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PUT THE CHAMPERS AWAY AND RING IN THE NEW IR

New employment laws make doing *business harder*

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AT the stroke of midnight, as the champagne corks popped heralding the New Year, doing business in Australiajust got harder.

Thanks to the federal government's fair work industrial relations laws, being an employer is more expensive and more regulated. Not many champagne corks are popping today in employer and small business land.

The government is planning a big pubic relations campaign next week to sell the IR laws. You can bet it will feature the word fairness. Even the legislation, the tribunal and workplace inspectors are called Fair Work something or other.

While parliament can and should set a safety net of standards, real fairness in the workplace depends on the behaviour of managers, employees and unions.

Just like Work Choices, the government of the day claims it has the workplace formula right, but employers have learned to be wary. The pendulum looks like having swung too far back.

It is best that employers focus on what changes are happening today, not the political claims and counterclaims. Today, the second and final stage of the Rudd government's new IR laws come into operation. The first stage began six months ago.

This second stage imposes new mandatory wage and employment standards on almost every employer in the country.

The government says it is restoring the safety net after Work Choices. In truth, the government is today imposing two safety nets. New employment regulation written directly by the parliament (called the national employment standards, or NES) and additionally, new employment regulation written by its new industrial tribunal, Fair Work Australia (called industrial awards).

Two safety nets is a recipe for over-regulation; that is what parts of the fair work system deliver.

Rather than just restoring the pre-Work Choices safety net of employment standards, the government has added to it.

. Combined with last July's IR laws, today's changes complete a re-regulation of the labour market that will be a slow burn on the economy unless greater flexibility is introduced, and unions and tribunals limit claims and decisions to what is economically responsible.

To be fair to the government, none of this is unsurprising. For those in the know, the government has for a long time used its determination to get rid of the Work Choices laws to also change laws that existed until Work Choices.

ltmust be said not everything in the new laws is a backward step. A national set of laws is a good idea. But the government must account for some broken promises (such as that new awards would not increase labour costs) along with some extra regulation never promised (such as tribunal powers to arbitrate higher wage agreements than the new standards require).

The biggest problem is that the new standards are mostly one-size-fits-all. There is almost no flexibility for businesses of different types or different health to make changes. A lack of flexibility leads to unfairness.

Impacts of the new employment standards will differ between industries and between states. For some employers the changes will seem to be slight; for others, severe. In totality the new laws make the business of being an employer more tricky and often more costly. That amounts to a slow burn on the economy.

Some of these costs will build up over time. Some of the new wages and penalty rates in some industries will be phased in over years to soften the impact. Some of the new powers that unions and tribunals have will only be felt by an employer when a union official takes aim at that business.

Worryingly, today's standards are not the end of the story; th.ey can be topped up by unio~ actl~ism and tribunal intervention.

Early signs are that unions are already making more aggressive claims. Pre-Christmas strikes returned to the IR landscape, and the new tribunal is being asked to be more interventionist, with comparative wage justice claims dressed up as pay equity, equal remuneration and claims against lower-paid industries.

Even old unfair-dismissal laws, which ate away at employer confidence over many years, are back, in a slightly changed form. Those changes need to be given a go, but early experience has been mixed.

The government's PR will sound impressive. We will hear that the national employment standards include only 10 requirements. We will hear that the new awards only add another 10 conditions. We will hear that a massive deregulation has taken place with thousands of awards reduced to just over a hundred. We will hear that businesses operating across state boundaries will be more efficient because there will not be differences in employment conditions between locations. In each of these claims, there is an element of truth, but even bigger caveats.

For example, there are fewer awards, and that is commendable. But the content of those fewer awards for some large employing industries in some states, means that higher wages, reclassifications and higher penalty rates even though employees are working no different hours or duties. Not much is fair about that.

From next week individual employers should use the services of their employer organisation to find which of these new laws affect their business, and how.

These changes are now law. They are non-negotiable. Ignore the laws, and you are a lawbreaker. Even the fines have gone up.

We all want 2010 to be the year that real economic growth returns to Australia. It still can, but these new IR laws make that task harder. Employers need to comply, not lose faith in employing people, and urge the government to make changes when experience shows the new IR system to be too inflexible or costly.

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