

# Closing Loopholes - IR laws

## Amendments passed into legislation

### Reform

### Implications

### Who will be impacted

*Commenced 15 December 2023*

#### **Small business redundancy exemption**

Amendment to the exemption that large employers who downsize and become small businesses (falling below the 15-employee threshold) in the period leading up to insolvency are not exempt from paying redundancy pay.

Businesses undergoing insolvency or receivership.

#### **Regulated labour hire arrangement (Same Job Same Pay)**

An application may be made to the Fair Work Commission that labour hire employees must be paid what they would receive doing the same work as employees of the host employer. Approved applications won't come into effect until 1 November 2024.

Businesses who use or intend to use labour hire and labour hire businesses.

#### **Workplace delegates' rights (#1)**

Workplace and union delegates have new workplace rights and protections including access to paid time off for training, and protection from being hindered from exercising their rights as a workplace delegate.

All employers.

#### **Protections for those subject to family and domestic violence**

Employers are prohibited from taking adverse action against or terminating the employment of a person on the basis that they are subject to family and domestic violence.

All employers.

#### **Compulsory conciliation conferences in protected action ballot order (PABOs) matters**

Employees can take protected industrial action, through a protected action ballot order (PABO), even if some bargaining representatives disobey an order of the Fair Work Commission to attend a conference.

Businesses bargaining for an enterprise agreement.

<b>Reform</b>	<b>Implications</b>	<b>Who will be impacted</b>
<b>Workplace Health and Safety right of entry</b>	Union officials no longer require an entry permit to enter a workplace should they be assisting a health and safety representative perform their functions under state or territory WHS law (Work Health and Safety Act (QLD) 2011.	All employers.
<i>Commenced 27 February 2024</i>		
<b>Intractable Bargaining</b>	Fair Work Commission to arbitrate over enterprise agreement negotiations. Outcome unable to provide any worse terms for employees.	Businesses bargaining for an enterprise agreement.
<b>Sham Arrangement</b>	Strengthened defenses against sham arrangements.	All employers.
<b>Compliance Notices</b>	Fair Work Ombudsman compliance notices to be clarified.	All employers.
<b>Civil Penalties</b>	Five time (5x) increase to the value of civil penalties.	All employers.
<b>Multi Franchise</b>	Franchisees will be able to bargain together under the single-EA stream.	Franchisees bargaining for an enterprise agreement.
<b>Leaving Multi-Enterprise</b>	Businesses within multi-enterprise agreements are able to more easily exit the agreement to bargain for a single EA.	Businesses within multi-enterprise agreements.

## Amendments passed but not yet implemented

### Reform

### Implications

### Who will be impacted

*Will take effect on 1 July 2024*

#### Workplace delegates' rights

Modern awards varied to include a delegates' rights terms to have effect (if a variation has been made). Delegates' rights term must be included in workplace determinations and Enterprise Agreements.

All employers.

*Will take effect on 27 August 2024*

#### Right to Disconnect

Employees have the right to refuse to monitor, read or respond to contact, or attempted contact, from an employer outside of the employee's working hours unless the refusal is unreasonable.

Businesses other than small business.

#### Casual employment

Employers no longer required to offer casual conversion.  
Definition of employment changed to capture post-employment conduct.  
Casual employees to give notice of intent to change employment to permanent.  
Disputes to be resolved through Fair Work Commission.

All employers with casual employees or intending hire casual employees.

#### Regulated workers (Platform)

Person engaged in employee-like work through a digital labour platform operator to perform work gain rights through Minimum Standard Orders, Minimum Standards Guidelines, Collective Agreements.  
Regulated worker gain protection from unfair contract terms, unfair deactivation/termination.  
Digital Labour Platform Consultative Committee to be established.

Businesses engaging with Digital Labour Platform and platform workers.

Reform	Implications	Who will be impacted
<b>Regulated workers (Road Transport)</b>	Owner Drivers gain rights through Minimum Standard Orders, Minimum Standards Guidelines, Collective Agreements and protection from unfair contract terms, unfair deactivation/termination. Expert Panel for the road transport industry and Road Transport Advisory Group to be established.	Businesses and contractors within a road transport supply chain.
<i>Will take effect on 1 November 2024</i>		
<b>Regulated labour hire arrangement (Same Job, Same Pay)</b>	Regulated labour hire arrangement (Same Job, Same Pay) made by the FWC orders can commence.	Labour hire businesses and employers engaging labour hire providers with enterprise agreements.
<i>Will take effect on 1 January 2025</i>		
<b>Wage Theft</b>	The intentional underpayment of wages, including superannuation, is a criminal offence. Employers will only be criminally liable where they intentionally underpay employees.	All employers.
<i>Will take effect on 27 August 2025</i>		
<b>Right to Disconnect</b>	Employees have the right to refuse to monitor, read or respond to contact, or attempted contact, from an employer outside of the employee's working hours unless the refusal is unreasonable.	Small business.

If you're struggling to navigate these changes, you don't have to tackle them on your own with our Workplace Advisory Services team here to help.

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