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Finance

NEW LABOUR LAWS WILL CATCH EMPLOYERS OUT

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Most small businesses are not prepared for the Fair Work Act, writes Derek Parker

A KEY issue for entrepreneurs next year will be the new arrangements flowing from the Fair Work Act, but so far many small and medium-sized companies are unaware of how they will be affected, according to survey data.

The initial findings of a benchmark study by CompliSpace, a research firm specialising in regulatory issues, show 47 per cent of organisations with 50-200 employees believe management does not understand the Fair Work Act.

“In fact, over half don't know that January 1, 2010, is the start date of these new standards,” says David Griffiths, CompliSpace executive director. “Most managers have been focused on maintaining their business through the downturn, but now they need to address how these changes will [affect] impact them.

“To make matters even more pressing, the regulator, Fair Work Australia, is demonstrating an active intent to enforce employee entitlements and ignorance will not be an acceptable excuse for non-compliance.”

The new system will see 10 new national employment standards replace the minimum conditions of employment established by Work Choices. At the same time, the new system of modern awards begins, with 4000 awards merged into 100.

Griffiths says CompliSpace has developed a free online tool, the Human Resources Risk Self-Assessment Survey (available from its website, www.complispace.com.au), that allows organisations to assess their readiness for the Fair Work Act.

Jaye Radisich, chief executive of the Council of Small Business of Australia, agrees many small and medium enterprises are unprepared for the looming deadline but points to failings at the government level.

“Given the scale of these changes, there was not much information available until very late in the day,” she says. “A lot of ideological point-scoring but little on the mechanics. There is now guidance available but managers will have to move quickly to be ready.”

Radisich says a key reference for SMEs is the Fair Work for Small Business website (www.fairworkforsmallbusiness.com.au). Set up by COSBOA, Workforce Guardian and [Telstra](#) Business, with funding from the government, the site allows business operators to watch 30-minute “webinars” and download guides on topics such as unfair dismissals, collective bargaining, changes to entitlements, and the new standards.

Another issue set to emerge in 2010 is the recasting of bankruptcy laws, with further hearings scheduled for early next year.

“The Bankruptcy Legislation Amendment Bill 2009 seeks to modernise personal insolvency arrangements by recognising that the majority of bankruptcies relate to consumer debts and involve people with relatively few assets and little income, rather than unscrupulous debtors trying to avoid paying their debts,” says Attorney-General Robert McClelland.

The proposed amendments would increase the minimum debt for which a creditor can petition for bankruptcy from \$2000 to \$10,000; increase the stay period from when a declaration of intent to file a debtor's petition is filed to when a creditor may begin action to recover debts from seven to 28 days; and increase the income, asset and debt thresholds to allow more people in financial distress to enter into voluntary debt agreements.

But the proposals have been criticised by **Prushka**, Australia's largest privately owned debt collection agency.

“This decision shows remarkable ignorance of the practical operation of the system,” says chief executive Roger Mendelson.

“As soon as savvy non-payers become aware of the inability of creditors to enforce judgments, we will see a blow-out in unpaid debts. Regional small to medium-sized businesses will be particularly hurt, as they use bankruptcy procedures more than city businesses.

“We urge the government to listen to professionals in the bankruptcy jurisdiction and rethink these aspects of the legislation.”