

Swimming with the Tide

*Casual Considerations in a
Changing Work World*

Change

- The Australian workforce continues to change
- Business and government demands are increasingly unpredictable
- Dynamic global economic conditions and environmental change contribute to variable resource demands and workforce requirements are no exception
- Working arrangements are more diverse than they have ever been before
- Australia's workforce has changed forever

Forms of Employment

- Have Australia's forms of employment kept pace with these changing conditions?
- Does the traditional permanent versus casual employment choice allow for the achievement of the right balance of fairness for both workers and business?
- With conditions likely to remain unstable, does the Fair Work Act provide the flexibility to meet Australia's changing social and business demands?

Stakeholders

- The union movement raise interesting questions around how risk should be distributed
- Should workers bear the full brunt of global trade and unpredictability?
- Unfortunately Australian business is increasingly subordinate to market conditions
- Is it time to conduct a stocktake of traditional employment methods in the context of international business and workforce considerations?
- Commentators are starting to look for international solutions but would they work?

Flexicurity

- There has been some focus on the European concept of 'Flexicurity'
- Flexicurity is a Danish initiative involving
 - Flexible labour market conditions (low firing costs)
 - Generous unemployment benefits (90% of earnings)
 - Focused employment services
- Unlikely to be attractive to either of the major political parties
- What could Australia's version be?

Worker Motivations

- What really motivates Australians in their employment choices?
- Are generation X and Y motivations influencing the mature workforce?
- Are younger workers placing freedom ahead of security?
- Why are we seeing such a significant increase in the number of independent contractors?
- Why are 1 in 4 Australian employees casual?
- If provided genuine choice would most employees choose permanent employment?

On-Hire

- Approximately 4% of Australia's employed workforce are on-hire employees
- Of those, approximately 66% are employed on a casual basis
- Half of all on-hire employees are employed in back to back assignments
- Does this provide a partial solution to the lack of continuity associated with casual employment?
- RMIT University research found that 67% of on-hire workers chose on-hire work
 - Diversity, screening, recognition, paid overtime, work life balance

Fair Work Act

- There is no definition of casual employment within the Fair Work Act
- There is an ongoing reliance upon the common law with help from awards to determine casual employment
- The recent appeal decision of *Williams v MacMahon Mining Services* invites consideration of the most appropriate way to provide certainty for workers and business
- MacMahon confirmed the dangers for business and the starkness of the options

Employment Form Rethink

- Are the current forms of employment outdated?
- When did Australia last consider the suitability of existing employment forms against changing social and economic demands?
- Most non-permanent workers aren't party to enterprise agreements so true alternatives are limited

Transitional Choices

- Should there be greater consideration given to varying casual employee entitlements once employed on a continuous and regular basis, over and above unfair dismissal?
- Should casuals be given the option of trading loading for leave entitlements?
- Should the decision be made for them or should they be given choice?
- Could they have traded loading leave entitlements transferred between casual engagements?

Transitional Choices

- What is the place for portability of entitlements to reduce the administration burden on business?
- Should progressive notice entitlements apply following six monthly continuous employment periods?
- One day notice after six months, 2 days after 12 months
- Would such progressive entitlements benefit employers?
- Does it provide greater certainty for all parties?

A Way Forward

- Ideology is hard to dislodge
- Genuine and sustainable solutions require unions and industry to lower their guard
- Can IR practitioners play a greater role in driving change?
- Has it done so previously?
- Will I die wondering?

End of Presentation

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