only one point of sale (eg a cash register, but this does not include vending machines which have their own rules);
- ▶ The occupier of premises must notify NSW Health that tobacco is being sold on the premises;
- ▶ Non compliance with the provisions that relate to the sale of tobacco products on premises will result in penalties of \$11,000 for individuals and \$55,000 for corporations.


Vending machines

- ▶ Tobacco vending machines must be located only in the bar and/or gaming machine areas of hotels, clubs, and casinos;
- ▶ There may be no more than one vending machine on any hotel, club or casino premises. Vending machines will not be able to be kept in staff amenity areas;
- ▶ The vending machine may only be activated either by a staff member of any hotel, club, or casino where the vending machine is situated or, a member of the public who obtains a vending machine token only from a member of staff;
- ▶ Consistent with s61F of the Public Health Act, the vending machine must contain a statement in a prescribed form required to be displayed on the front of the vending machine;
- ▶ No tobacco products or information relating to tobacco products are to be displayed in the view of the public;
- ▶ If an owner or lessee of a vending machine is in contravention of the new legislation, the occupier of the premises on which the vending machine is situated is also in contravention of the new legislation;
- ▶ Non compliance with the provisions that relate to vending machines will result in penalties of \$11,000 for individuals and \$55,000 for corporations.

Lead in periods

- ▶ Selling tobacco products on premises, the lead in time for the new legislation is between six and 12 months; vending machines, the lead in period for the new legislation is six months from the commencement of the new legislation before penalties may be enforced.
- ▶ By between 1 January and 1 July 2010 all relevant premises must ensure they are in compliance with the provisions of the *Public Health (Tobacco) Act 2008* and *Public Health (Tobacco) Regulation 2009*.

For more information on the new laws, contact Holmann Webb Lawyers.



Michael Quinn
Director, The Quinn Group

New Fair Work Act

Australia's long awaited employment legislation *The Fair Work Act 2009* was passed through federal parliament in April this year. The introduction of the *Act* spells the end of the controversial *Workplace Relations Act 1996* that was implemented by the Howard Government during its time in power. A majority of the changes are intended to come into effect for Australian workplaces on 1 July 2009. The recent changes see the Rudd Labour Government's election promises upheld as AWA's are abolished.

In short, some of the core objectives of the new *Fair Work Act* include creating a new instrument called the Individual Transitional Employment Agreement (ITEAs), setting minimum conditions for all National Employment Standard (NES), a radical overhaul of the current Unfair Dismissal laws, ensuring that only workplace agreements, agreement variations and terminations that meet fundamental requirements (such as employee approval) would come into operation as well as abolishing the Australian Industrial Relations Commission and the Workplace Ombudsman and replacing it with Fair Work Australia.

As part of the new laws, the hospitality industry, among various others has been identified as priority for the development of a modern award system. Through streamlining the current awards systems, it is the Government's intention that this will allow for both employers and employees to better understand where they stand in relation to workplace conditions. However, there is some trepidation as to how the whole thing will unfold as current plans see consistent award rates for the industry being introduced across the country, rolled out over a five year period. Discussion exists around whether in fact this opportunity should be used to gradually lift existing standards across the country. The current plans will potentially see employers in some states initially instructed to drop their casual loading rates in order to come in line with the requirements of the new modern award system. This is great news for employers as it will effectively cut their wages costs, but perhaps not so great for the employees. It may well be cause for some unhappy workplaces in the transition period. For example, South Australian employees could see their casual loading fall from 220 per cent to 175 per cent on a Sunday, while permanent employees in Queensland may see their Sunday loading fall from 150 per cent to 125 per cent and casual employees from 173 per cent to 150 per cent.

Another proposed change as a result of the *Fair Work Act* and subsequent award modernisation is that in 2010 the Hospitality Industry Modern Award (HIMA) will come into effect. The new award will replace a wide range of existing hospitality industry award systems bringing various groups of industry employees under a consistent system of employment conditions across the country. The awards that will be replaced by the HIMA include the Hotel and Tavern Workers Award, the Clerks Award, the Federal Managers Award, the Restaurant, Tearoom and Catering Workers Award and the Motels, Hostels, Service flats and Boarding House Workers Award.

Whether you are an employer or an employee if you have any questions or would like more information on how the new laws will affect you please contact us on 1300 QUINNS.