

CERTIFIED AGREEMENTS

Certified Agreements (CA's) can be made to cover the relationship between an employer and a group of employees comprising either the total workforce or a category of employee.

The agreements may be for:

- ◆ a single business (all employees);
- ◆ part of a business (ie covering a specific grouping of employees within the business);
- ◆ a new business which is being established or re-located at a new workplace; single business and multiple employer agreements may be made directly with employees or unions;
- ◆ new business agreements may be made with unions before employees are engaged.

Employers can negotiate CA's directly with employees free of unwanted intervention. They are collective agreements which cover all employees including new employees for the life of the agreement.

In the negotiation process staff should nominate and appoint staff representatives. Staff or union members can request a union to represent if they so choose. The union, however, does not represent the whole of the workforce only its members and other who so choose.

Once finalised, CA's must be certified by the Queensland Industrial Relations Commission (QIRC) or the Australian Industrial Relations Commission (AIRC) which will endorse the

document provided that a majority of employees has agreed and there is no disadvantage to employees. This has been acknowledged in many decisions of the Commission's who seem to have adopted the position whereby the union signature on the agreement is sufficient evidence of due process and that the Act requirements having been adhered to.

Apart from the union involvement a major difference between Queensland Workplace Agreement (QWA's), Australian Workplace Agreement (AWA's) and CA.s is upon whom they are binding. Whereas a QWA. and an AWA is binding only upon those who sign an agreement, a CA. is binding on all current and new employees for the duration of the agreement.

When negotiating the terms of a proposed agreement the proposed parties to the agreements must negotiate in good faith.

FEATURES OF CERTIFIED AGREEMENTS

- ◆ Must not have involved coercion
- ◆ May be made by employers with staff and or unions or directly with employees and without union involvement and signed by all parties.
- ◆ Contains a dispute resolution procedure.
- ◆ Must be endorsed by a majority of employees (50% plus one minimum).
- ◆ Union members can request the union to represent them in negotiations.
- ◆ Are public documents.
- ◆ Are binding on current and new employees.
- ◆ Must contain a dispute settlement procedure.

- ◆ Cannot contain anti-discrimination provisions.
- ◆ Can operate up to a maximum of 3 years.
- ◆ Breaches of the agreement may be dealt with by the appropriate Commission.
- ◆ May be terminated, amended or extended only with the approval of the majority of employees and the appropriate Commission.
- ◆ Industrial action is prohibited during the life of an agreement but limited action may be taken during agreement negotiations.
- ◆ Must pass the no-disadvantage test.

NO DIS-ADVANTAGE TEST

An agreement passes the no-disadvantage test if it does not result in a reduction of an employee's entitlements or protections contained in the parent safety net award and the appropriate industrial legislation. The safety net award is the state award staff currently work under.

WHAT CAN BE ADDRESSED IN ENTERPRISE AGREEMENTS ?

Certified Agreements are a vehicle by which restrictive issues such as weekend penalties, public holiday payments, late work allowances, hours of work, rosters, payroll etc can be addressed. As well cashing-out clauses for annual leave, sick leave and long service leave can be developed.

Employers can finally shake off the shackles of awards that are inappropriate for the industry you 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, certified agreements once endorsed by the appropriate Commission, take the place of awards.

HOW CAN RESTAURANT & CATERING QUEENSLAND ASSIST?

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

Whilst there are certain legislative requirements to be met the process need not be complicated. The Association's Industrial Advocate has the expertise to assist members in all facets of creating certified agreements.

In the case of Australian Workplace Agreements a separate brochure of part of the Association suite of services has been developed.

Certified Agreements

CERTIFIED AGREEMENTS

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