

AUSTRALIAN WORKPLACE AGREEMENTS

The **Australian Workplace Agreement (AWA)** is an option available to employers in having control over conditions of employment.

AWA's are designed primarily for small to medium sized businesses. They are written agreements between an employer and employee, or groups of employees, which deal with matters relating to their individual workplace. The legislation is designed to eliminate uninvited third party intervention in the employer/employee relationship (normally unions). The new AWA prevents accidental breaches of awards, improves flexibility and a sense of ownership of the agreement.

The sole parties to an AWA are the employer and the employee although either party can appoint a **"bargaining agent"** to act on their behalf. This agent may be an employer association, a union representative or some other person and must be appointed formally in writing by the party they are representing. Neither party can refuse to recognise a duly appointed bargaining agent.

Unlike other legislation, a union has no automatic right of intervention in the process of making an AWA unless invited by an employee(s) to act as a bargaining agent on their behalf.

All agreements have to be approved by a Commissioner of the Australian Industrial Relations Commission (AIRC) or the Office of the Employment Advocate (OEA). The AIRC or the

OEA must be satisfied that the contents of the AWA do not **"disadvantage"** an employee in comparison to conditions in the relevant award. The global no-disadvantage test applies.

Main Features of AWAs

- ◆ May be entered into between an individual employee or groups of employees and the employer.
- ◆ Must be freely entered into (no duress).
- ◆ Are binding only upon employees who have signed them.
- ◆ No third party intervention unless requested.
- ◆ Cannot contain discriminatory provisions.
- ◆ Employees cannot be disadvantaged when compared with award provisions.
- ◆ Take effect upon approval by the OEA or the (AIRC).
- ◆ May only be made with persons 18 and over.
- ◆ Can operate up to a maximum of 3 years.
- ◆ Advice and enforcement by the Chief Industrial Inspector.
- ◆ May be extended, amended or terminated, in writing, if the employer and the employee agree.

A possible disadvantage of an AWA is that they are binding only on those who sign them. Each new employee, casual, permanent or part-time will be required to **sign an** agreement which will then be forwarded to the AIRC or the OEA for endorsement.

What Can Be Addressed In Australian Workplace Agreements?

Australian Workplace Agreements are one form of agreement by which such restrictive issues such as weekend penalties, public holiday payments, late work allowances, hours of work, rosters, annual salary etc can be addressed.

Clauses can be developed to reduce absenteeism, remove casual restrictions and developing cashing-out of leave provisions.

Employers can finally shake off the shackles of awards that are inappropriate for the industry we work in and provides the means by which employers and employees can introduce working conditions that are creative and which are relevant to the workplace. Remember, agreements once endorsed by the OEA or AIRC, take the place of awards or over-ride Queensland legislation.

HOW CAN RESTAURANT & CATERING QUEENSLAND ASSIST?

The Association is strongly committed to the principle of AWA as the means by which members can attempt to negotiate away some of the more onerous and inflexible award provisions which have constrained the industry for many years. If negotiated correctly, such agreements can be customised to suit individual operations and enhance productivity and efficiency

Agreements provide an alternative to the award system and employers should seriously consider the benefits. Whilst there are certain legislative

requirements to be met the process need not be complicated. The Association's Industrial Advocate has been involved in the development of workplace agreements for a substantial period of time and has the expertise to assist members in all facets of creating an AWA.

Whilst the procedures involved in securing such agreements is relatively straightforward it is strongly recommended that members use the resources of the Association to ensure that all of the requirements of the legislation are being adhered to. A reasonable fee structure has been established which will place AWA's within the reach of all members.

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Agreements (AWA's).**

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**Part of the R.C.Q. Membership
Suite of Services**