



'Bureaucracy gone mad' in Fair Work rule

EXCLUSIVE

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Employers are considering a Federal Court challenge to a Fair Work Commission decision they warn will swamp companies employing annualised salary employees in an "unprecedented level of red tape".

Attorney-General Christian Porter said he could understand the concerns of resource sector companies and the government would consider intervening in the court proceedings if the Australian Mines and Metals Association pursued a legal challenge.

Business groups are also lobbying Mr Porter for changes to the Fair Work Act to try to override the decision that imposes new timekeeping requirements on companies across a range of industries.

AMMA chief executive Steve Knott said the requirements would impose a "regulatory burden time bomb" on businesses subject to awards in the mining, hydrocarbons, rail and salt industries, as well as marine towage, oil refining and manufacturing. It also affects awards covering hospitality employees and private sector clerks.

Employers will have to keep a record of start and finishing times and unpaid breaks taken by annualised salary employees. The record will have to be signed by employees each pay period or ros-

ter cycle.

Each 12 months, the employer will have to conduct a reconciliation to calculate whether the employee has been better off on the annualised salary compared with the relevant modern award. Where there has been a shortfall, this must be paid back to the employee within 14 days.

Employees must also be told of

the outer limit of ordinary hours which would attract penalty rates under an award; and the outer limit of overtime hours that the employee may be required to work in a pay period or roster cycle without receiving an excess payment.

The commission said the new provisions were likely to increase the regulatory burden and "this may have some consequential effect on employment costs".

But it said the extra burden was a necessary result of compliance with the Fair Work Act that included a requirement that annualised wage arrangements have appropriate safeguards to ensure that individual employees were not disadvantaged.

Mr Knott said applying to the Federal Court for a judicial review was "a live option and is heavily supported by AMMA members". "We believe the FWC has significantly overstepped its mark in relation to this decision and the prospects of having it overturned are strong," he said. "Why should a resources employer paying the average industry wage of \$2670

per week, be required to undertake daily timekeeping and onerous reconciliation processes when the award rate is \$1100?"

"This is record-keeping for the sake of record-keeping — it's bureaucracy gone mad."

Mr Porter said while the issue was dealt with by the commission as part of its 2014 review of modern awards he could understand the concerns of AMMA's members.

"If AMMA pursue a legal challenge to the decision the government would consider carefully whether it would be appropriate to intervene in the proceedings," he said.

Australian Industry Group chief executive Innes Willox said the new model award clauses were "highly prescriptive and will remove many of the benefits of annualised salary clauses for employers and employees".

Australian Workers Union national secretary Daniel Walton said the requirement employers do a reconciliation every 12 months was a sensible safeguard, particularly when wage theft was a widespread issue.



WHAT EMPLOYERS MUST DO

- **Keep a record of start and finishing times and unpaid breaks taken by annualised salary employees. The record must be signed by employees each pay period or roster cycle.**

- **Each 12 months, conduct a reconciliation to calculate whether the employee has been better off on the annualised salary compared with the relevant modern award.**

Where there has been a shortfall, this must be paid back to the employee within 14 days.

- **Advise employees of the outer limit number of ordinary hours that would attract penalty rates under an award; and the outer limit number of overtime hours that the employee may be required to work in a pay period or roster cycle without receiving an excess payment.**