

ARE YOU COMPLIANT WITH YOUR NEW EMPLOYMENT LAW OBLIGATIONS

The new Health Professional and Support Services Award now applies to partnerships sole traders, as well as Pty Limited employers

The Health Professionals and Support Services Award 2010 (Health Award) has applied to Pty Limited Chiropractic employers (including Pty Limited trustees of a trust) since 1 January 2010. In all states, except Western Australia, it has now commenced to apply to all employers, including those who employ through a partnership or as sole traders. In Western Australia, it only applies to Pty Limited employers.

The Health Award now applies to Chiropractors and support staff. It has had a significant impact on the way Chiropractors have traditionally operated including:

- Bringing professional chiropractors under the award and impacting how remuneration is calculated and paid. For example, the award does not facilitate all inclusive percentage based rates of pay which are traditional in the industry. It also may require penalty rates, shift loadings, overtime and the like.
- Significantly altering which employee's may be treated as casual, and requiring the conversion of many current 'casual' employee's to permanent part-time if they work reasonably regular days or hours.
- Limiting the ability and method of paying staff all inclusive hourly rates of pay.
- Introducing a new penalty rate and allowance regime including shift loadings for the entire shift if an employee is rostered to finish work after 6pm, minimum shifts for casuals, overtime on weekends and the like as well as potential overtime if part-time hours or shifts are changed, even at the employee's request.

WHERE CAN YOU FIND INFORMATION?

Peter Frazer who heads Meridian Lawyers Employment Law team (Guild Lawyers have changed their name to Meridian Lawyers) has assisted the Association by compiling several articles, including a detailed question and answer paper addressing the most common questions asked by members, as well as an article outlining the use of documents such as Enterprise Agreements, Contracts of Employment and Individual Flexibility Agreements to ensure compliance and minimise inflexibilities.

These articles are available in the publications section of the Meridian Lawyers website: www.meridianlawyers.com.au . They are also available on the CAA National website.

We implore you to read these articles in detail.

You can locate a copy of the Health Award at <http://www.fairwork.gov.au/awards/a-z-of-modern-awards/pages/gi.aspx>

SOLUTIONS AND DOCUMENTATION

Peter Frazer, Employment Group Leader

T+ 61 2 9018 9957

Epfrazer@meridianlawyers.com.au

To assist the Association, Peter Frazer has developed a range of documents specific to Chiropractic practice which are available from Meridian Lawyers at a substantially discounted price.

The Health Award requires employee's to be advised of certain matters. In the least, a contract of employment is essential. Peter has a range of contracts for casual and permanent support staff and also professional staff. He has also developed an Individual Flexibility Agreement to make use of clause 7 of the Health Award.

The most popular alternative Peter has developed is an Enterprise Agreement. This option has been taken up by a large number of our members. This document significantly assists Chiropractors to minimise, and in some cases avoid, the negative impacts of the Health Award, including:

- Allowing staff who work regular or systematic hours to remain employed on a casual basis;
- Allowing the change of hours, and swapping of shifts, of part-time staff (by agreement) without the employer being obliged to pay overtime.
- Changing the significant shift loading available to casuials
- Allowing casuials to attend meetings, without the necessity to pay the minimum 3 hour shift
- Correcting Health Award issues and allowing the Saturday and Sunday 150% rate to be utilised instead of the awards overtime regime.
- Allowing 'all up' rates of pay to be utilised, such as percentage based rates of pay to professional staff and the payment to support staff of fixed hourly rates of pay inclusive of penalty rates, overtime and the like.

Peter's Enterprise Agreement document has passed through Fair Work Australia's better off overall test for a number of members. He has a package which includes the base Enterprise Agreement document as well as contracts of employment for professional staff and separate contracts of employment for permanent support staff and casual staff. He also supplies you with information on the straight forward approval process including the required documents for the approval such as the Notice of Representational Rights fully completed and forms 16 and 17 partially completed with technical information. The remainder can be easily

Peter Frazer, Employment Group Leader

T+ 61 2 9018 9957

Epfrazer@meridianlawyers.com.au

completed by members once details such as relevant dates are known. This is available for a flat fee of \$2,000.

PENDING WAGE INCREASE AND ENTERPRISE AGREEMENT OPTION

The wage rates in the Health Award will increase on 1 July 2011.

Currently the Enterprise Agreement document has base rates 3% above the Health Awards. This is to assist in the Agreement passing through Fair Work Australia's better off overall test. The base rates in the Enterprise Agreement are maintained for 1 year after approval.

If you wish to take up the Enterprise Agreement option, Peter Frazer suggests you do so in the near future. If you take up the Enterprise Agreement option now, and have the document approved prior to 1 July, your agreement will be assessed by Fair Work against the current Health Award rates, not the increased 1 July rates. So long as the Health Award increase is 3% or less, you will be able to maintain your minimum rates for the next year. For Agreements to be approved post 1 July, the base rates will need to be increased in line with any award increase.

WHERE DO I FIND THESE DOCUMENTS

Contracts of employment, Individual Flexibility Agreements, and Independent Contractor Agreements in pro-forma format are available for purchase directly from Meridian Lawyers website www.meridianlawyers.com.au or otherwise email Peter Frazer on pfrazer@meridianlawyers.com.au

Enterprise Agreements are available by contacting Peter Frazer on pfrazer@meridianlawyers.com.au

SYDNEY

Level 5, 345 George Street
Sydney NSW 2000

T +61 2 9018 9999
F +61 2 9018 9900

www.meridianlawyers.com.au

MELBOURNE

5 Burwood Road
Hawthorn VIC 3122

T +61 3 9810 6777
F +61 3 9810 6770

NEWCASTLE

Level 8, 77-79 Hunter Street
Newcastle NSW 2300

T +61 2 4908 4200
F +61 4908 4299