

Implications of Industrial Relations (Public Sector Conditions of Employment) Regulation 2011

The Industrial Relations (Public Sector Conditions of Employment) Regulation 2011 has far reaching implications for public sector employees.

The key implications are as follows:

1. There will effectively be a wage freeze of 2.5%, which is below the current CPI of 3.3%. (See clause 6).
2. To achieve any additional wage increase above 2.5%, employees will have to make cost – savings which will reduce their current conditions of employment. (See clauses 8 & 9).
3. Apart from the very limited guaranteed minimum conditions of employment. See clause 7) all other conditions of employment can be reduced below the current entitlements. This includes penalty rates, over time rates, travel allowances, living away from home allowances, meal breaks, hours of work (including lunch breaks) and any other matter listed in the award or agreement.
4. Where a union and its members decide to only accept 2.5%, and not to bargain away other conditions of employment, the employer still has the right to have the Industrial Relations Commission of NSW arbitrate to reduce the conditions of employment referred to above.
5. Major savings which will be found through restructuring departments, including redundancies are not included as “employee related cost savings” if they occur as a consequence of Governments savings by via efficiency dividends. (See sub clause 9 (e)).
6. Clause 6 (1)(f) takes away the rights of unions to make applications for awards, with respect to fair and equitable standards in relation to the treatment of excess public sector employees.

On the 22 June 2011, the government announced changes to the “Management of Excess Employees Policy”, which significantly reduces the amount of time an employee has to find alternative employment in the public sector. It also significantly reduces the redundancy pay for public sector employees as part of the process. The

effect of the regulation is that unions are unable to see whether the government's proposed changes are indeed fair and equitable, as the Industrial Relations Commission's power to make awards has been removed. This change will give the government an open door policy to slash thousands of public sector jobs which will affect services provided to the public.

Other Matters

1. Clause 6 (a) disallows matters to be placed on "leave reserved". This means that if the parties were wanting to continue to explore in more time other cost related savings, these matters could not be placed on a "leave reserved" clause for the parties to come back and have the matters determined at a later date. This in our view flies in the face of the government's alleged objective, which is to look for productivity initiatives.
2. Parties are required to give a "no extra claims" commitment. The regulation, due to its drafting, seems to be a one-sided mechanism constraining unions, but not the employer, from detrimentally affecting the working arrangements and conditions of employees during the life of an award.