

IR POLICY AND GOVERNANCE UPDATE



INTRODUCTION

This week we look at rising unemployment figures for October, the Fair Work Commission can now receive applications for ‘stop sexual harassment’ orders, a brief update on where COVID-19 vaccination rates are heading, and a reminder for when employing casuals.

AUSTRALIA’S COVID-19 VACCINATION RATES

This week Australia goes past 80% of people aged 16 and over who are double vaccinated against COVID-19, and 90% who have had at least one dose. If these encouraging numbers keep going up over the next few weeks, it should be a much more enjoyable festive season for most everyone.

A big shout out to the ACT who now have over 95% double vaccination figures.

COVID-19 Booster Program

Last week National Cabinet discussed the roll out of the booster program following approvals by the Therapeutic Goods Administration (“TGA”) and Australian Technology Advisory Group on Immunisation (“ATAGI”) supporting COVID-19 boosters for Australians aged 18 and over who have received two doses at least six months ago. The booster program has commenced for immunocompromised Australians and high priority groups. Already around 150,000 third doses have been administered.

UNEMPLOYMENT RATE RISES

Australia’s official unemployment figure has risen to 5.2%. The Australian Bureau of Statistics October 2021 has announced the rate has increased from 4.6% in September 2021. In seasonally adjusted terms, in October 2021:

- > Employment decreased by 46,300 people (0.4%) to 12,835,200 people.
- > Employment was 160,300 people (1.2%) lower than March 2020.
- > Participation rate increased to 64.7%.

These numbers are hinting that the recent lockdowns, particularly in Victoria and NSW, have impacted economic recovery. However, and given the higher participation rate, what these increases in unemployment figures do evidence is that people are preparing to get back to work, and increasingly available and actively looking for work, as general conditions start to improve.

FAIR WORK COMMISSION – STOPPING SEXUAL HARASSMENT

As advised in previous bulletins, the Fair Work Commissions ‘stop bullying’ jurisdiction under the *Fair Work Act* was expanded to include allegations of workplace sexual harassment. From today, the Fair Work Commission can now receive applications for orders to stop sexual harassment from workers. From the perspective of this expanded jurisdiction under the *Fair Work Act*, workplace sexual harassment is when sexual harassment happens at work, in a constitutionally-covered business.

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Sexual harassment is unwelcome conduct of a sexual nature in relation to a person. It occurs in circumstances where a reasonable person would anticipate the possibility of the person who is harassed being offended, humiliated or intimidated.

Conduct of a sexual nature includes making a statement of a sexual nature to, or in front of, a person. The statement can be spoken or in writing. It can be a one-off incident, or it can happen more than once, involving conduct by one or more people.

Although it would be expected for a worker to attempt to resolve these issues in the workplace initially, they are entitled to make an application to the Commission for 'stop sexual harassment orders at any time. Under this jurisdiction a worker includes:

- > an employee
- > a contractor or subcontractor
- > a small business owner who works in the business
- > an employee of a contractor or subcontractor
- > an employee of a labour hire agency
- > an outworker
- > an apprentice or trainee
- > a student on work experience

Compared to other industries, and although not immune to these incidents and claims, our industry has a generally good reputation for its intolerance of such behaviour in the workplace. Nevertheless, members should remain proactive on the issue and ensure they have appropriate workplace policies and procedures to refer to and follow should a claim of sexual harassment occur in your workplace.

CASUAL EMPLOYMENT CONTRACTS

When providing a new casual employee with their letter of offer or a contract of employment it is recommended that certain issues be clearly drafted into the letter/contract so as minimise the potential for a casual worker to later dispute their employment status. We recommend the following terms be included:

- > That the terms of the contract/letter of offer represents the entire agreement between the parties.
- > The employer does not make any firm advance commitment to continuing and indefinite work according to an agreed pattern of work for the worker.
- > The worker will be paid a casual loading and that the casual loading is paid in lieu of all entitlements that would otherwise apply if the worker was permanent.
- > the base pay rate and the casual loading should be expressly and separately detailed.

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CONTACT

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

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