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Industrial Relations for ADE's

- Where am I?
- How did I get here?
- What do I do now?

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OK, so my ADE is now in the federal IR system, but how and when did it get there?



Federal System – Points of Entry

(All states other than Victoria)

Before 26 March 2006 (Work Choices)

- Respondent to federal award
- Party to federal certified agreement

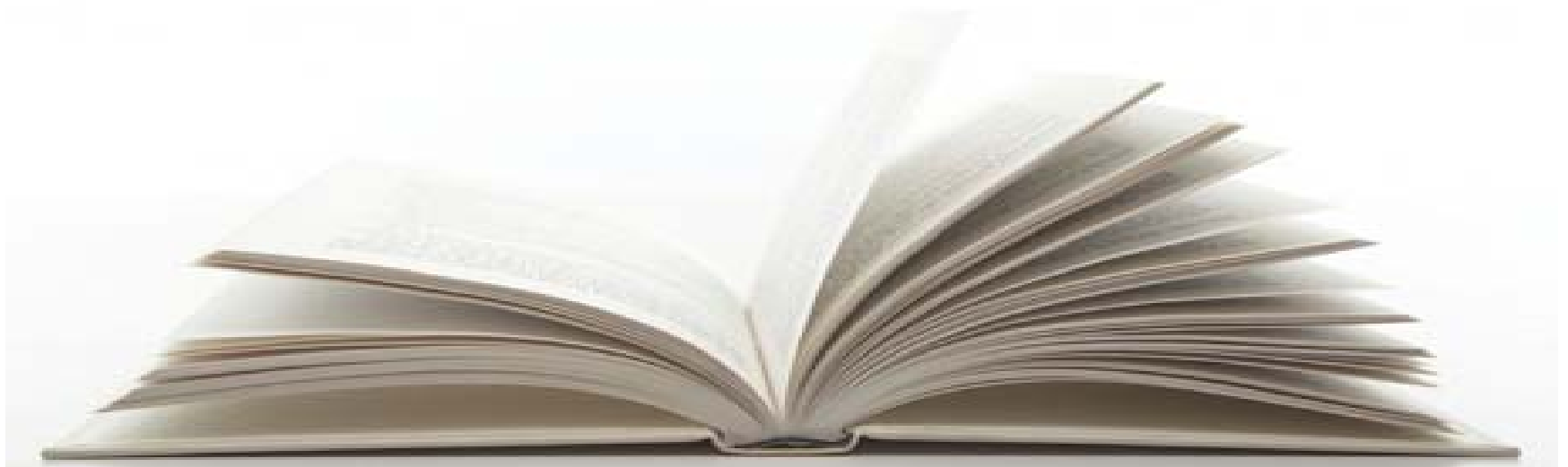


Work Choices (26 March 2006)

- Incorporated employer
 - NAPSA; or
 - Preserved State Agreement; or
 - Special Pay Scale; or
 - Collective agreement (federal)
- Unincorporated employer
 - those in the Federal system – transitioned OUT
 - those in a State system – no change

Fair Work Act (1 January 2010)

- Unincorporated private sector employer (QLD, NSW, SA, TAS)



Now that we are in the federal
system what federal instrument
applies to my ADE?
[in addition to the NES...]

If

- your ADE employer is incorporated; and
- you have never made certified/collective/enterprise agreement with supported workers and/or union.....

Then

- the SES Award applies to your ADE from 1 January 2010

Note: There are exceptions for AWA's, ITEA's and enterprise awards

If

- your ADE employer is not incorporated; and
- your ADE is in QLD, SA, TAS or NSW; and
- you have never made a certified/collective/enterprise agreement with supported workers and/or unions.....

Then

- the SES Award applies to your ADE from 1 January 2011

In the meantime the relevant state common rule award continues to apply.

If

- you are using a federal certified agreement made before 26 March 2006.....

Then

- agreement applies until terminated or replaced ; and
- agreement prevails over SES Award TO THE EXTENT OF ANY INCONSISTENCY.....

EXCEPT

Base rate of pay in award applies if higher.

If

- you are using a federal collective agreement made between 26 March 2006 and 30 June 2009.....

Then

- agreement applies until terminated or replaced ; and
- SES Award does not apply.....

EXCEPT

Base rate of pay in award applies if higher.

If

- you are using a state enterprise agreement.....

Then

- agreement applies until terminated or replaced

EXCEPT

Base rate of pay in award in SES Award applies if higher.

If

- you have supported workers on AWA's or ITEA's.....

Then

- AWA or ITEA continues until terminated

AND

SES Award does not apply

The SES Modern Award

- minimum rates of pay
- classification structure
- pro-rata wages – assessment tools
- superannuation
- work arrangements
- overtime and penalty rates
- allowances
- consultations
- dispute resolution

Can we use a wage assessment tool that is not listed in SES Award?

- agreement - based transitional instrument
- state – based enterprise award
- unincorporated employer with slow worker permit made before 31 December 2009
- enterprise agreement made after 1 July 2009

Standard 9

KPI 9.1

- "receive wages according to...
 - award, order or industrial agreement"
- "if worker unable to work at full productive capacity due to disability....
 - pro-rata wage based on the applicable award, order or industrial agreement AND
 - pro-rata wage determined through a transparent assessment tool or process, such as SWS or tool that complies with Guide to Good Practice Wage Determination"

Trial Period

- Arrangements for payment to new employees who have not been assessed for pro-rata wage.....

See

- the relevant industrial instrument (e.g. SES Award)
- the relevant wage assessment tool

Questions?