



Hi Friend!

NON-CONSTITUTIONAL CORPORATIONS TRANSITION BACK TO THE STATE SYSTEM IN 2011

As we have commented in a number of our previous articles there are two separate industrial relations systems which operate in Western Australia - both have different employment laws, awards and minimum conditions.

The State system covers employers who are not 'constitutional corporations' and their employees. Generally this includes employers who are sole traders and unincorporated partnership and trust arrangements.

Broadly speaking the national (Federal) system covers employers who are constitutional corporations and their employees.

There is no absolute rule that determines whether a particular corporation is covered by the national system. In most instances a Proprietary Limited (**Pty Ltd**) or Limited (**Ltd**) company tends to be in the national system by virtue of its trading or financial activities.

When Work Choices commenced on 27 March 2006 it provided for existing federal awards and agreements at that time to continue to apply to non-constitutional corporations for up to five years (i.e. until 27 March 2011).

This was to allow time for businesses to adjust to the transition back to the State system.



From 27 March 2011

From 27 March 2011 non-constitutional corporations (e.g. unincorporated business) covered by a federal award or agreement will transition back to the State system and fall back to the coverage of State awards - if there are any that have coverage.

This situation is unique to Western Australia as all other States have referred their industrial relations powers for private sector employers and employees to the Federal Government.

Examples of federal awards that cease to be in force on 27 March 2011:

- Aboriginal Communities and Organisations (Western Australia) Award 2001
- Local Government Officers (Western Australia) Award 1999
- Municipal Employees (Municipal Employees (WA) Award 1999
- Social and Community Services - Western Australia Award 2002
- Child Care (Long Day Care) WA Award 2005
- National Training Wage Award 2000
- Pastoral Industry Award 1998
- S.D.A Western Australian Community Pharmacy - Pharmacy Assistants Award 2000

If you have any questions in relation to this article please call our office on 9792 4451 to discuss.

Best Regards,
The Workwise Team

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Have A Topic Idea?

I'd love to hear it! Just reply any time and let me know what topics you'd like to know more about.

