



31 May 2007

Mr Glenn Burge
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Dear Mr Burge

Mr McCorry's emotive letter (AFR Letters, May 31) highlights the difficulties which many people have with the complexities of labour law.

In his letter he dismisses the importance of the concept of an expiry date in an AWA. Prior to the expiry date of an AWA, neither the employer nor the employee can unilaterally terminate the AWA. Also, industrial action cannot be taken by either party. Common law contracts do not typically have expiry dates and there are no limits on taking protected industrial action. These are important differences which highlight the fairness of AWAs.

The award complications with common law contracts are very real. There are many Federal Court decisions which have considered whether or not parties can contract out of provisions of relevant awards through the payment of an all-up rate of pay. Mr McCorry's assertion that an employer can simply pay a global sum and forget about award entitlements such as wages, penalty rates, overtime and public holidays disregards the principles developed by the Courts and the legal minefield that exists in this area.

Perhaps the oddest assertion in Mr McCorry's letter is the claim that employees have more unfair dismissal protection under a common law contract than an AWA. In fact, the opposite is true. Employees earning above \$98,200 are exempt from unfair dismissal laws if engaged under a common law contract. This exemption does not apply to employees on AWAs – that is, even very high income earners have access to unfair dismissal laws if covered by an AWA.

We stick to our original factually based position that common law contracts are a poor substitute for AWAs supported by a fairness test.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Heather Ridout'.

Heather Ridout
Chief Executive