



# Employment Law Matters

**Welcome to the February edition of the Employment Law Matters newsletter.** In this month's edition:

- Fair Work Act changes summary, and for 2019
- Top 10 trends in Australian employment and Industrial Relations
- Whistleblower legislation passes parliament: implications for private companies, and increased protected disclosure rights by the end of 2020
- When can and can't employers demand employees answer their questions?
- Juggling mental illness and performance management
- New law requires businesses to produce modern slavery statements
- New casual offset loading regulation to prevent 'double-dipping' – is it all bark, no bite?
- When is a 'casual' worker not actually classed as a casual?
- New Zealand: Government releases Fair Pay Agreement report
- Events:
  - For exclusive and practical strategic, operational and legal HR insight
- As always:
  - The latest Fair Work decisions
  - The latest news from the Fair Work Ombudsman

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## **Fair Work Act changes summary, and for 2019**

At the end of 2018 there were some significant changes in the Federal employment landscape. The Coalition government made a significant drive into the workplace relations space (think of it as an early Christmas present from the government), with the passage of new legislation designed to simplify and streamline the Fair Work Commission's award review and enterprise agreement approval processes. For an overview of Fair Work Act changes from **Lander & Rogers** please read [here](#).

## **Top 10 trends in Australian employment and Industrial Relations**

At the end of 2018, **Herbert Smith Freehills** have compiled a list of the Top 10 Trends in employment and industrial relations in Australia which came to the fore in 2018. This is a very insightful overview of issues ranging from increased liabilities and scrutiny for employers to changing work models, legislative reforms and I.R. Click [here](#) to review the article.

## **Extended private sector whistleblowing protection scheme, with amendments, becomes law**

Extended private sector whistleblowing protection scheme, with amendments, becomes law. Reform and extension of private-sector whistleblowing laws has finally passed parliament, and will likely commence on 1 July 2019. Ben Motro, Special Counsel and Amrita Howell, Associate from **Piper Alderman** talk through the last-minute refinements that are part of the new scheme. Click [here](#) for their article.

### **Do employees have a ‘right to remain silent’?**

When can and can't employers demand employees answer their questions? And when is their silence grounds for dismissal? Legal experts from **Lander & Rogers** explain [here](#).

### **Juggling mental illness and performance management**

Dealing with an employee who is not performing to the standard required of someone in their position can be a complex situation, so when you throw into the mix knowledge that they may be suffering from a mental illness, an already difficult situation can become a whole new level of complicated! For an evaluation of different approaches click [here](#). Article courtesy of **Coleman Greig Lawyers**.

### **New law requires businesses to produce modern slavery statements**

The passing of the Modern Slavery Bill in Federal parliament in 2018 means there are new reporting requirements for Australian organisations. Different estimates reveal that in 2016 there were between 4,300 and 15,000 modern slaves in Australia, and 40.3 million (including men, women and children) worldwide. Article courtesy of **Lander & Rogers** [here](#).

### **New casual offset loading regulation to prevent ‘double-dipping’ – is it all bark, no bite?**

A recent amendment to the Fair Work Regulations 2009 has raised some interest among employers and employees. **Piper Alderman** Partner Tim Lange, and lawyer John Evans look at what the regulation is really worth and where employers should be looking for the next important development. Click [here](#) for the article.

### **When is a ‘casual’ worker not actually classed as a casual?**

There has been much media commentary on the Federal Court's recent decision surrounding the case of WorkPac Pty Ltd v Skene [2018] FCAFC 131. Much of the dialogue has suggested that the case is novel, and has focused on the concept of double dipping: when someone classed as a casual employee subsequently claims leave entitlements, which the employer feels has been covered by the casual loading included in the employee's pay. More information [here](#). Article courtesy of Stephen Booth, Principle at **Coleman Greig Lawyers**.

### **New Zealand: Government releases Fair Pay Agreement report**

On January 31st the New Zealand Government released the report and recommendations from the Fair Pay Agreement Working Group (chaired by former Prime Minister Jim Bolger). Fair Pay Agreements (FPAs) are large-scale collective agreements that set minimum standards for whole industries or occupations. The Working Group has taken a particularly all-encompassing approach with respect to how FPAs should operate in practice. Under the suggested framework, FPAs would have compulsory coverage - all workers (not just employees) in the occupation or sector covered by the FPA would be included by default. More information [here](#), courtesy of **Simpson Grierson**.

### **AS ALWAYS: REGULATOR INSIGHTS**

For the latest Fair Work decisions click [here](#).

For the latest news from the Fair Work Ombudsman, click [here](#).

## EVENTS

### FOR CURRENT, PRACTICAL AND EMERGING UP TO THE MINUTE INSIGHT

Be sure to attend the following market leading events in Australia & New Zealand

#### [The 6th annual HR Law Masterclass conference Australia](#)

Australia's leading biannual employment law event series

**Brisbane:** March 12 | **Sydney:** March 14 | **Melbourne:** March 18 | **Perth:** March 20 | **Canberra:** March 21

#### [The 6th annual HR Law Masterclass conference New Zealand](#)

New Zealand's most comprehensive workplace law, covering the most significant HR, IR & ER issues

**Wellington** 5th March & **Auckland** 7th March 2019

#### [Psychological Injury Claims & Return-To-Work](#)

Managing the complexities of psychological injury case management & return to work

**Sydney:** 26th – 28th March 2019

#### [Organisational Culture, People & Engagement Australia](#)

Australia's only event focused on building adaptive and empowered workplace cultures

**Melbourne:** 2nd – 4th April 2019

#### **Managing Difficult Employee Behaviour one day Masterclass**

**NEW ZEALAND:** **Auckland** 21st May 2019; **Wellington** 23rd May; **Christchurch** 28th May

**AUSTRALIA:** **Perth** 28th May 2019; **Melbourne** 30th May; **Brisbane** 4th June; **Sydney** 6th June