

Appendix 6

Features of Federal and State termination laws

	Cmwth, Vic, ACT & NT	NSW	QLD	SA	WA	Tas
Employee able to apply for remedy?	Yes	Yes	Yes	Yes	Yes	Yes
Max time period after termination to apply	21 days	21 days (out of time appltns possible)	21 days	21 days	28 days (out of time appltns considered)	21 days
Salary cap	\$81 600 for 'non- award conditions' employees	\$81 500 and not covered by award	\$75 200	\$77 681 for non-award employees	\$90 000 for non award etc employees	
Filing Fee	\$50.00	\$50.00	\$48.00 unless union application	\$0.00	\$50.00	\$0.00
Casuals et al excluded, for what period?	12 months	6 months	12 months, except for invalid reasons	6 months	No	No
Statutory default probationary period	3 months	No 3 months (may be less)	3 months	No	3 mnths (but not blanket exclusion)	No
Conciliation before arbitration	Yes	Yes	Yes	Yes	Yes, Registrar may mediate	Yes
Certificate issued if conciliation fails?	Yes	No	Yes	Assessment made	No	No
Penalty for disregarding assessment?	Yes	No	No	Yes	No	No
Commission to consider size of business?	Yes					
Penalties against advocates for vexatious claims	Yes					
Requirement to disclose 'no win no fee'	Yes					
Dismiss claims which have no prospect of success?	Yes					
Consider size of business & skills of small business re HR matters	Yes					
Is salary compensation capped?	6 months remuneration. Limited to \$40,800 for 'non-award' employees	6 months remuneration	6 months average wage	6 months remuneration or \$38,800 which ever is greater	6 months remuneration	6 months ordinary pay

Note:

- Termination provisions contained in the CCH Australian Employment Legislation at 21 December 2001.
- Provisions updated in August 2002 for new WA amendments and the Commonwealth salary/compensation cap.
- No attempt has been made to include other authority a tribunal might rely on to deal with a matter beyond those prescribed under the particular termination provisions.

WA Provisions (August 2002) (Advice from Labour Relations Branch DCEP):

- 1) There is no exclusion of casuals.
- 2) There is a requirement for the WAIRC to take account of a probationary period of up to 3 months in deciding the merits of a claim (see new S23A(2)). This does not preclude probationers from lodging claims or having them determined but does compel the WAIRC to consider them.
- 3) The filing fee has increased to \$50.00.
- 4) The Registrar of the WAIRC can have functions of the Commission delegated to them. In effect the Registrar may now deal with preliminary matters (ie: may mediate a claim). They will not be able to issue orders (see new S96 - inserted by Clause 161 of the LRRRA 2002).
- 5) The blanks against WA in the table are technically 'no' since there is no express power provided. However, there is some ability provided through the general powers of the Commission (see S27 of the IR Act).

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