



MEDIA RELEASE

SENATOR THE HON NICK SHERRY

Minister for Small Business
Minister Assisting on Deregulation
Minister Assisting on Tourism

NEW YEAR, NEW BENEFITS FOR SMALL BUSINESS

Small Business Minister, Senator Nick Sherry, is urging small business operators to get to know their rights and responsibilities under new laws and procedures that have taken effect from 1 January 2011.

These include changes to industry codes on fair conduct, the definition of what is a small business employer for unfair dismissal provisions and the introduction of the paid parental leave scheme.

“The new Competition and Consumer Act puts in place tougher enforcement powers that apply to all industry codes, including the Franchising Code of Conduct,” Senator Sherry said.

“These stronger enforcement powers will spur rogue franchisors into complying with the law.”

The new powers applying to all industry codes include:

- public warning notices for serious code breaches;
- random audit powers for the Australian Competition and Consumer Commission;
- provision for courts to make orders in favour of persons who are not party to the relevant proceedings; and
- substantiation notices for claims made in franchising transactions.

In addition, as of 1 January 2011, the unconscionable conduct provisions of the Australian Consumer Law are enforceable in state and territory courts and tribunals.

National, state and territory regulators also have a larger arsenal of investigation and enforcement tools for breaches of fair trading laws under the Australian Consumer Law, including infringement notices, civil pecuniary penalties and disqualification orders.

These are in addition to powers that already exist under the Competition and Consumer Act (2010), which replaces the *Trade Practices Act 1974*.

“These powers introduced on 1 April 2010 include court-ordered injunctions to stop rogue franchisors in their tracks and financial penalties for parties engaging in unconscionable conduct or making misleading representations,” Senator Sherry said.

New Definition of Small Business Employer

Changes from 1 January 2011 include a new definition of small business employer for the purposes of unfair dismissal laws.

A small business employer will no longer be a business with fewer than 15 full-time equivalent employees, but a business with 15 employees based on a simple headcount.

“This change makes it easy for small business to understand if they are a small business for the purposes of unfair dismissal law,” Senator Sherry said.

Paid Parental Leave Scheme

“The Government’s Paid Parental Leave scheme is also effective as of January 1 – with a six-month phase-in period for employers,” Senator Sherry said.

Eligible working parents of babies born or adopted from 1 January 2011 will receive 18 weeks’ Parental Leave Pay at the National Minimum Wage – currently \$570 a week before tax.

Payments will commence on 1 January 2011, but employers will only be required to provide Parental Leave Pay to their eligible long-term employees who have a baby or adopt a child on or after 1 July 2011.

“This six month phase-in of the employer role will allow employers and businesses additional time to set-up the appropriate mechanisms to provide Parental Leave Pay to their employees,” Senator Sherry said.

“Employers can choose to participate in the scheme earlier if they want to.”

“This will be the first time many small businesses have been able to offer this entitlement to their employees, helping them retain skilled staff.”

Further information is on the changes to the unfair dismissal laws is available from www.fairwork.gov.au.

A summary of recent regulatory changes to the Franchising Code of Conduct can be found on the Australian Competition and Consumer Commission’s website at: www.accc.gov.au.

More information on the Australian Consumer Law can be found at: <http://www.consumerlaw.gov.au/content/Content.aspx?doc=home.htm>

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