

IN EFFECT:

- Respect@Work Bill – Positive duty to eliminate Sexual Harassment: **Effective since Nov 2022**
- Time Limit for Sexual Harassment claims extended from 6 months to 24 months: **Effective Nov 2022**
- New protected attributes under discrimination laws (Breastfeeding, gender identity and intersex status): **Effective Dec 2022**
- Pay Secrecy clauses now abolished: **Effective Dec 2022**
- FWC can issue a bargaining order if it considers that a party is not bargaining in good faith: **Effective Dec 2022**
- Add 10 days of paid leave for Family and domestic violence: **Effective 1 Feb 2023**
- Ensure Employers don't record domestic violence leave on payslips: **Effective 1 Feb 2023**
- Provide training to employees on "Stopping Sexual Harassment Orders" and update current sexual harassment policies. FWC now has the power to make compensatory orders to deal with Sexual harassment complaints: **Effective Mar 2023**
- Update policies around access to flexible work arrangements and be careful when denying requests as employees have more legal recourse: **Effective Jun 2023**
- If an employer ignores a flexible working request for 21 days they could face the Fair Work Commission: **Jun 2023**
- A group of employees can enter into multi-enterprise bargaining agreements: **Effective Jun 2023**
- Changes to Better of Overall Test – The FWC has greater flexibility to consider the views of bargaining parties as to whether an agreement passes BOOT: **Effective Jun 2023**
- Enhanced Small Claims Process – Monetary cap increase from \$20 000 to \$100 000 and successful employees will be able to get any filing fees paid to the court back from the other party: **Effective Jul 2023**
- Cannot use fixed-term contracts that extend past two years for more than two consecutive contracts whichever is shorter: **Effective Dec 2023**
- Zombie Agreements and Work choices-era agreements end: **Effective 7 Dec 2023**

RECENT/UPCOMING:

The Worker Entitlements Act

- *Superannuation Entitlements:*
 - **As of 1 January 2024**, all employees are entitled to superannuation following amendments to the Act. These changes standardise superannuation entitlements, incorporating into the National Employment Standards the requirement to make superannuation contributions to employees (NES).
- *Authorised Employee Deductions*
 - **As of 30 December 2023**, employees only need to provide written authorisation once to approve reoccurring and varying deductions from their remuneration benefits.

The Closing Loopholes Act

- *Small Business Redundancy Exemption: **Effective 15 Dec 2023***
- *Rules For Labour Hire Workers Same Job Same Pay: **Effective 15 Dec 2023. Orders come into force from 1 Nov 2024***
- *Workplace Delegates' Rights: **Effective 15 Decr 2023***
 - To facilitate such communication, the Act requires that workplace delegates are provided:
 - a right to represent employees who are current and prospective members of the union;
 - reasonable access to the workplace and workplace facilities to conduct their duties as workplace delegates; and
 - Other than small business employers, reasonable access to paid time, during normal working hours to undertake training in relation to the role of a workplace delegate.
- **As of 1 Jul 2024**, modern awards will incorporate these new workplace rights for union delegates.
- **Following 1 Jul 2024**, enterprise agreements will be required to incorporate the same delegate rights stipulated in the modern awards.
- *Discrimination Protections: **As of 15 Dec 2023***, protections for employees experiencing family and domestic violence have been strengthened.

Changes to Workplace Health and Safety and Workers Compensation

- **As of 15 Dec 2023**, introduced the offence of industrial manslaughter and increased protections to first responders experiencing post-traumatic stress disorder.
Right of Entry – assisting health and safety representatives
- **As of 15 Dec 2023**, an amendment to the Act allows officials of a trade union or employee organisation to enter a workplace without a permit, if the purpose is to assist a health and safety representative of the workplace, and such assistance has been requested by the health and safety representative.
- *Criminalising Intentional Wage Underpayment*
 - **From 1 Jan 2025**, companies may be found guilty of intentional wage theft.

STILL UNDER DISCUSSION:

Fair Work Legislation Amendment (Closing Loopholes No. 2) Bills 2023

The part that remains in Bill form is known as the *Fair Work Legislation Amendment (Closing Loopholes No. 2) Bill* ("Second Bill").

As a precursor to this, the matters covered include:

- A new ordinary meaning of "employee" and "employer" – designed to change the current test for determining whether a person is an employee or independent contractor;
- New provisions to be introduced into the Act to protect GIG economy workers and road transport contractors;
- A new definition of a "casual employee" and protections for casual employees;
- Introduction of a new jurisdiction to challenge unfair contract terms for independent contractors; and
- Changes to enterprise agreement-making and the power of the Commission, in circumstances of intractable bargaining determinations.
- The right to "disconnect".

Updated on 03 March 2024. E&OE. List may not be exhaustive. Please contact us to discuss your particular circumstances.