

(Fair Work Act 2009)

### **344 Undue influence or pressure**

An employer must not exert undue influence or undue pressure on an employee in relation to a decision by the employee to:

- (a) make, or not make, an agreement or arrangement under the National Employment Standards; or
- (b) make, or not make, an agreement or arrangement under a term of a modern award or enterprise agreement that is permitted to be included in the award or agreement under subsection 55(2); or
- (c) agree to, or terminate, an individual flexibility arrangement; or
- (d) accept a guarantee of annual earnings; or
- (e) agree, or not agree, to a deduction from amounts payable to the employee in relation to the performance of work.

Note 1: This section is a civil remedy provision (see Part 4-1).

Note 2: This section can apply to decisions whether to consent to performing work on keeping in touch days (see subsection 79A(3)).

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## **Subdivision B—Other contraventions**

### **372 Application for the FWC to deal with a non-dismissal dispute**

If:

- (a) a person alleges a contravention of this Part; and
- (b) the person is not entitled to apply to the FWC under section 365 for the FWC to deal with the dispute;

the person may apply to the FWC under this section for the FWC to deal with the dispute.

### **373 Application fees**

- (1) The application must be accompanied by any fee prescribed by the regulations.
- (2) The regulations may prescribe:
  - (a) a fee for making an application to the FWC under section 372; and
  - (b) a method for indexing the fee; and
  - (c) the circumstances in which all or part of the fee may be waived or refunded.

### **374 Conferences**

- (1) If:
  - (a) an application is made under section 372; and
  - (b) the parties to the dispute agree to participate;the FWC must conduct a conference to deal with the dispute.

Note 1: For conferences, see section 592.

Note 2: The FWC may deal with a dispute by mediation or conciliation, or by making a recommendation or expressing an opinion (see subsection 595(2)).

- (2) Despite subsection 592(3), the FWC must conduct the conference in private.

	<b>375 Advice on general protections court application</b>
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	<p>If the FWC considers, taking into account all the materials before it, that a general protections court application in relation to the dispute would not have a reasonable prospect of success, it must advise the parties accordingly.</p>
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