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of South Australia**

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SafeWork SA



## SafeWork SA

- § SafeWork SA is responsible for administering industrial relations legislation and managing all OHS functions in SA.
- § IR Inspectors
- § Reactionary and pro-active work



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# INDUSTRIAL RELATIONS Legislation

## Federal

- § WorkChoices

## South Australia

- § *Fair Work Act 1994*
- § *Long Service Leave Act 1987*
- § Industrial Awards and
- § Enterprise Agreements



## TWO DIFFERENT IR SYSTEMS

- § The South Australian industrial relations system covers most unincorporated businesses in South Australia (e.g. sole traders and partnerships) as well as some incorporated businesses operating in SA (e.g. some charities and not-for-profit organisations).



## Fair Work Act - Objects

§ New objects include:

- To promote and facilitate employment
- To establish and maintain fair and enforceable minimum conditions
- Facilitate the effective balance of work and family responsibilities



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# INDUSTRIAL AWARDS

## A Legal Obligation

- § There are approximately 160 Industrial Awards in South Australia.
- § Awards set the terms & conditions of employment, including wages.
- § Eg Cafes & Restaurants Award – ordinary hours of work, overtime, time off, working on weekends, uniform allowances, public holidays.
- § Awards can be accessed from:  
[www.industrialcourt.sa.gov.au](http://www.industrialcourt.sa.gov.au)



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# FAIR WORK ACT

## Minimum Standards

- § The minimum standards in the Act apply to all persons:
- employed for remuneration under a contract of employment
  - whether or not they are covered by an award or enterprise agreement (award free)



## MINIMUM STANDARDS

### Remuneration

- § The Industrial Commission established a new minimum wage effective from 17 April 2006.
  - Updated each year
  - Full time adult: \$13.19 or \$501.40
  - Casual - \$15.83
  - Minimum rates for apprentices & trainees



## MINIMUM STANDARDS

### Sick Leave / Carer's Leave

- § 10 days per year
- § Up to 5 days each year as carer's leave
- § Reasonable evidence can be required – employees required to provide medical certificate if required
- § Can be taken in one hour blocks
- § Employee must:
  - Notify their employer asap
  - Within 24 hours



## MINIMUM STANDARDS

### Annual Leave

- § Permanent full time employees are entitled to
  - 20 days annual leave for every 12 months
  - Part-time employees receive pro-rata
- § If no agreement as to when - an employer may direct an employee to take annual leave
  - 2 weeks notice
- § Employers are not required to pay leave loading unless specified in an award or agreement



## MINIMUM STANDARDS

### Severance Payments

- § Permanent employees are entitled to redundancy/severance pay
  - according to years of service
  - entitlement may vary depending on size of the business.
- § An employee must apply to the Commission to ensure receipt of severance pay
- § Severance pay scale



## MINIMUM STANDARDS

### Unpaid Parental Leave

- § Permanent employees employed at least 12 mths:
  - 52 weeks unpaid parental leave
- § An employee must give:
  - 10 weeks notice to the employer of intention to take leave
- § Employee entitled to return to original position but only substantive and not temporary or acting position.
- § Employee has right to request:
  - Extend unpaid leave from 52 to 104 weeks
  - Part-time return until child school age
- § Employer right to refuse on reasonable grounds



## LONG SERVICE LEAVE

- § 13 weeks after 10 years completed years
- § Pro rata after 7 years
- § No LSL if dismissed for serious misconduct
- § A casual employee is entitled to LSL
- § Paid at OWROP – includes above award payments in normal time. Excludes overtime, shift premiums, penalty rates.



## PROBATION

- § Must be reasonable
- § Length depends on seniority
- § Usual period is 3 months
- § Must be set at time employment commences



## NOTICE

- § Employer/employer required to give notice prior to dismissing (unless for serious & wilfull misconduct)
- § Usually 2 weeks.



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## For Further Assistance

- § SafeWork SA website – [www.safework.sa.gov.au](http://www.safework.sa.gov.au)
- § SafeWork Help and Early Intervention Centre

Phone: 1300 700 525