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Author(s): Charles Power (of Holding Redlich)  
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## **How should organisations prepare for the IR changes that will occur with the introduction of the Fair Work legislation on 1 July 2009?**

Charles Power  
Workplace Relations Specialist (LIV), Holding Redlich

When preparing for the Fair Work Act employers need to think about which modern awards will regulate employment in their business when they commence on 1 January 2010, and what is likely to be contained in those awards. Many modern awards have already been drafted and can be found at the Australian Industrial Relations Commission website.

Once the terms of applicable modern awards are understood, employers should consider options to make the application of these awards more flexible. One option is to make an award flexibility agreement with some or all award-covered employees to make more flexible the application of provisions dealing with overtime, working hours and loadings. Another option, which will be available after 1 July 2009 with current awards, is to make a guarantee of annual earnings with employees earning above a certain income threshold (\$100,000 p.a.). This will cause awards to cease to apply altogether.

Employers should also check that employment contracts and human resources policies make provisions do not undercut the new minimum employment conditions provided in the National Employment Standards (NES). These commence on 1 January 2010. Some NES conditions give employers more rights. For example, there will be more options to require employees to take annual leave by a certain time.

Employers should also prepare policies, protocols and forms to deal with NES employee entitlements to have annual leave and personal/carer's leave cashed out, to request flexible working arrangements and extensions to unpaid parental leave, and to be informed of developments affecting their pre-leave position during parental leave.

Employers should also review the way they retrench employees to ensure that they comply with award and enterprise agreement obligations to consult with affected employees and assess reasonable opportunities for redeployment. Employers will need to prove these matters after 1 July 2009 if they wish to have any unfair dismissal claim arising out of a retrenchment dismissed.