American Benefits Council
Benefits Passport Webinar: Trends in Australia

Stuart Kollmorgen, Partner
Norton Rose Fulbright Australia
stuart.kollmorgen@nortonrosefulbright.com
14 November 2013
Australia

Size: 7.6mil km²

Population: 23,231,284

“Two-speed” Economy

Average GDP growth, past 5 years: 2.18%

Demographics: ageing population

Unemployment: 5.8%

Minimum Hourly Wage: $16.37 (USD $15.42)
$33,000 yearly

Average full-time annual earnings: $77,261
Australia’s population
Sources of minimum entitlements

- Fair Work Act & National Employment Standards
- Federal Minimum Wage
- Superannuation Legislation
- Awards & Enterprise Agreements
- Parental Leave Legislation
- Long Service Leave Legislation
Superannuation

- Government Policy to shift retirement costs from publicly funded to self-funded – through compulsory employer contributions throughout working life ("superannuation guarantee")
- Tax-effective employee contributions
- SG increases – time to review employment contracts?
- Unpaid superannuation – SG charge and Director penalties
- Accessing super benefits from the "Preservation Age" (60 years of age, if born from 1 July 1964, slightly younger age if born earlier)

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>SGC Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY12/13</td>
<td>9.0%</td>
</tr>
<tr>
<td>FY13/14</td>
<td>9.25%</td>
</tr>
<tr>
<td>FY14/15</td>
<td>9.5%</td>
</tr>
<tr>
<td>FY15/16</td>
<td>10.0%</td>
</tr>
<tr>
<td>FY16/17</td>
<td>10.5%</td>
</tr>
<tr>
<td>FY17/18</td>
<td>11.0%</td>
</tr>
<tr>
<td>FY18/19</td>
<td>11.5%</td>
</tr>
<tr>
<td>FY19/20</td>
<td>12.0%</td>
</tr>
</tbody>
</table>
Flexible Working Arrangements

**What?**
- Change to hours of work
- Change to patterns of work
- Change to place of work

**Who?**
- 12 months’ service
  - Full or part-time, long term casual
  - Parent or guardian of school age or younger child
  - Carer
  - Employee with a disability
  - =/> 55
  - Experiencing domestic violence or supporting immediate family who is

**When?**
- Must respond to written request within 21 days
- Refusal on reasonable business grounds:
  - too costly
  - effect on other employees
  - significant loss in efficiency or productivity
  - significant negative impact on customer service
## Taking the leave

- **Fair Work Act 2009**
- 12 months, and up to 24 months with employer agreement
- Unpaid
- Full-time, part-time and long-term casuals with at least 12 months' service
- Birth and adoption of a child
- Right to return to job held before they went on leave
- Right to request flexible working arrangements on return

## Paid leave

- **Paid Parental Leave Act 2010**
- 18 weeks’ pay at national minimum wage – primary carer
- No superannuation
- 2 weeks’ pay at national minimum wage – working dad/partner (incl. same-sex partner)
- Must meet the “work test”
- Paid by the Family Assistance Office to the employer, distributed to employee
- Funded by the Federal Government

## Proposed new scheme – July 2015

- Coalition Government’s election pledge
- 26 weeks’ pay at actual wage (or minimum wage, whichever is greater) – mother
- Of the 26 weeks, 2 weeks for dad/partner
- Capped at incomes of $150,000 p.a.
- Plus superannuation
- Paid by the Family Assistance Office directly
- Funded through 1.5% levy on companies earning > $5 million in taxable income
Discretionary Benefits (not typically medical cover)

- Salary Sacrifice (typically to Vehicle or Superannuation)
- Bonuses & Incentives
- Vehicles, Mobiles, Laptops
- ESOP & Profit Sharing
- EAP, Employee wellbeing programs
- Additional leave entitlements
- Superannuation contribution matching schemes
Engaging overseas workers – 457 visas

Temporary, up to 4 years

Must pay market salary rates and meet TSMIT (currently $53,900).

Local market-testing/advertising obligation.

Work for one employer in nominated role
Discussion and questions
Presenter

Stuart Kollmorgen
Partner
Norton Rose Fulbright Australia
stuart.kollmorgen@nortonrosefulbright.com
+61408310105
International

Canada
- Calgary
- Montréal
- Toronto
- Ottawa

Europe
- Amsterdam
- Athens
- Brussels
- Frankfurt
- Hamburg
- London
- Milan
- Moscow
- Munich
- Paris
- Piraeus
- Prague
- Rome
- Warsaw

Kazakhstan
- Almaty

USA
- Austin
- Dallas
- Denver
- Houston
- Los Angeles
- Minneapolis
- New York
- Pittsburgh-Southpointe
- San Antonio
- St Louis
- Washington D.C.

Latin America
- Bogotá
- Caracas

Asia
- Bangkok
- Beijing
- Hong Kong
- Jakarta*
- Shanghai
- Singapore
- Tokyo

Africa
- Cape Town
- Casablanca
- Dar es Salaam
- Durban
- Johannesburg

Middle East
- Abu Dhabi
- Bahrain
- Dubai
- Riyadh

Australia
- Brisbane
- Canberra
- Melbourne
- Perth
- Sydney

*associate office
Disclaimer

Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright Canada LLP, Norton Rose Fulbright South Africa (incorporated as Deneys Reitz Inc) and Fulbright & Jaworski L.L.P., each of which is a separate legal entity, are members (“the Norton Rose Fulbright members”) of Norton Rose Fulbright Verein, a Swiss Verein. Norton Rose Fulbright Verein helps coordinate the activities of the Norton Rose Fulbright members but does not itself provide legal services to clients.

References to “Norton Rose Fulbright”, “the law firm”, and “legal practice” are to one or more of the Norton Rose Fulbright members or to one of their respective affiliates (together “Norton Rose Fulbright entity/entities”). No individual who is a member, partner, shareholder, director, employee or consultant of, in or to any Norton Rose Fulbright entity (whether or not such individual is described as a “partner”) accepts or assumes responsibility, or has any liability, to any person in respect of this presentation. Any reference to a partner or director is to a member, employee or consultant with equivalent standing and qualifications of the relevant Norton Rose Fulbright entity.

The purpose of this presentation is to provide information as to developments in the law. It does not contain a full analysis of the law nor does it constitute an opinion of any Norton Rose Fulbright entity on the points of law discussed.

You must take specific legal advice on any particular matter which concerns you. If you require any advice or further information, please speak to your usual contact at Norton Rose Fulbright.