

CSR & Holcim Staff Association

Wilmar Member Update - August 2016

Topic: Wilmar Member Update – Employment Contracts
Author: Mark Port, Industrial and Operating Manager & Solicitor on the Record
CSR & Holcim Staff Association
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On 8 July 2016 the Staff Association wrote to Wilmar Members recommending they contact us to discuss any queries or concerns they have with their amended (or refreshed) employment contracts (New Contracts).

As a follow-on from our previous communications the Staff Association has received many queries from concerned Members about their New Contracts which have recently been issued by Wilmar. Concerns raised by Members have included:

- Long service leave (LSL) and Redundancy;
- Removal of key terms and conditions from their current employment contracts (Current Contracts) - like Housing, Vehicles and Tool of Trade Motor Vehicles etc; &
- Inclusion of new terms and conditions in their New Contracts that do not exist in their Current Contracts – like the non-solicitation clause.

Based on our recent review of Members New Contracts, we draw to your urgent attention the following observations:

LSL and Redundancy

To-date, Wilmar has included LSL and Redundancy provisions in the New Contracts which reflect what was provided for under the now expired *CSR Staff (Consolidated) Award 2000* and *Refined Sugar Services Staff Award 2000*. This will need to be continually reviewed and monitored.

Removal of Key Terms and Conditions

Key terms and conditions contained in Members Current Contracts (i.e. like Housing, Vehicles and Tool of Trade Motor Vehicles etc) have been removed from Members New Contracts where they have an entitlement to such terms and conditions.

Senior human resource personnel in Wilmar have suggested that Housing, Vehicles and Tool of Trade Motor Vehicles will now be covered by policy. In short, Wilmar's approach on this issue is misguided and plainly wrong.

To demonstrate this fact, Wilmar's policy clause found in New Contracts states in part:

“Wilmar Sugar has a number of policies.....They apply to your employment....but they do not form part of your contract of employment.....To the extent that the policies describe benefits and entitlements, these are discretionary in nature and are not intended to be contractual....”

The Staff Association's position on this issue is that where Wilmar Members / salaried employees have contractual entitlements (i.e. like Housing, Vehicles or Tool of Trade Vehicles etc) in their Current Contracts then such entitlements must be included in any New Contracts issued by Wilmar.

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Inclusion of New Terms and Conditions

One key new term and condition that has been appearing in Members New Contracts is a clause titled - non-solicitation.

What is a non-solicitation clause? In very general terms, a non-solicitation clause will stop a former employee from actively encouraging, or seeking out, or trying to take or solicit the employer's customers or clients. Such a clause may also inhibit your future employment aspirations with Wilmar's clients and / or customers.

The inclusion of Wilmar's non-solicitation clause in New Contracts issued to Members / salaried employees states:

"Following termination, you are not permitted to canvass, solicit, approach or in any way deal with any customer or client with whom you had dealings in the 12 month period prior to your termination date, with a view to obtaining the client or customer or dealing with that client or customer."

What does this mean for Members / salaried employees? The operation of the non-solicitation clause lasts forever (i.e. for a life time) and would stop you from working with clients or customers of Wilmar whom you had dealt with in the 12 month period prior to your termination of employment with Wilmar.

This means that if you were offered a job by an organization that was a client or customer of Wilmar's then you may be prohibited from working for that organization forever.

Outcome

The outcome of the Staff Association's analysis of New Contracts to-date highlights that Wilmar is not honoring its commitment to maintain existing terms and conditions in Members / salaried employees Current Contracts.

The Staff Association understands and shares your concerns regarding the New Contracts. We will be writing to Wilmar's senior management to seek a response from the Company on the issues raised in this Member Update. For Members requiring assistance with their New Contracts or any other matter please contact the Staff Association ASAP.

**** Place a copy of this Wilmar Member Update on your Notice Board at work ****

CSR & Holcim Staff Association
Telephone: (02)9964-1757 or 0417-018816
Email: mport@csr.com.au

www.csrholcimwilmar.com