

FEDERAL BUDGET WORKPLACE ROUND-UP

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Legal Briefings - By **Wendy Fauvel and Jamilla Wynter**

With concerns about the increased cost of living and the record-low unemployment rates in Australia, the Morrison Government has announced a budget that is aimed at driving the strongest wages growth in a decade.

In the industrial relations space, the Morrison Government has announced various changes that will be progressively rolled out:

- an expansion to employee share schemes rules;
- the introduction of a small business unit in the Fair Work Commission;
- an increase in the funding for the Fair Work Ombudsman and the retention of the Registered Organisations Commission;
- paid parental leave being changed so that primary and secondary carers can both access 20 weeks' paid parental leave in total for both parents (rather than secondary carers only having access to two weeks' paid parental leave);
- expanding the right to unpaid parental leave in the National Employment Standards to fostering and kinship carers;
- consulting with industry about changes to the redundancy pay calculation in the National Employment Standards; and
- other initiatives to support the training and upskilling of employees and apprentices.

EMPLOYEE SHARE SCHEMES

Employee share schemes (**ESS**) are an important tool in the attraction and retention of employees. It was announced that access to the ESS rules will be expanded, including by allowing participants to invest up to \$30,000 per year (plus 70% of dividends and cash bonuses), or any amount to allow the participant to take advantage of an immediately planned sale or listing. This overhaul is intended to help businesses to continue to attract and retain top performing talent by offering employees the ability to build their own equity and enjoy in the success of the business' growth. We are still waiting on the draft bill to be released.

CHANGES TO THE FAIR WORK COMMISSION (FWC)

The Morrison Government has pledged to 'back small business' by establishing a dedicated small business unit within the FWC. The Government intends to spend \$5.6 million over 4 years to create the small business unit within the FWC to help small business employers navigate their workplace obligations.

FAIR WORK OMBUDSMAN (FWO) AND THE REGISTERED ORGANISATIONS COMMISSION (ROC)

In light of the significant increase in COVID-19 employment-related claims, the Government has also proposed to provide an additional \$2.7 million in funding to the Fair Work Ombudsman. The purpose of this funding is to assist the FWO in supporting businesses and employees with various COVID-19 related workplace issues.

The budget material also envisages that the Morrison Government would retain the ROC as a separate body to the FWO.

PAID PARENTAL LEAVE (PPL)

The Morrison Government intends to roll out an 'Enhanced Paid Parental Leave' scheme. The scheme will merge the two-week Dad and Partner Pay scheme with the 18 weeks of PPL to create an "enhanced" 20-week scheme. These changes would allow eligible working families to claim up to 20 weeks of fully flexible parental leave and eligible single parents to be afforded an extra two weeks of leave. The scheme will also allow males to access parental leave at the same time as any employer-funded leave, the same way in which women are currently entitled to.

While increasing the flexibility of PPL, the Government is also broadening the eligibility of those who can access the scheme. Previously, women who earned more than \$151,350 were not entitled to PPL, even in circumstances where their partner had no income or their income was much lower. The Government has proposed to broaden the income test to include a household income threshold of \$350,000 per year. This change is aimed to support women who are the primary earner and do not currently have access to employer-funded parental leave. These changes to PPL would be introduced by no later than 1 March 2023.

The Morrison Government will also expand the current unpaid parental leave entitlements in the National Employment Standards to foster and kinship carers.

REDUNDANCY PAY

If it is re-elected, the Morrison Government has indicated potential changes to the redundancy payment calculation methods under the National Employment Standards. These changes would be made in consultation with industry to ensure that redundancy payments more fairly reflect average working hours over the course of a person's employment rather than being purely based on an employee's years of service. These changes are likely to see a boost in redundancy payouts for women.

TRAINING AND UPSKILLING OF EMPLOYEES AND APPRENTICES

To enable Australian businesses to meet workforce challenges and capitalise on opportunities, the Morrison Government will invest a further \$2.8 billion over 5 years to support Australian apprenticeships. As part of this proposal, the Government is introducing a new streamlined Australian Apprenticeships Incentive System.

Where small businesses invest in external training courses for their staff, the Budget proposes to provide a new bonus 20% deduction for the cost of these courses. The Morrison Government has estimated that "for every hundred dollars a small business spends on training their employees, they will get a \$120 tax deduction." However, the external training courses will need to be provided to employees in Australia or online, and delivered by entities registered in Australia. Some exclusions will apply, such as for in-house or on-the-job training and expenditure on external training courses for persons other than employees.

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