

How is the Fairness Test being applied?

The Workplace Authority is responsible for carrying out pre-assessment tests on agreements before they are lodged. The Fairness Test applies to agreements which modify or remove terms and conditions in awards such as rest breaks, incentive - based payments and bonuses, annual leave loading, public holiday loadings, meal allowances or loadings for overtime or shift work

If an Agreement removes or changes any of these conditions, the Agreement must provide fair compensation. The Workplace Authority has indicated that fair compensation will most commonly be in the form of a higher hourly rate of pay. It might also include provision of bonuses, extra leave and more flexible working conditions. Provision of a store discount to staff will not count as compensation. Provision of a meal will only be considered as compensation for removing a meal allowance.

If an Agreement does not pass the Fairness Test, the Workplace Authority will suggest ways that the employer can fairly compensate employees. They will also suggest a basic hourly rate of pay that they consider is fair compensation for Award conditions that have been removed or changed.

MGA can help you build a fair Agreement for your store. Our aim is to develop Agreements which suit your business needs but which also provide fair conditions for your employees.

When to Pay Superannuation Contributions

Employers only need to pay superannuation contributions for eligible employees. **Employees aged between 18 and 70** who earn at least \$450 (before tax) in a calendar month are eligible for contributions. Employees who earn less than this are not eligible.

There is an added requirement when paying superannuation for employees **under 18 years of age**. You are only required to pay contributions for these employees if they earn more than \$450 (before tax) in a calendar month and work more than 30 hours per week.

The entitlement to superannuation is calculated on a month by month basis. You must pay an employee's superannuation contribution in any month that they work enough hours to become eligible for superannuation contributions.

For more information, log on to the MGA's website to get a Superannuation Contribution Fact Sheet or contact one of our Workplace Advisors.

The MGA Philosophy on Agreement Making

The WorkChoices laws commenced in March 2006 and they immediately changed the workplace relations landscape. The sweeping changes gave greater scope to employers to move outside the restrictions of the old award system. Stricter rules are now applied to union activities and unfair dismissal laws were relaxed. In particular the new system meant that for the first time agreements could be developed that provided for workplace flexibilities and the freedom to negotiate employment terms that had not previously been available. The Government set certain legal parameters for everyone to work with and it was intended that no one would suffer any losses or be disadvantaged.

However, there were opportunities for employers to legally remove or reduce penalties for working on Sundays, late nights and public holidays. Some employers across all industries took the opportunity to make agreements that were legally compliant but they removed the benefits that employees had previously enjoyed under the award system.

A recent study revealed that a large number of agreements in the retail and hospitality industries removed penalty rates and failed to give adequate compensation to employees. In some cases employees were forced either to sign Australian Workplace Agreements or lose their jobs.

The introduction of the Fairness Test in May 2007 was seen as an essential step by the Federal Government if it was to stop the adverse publicity surrounding the unfairness of some agreements that were being made in workplaces.

MGA has an Agreement Making service and has been helping members to cope with the new WorkChoices legislation. Since May 2007 MGA has been assisting employers to design agreements that meet the fairness test. It is our philosophy that the employers business name, and the brand that the business represents, must be protected in the community.

Our agreements focus on offering a balance between work and family commitments. They are intended to create a work environment where an employee is rewarded and at the same time the employer can achieve the flexibilities to operate the business efficiently. Designing agreements that are fair to employers and employees is our primary objective and we endeavor to foster a relationship of trust between members and their staff to allow employees working conditions to be clearly explained in a simple and accessible document.

Our members can be assured that when they enter into an agreement they will be provided with advice that is realistic and which will help them to achieve a good working relationship with employees based on equitable foundations.