



There are new workplace laws as part of the Closing Loopholes changes. Our timeline provides an overview of the changes. It will help you understand what the changes are and when they start. Find more detailed information at fairwork.gov.au/additional-closing-loopholes



Please note this is only a summary timeline of the Closing Loopholes changes.

For more detailed information, read our news article: [Closing Loopholes: Further Fair Work Act changes.](#)



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2023

15 December 2023

- ✓ New rules for labour hire workers
 - Employees, unions and host employers can now apply to the Fair Work Commission (the Commission) for certain new types of orders. When in effect, labour hire employees will need to be paid at least the same rate of pay they would be paid under the host employer's enterprise agreement (or other workplace instrument).
- ✓ Small business redundancy exemption
 - Employers that become a small business (those with less than 15 employees at a particular time) as a result of downsizing in the lead up to insolvency may still be required to pay their employees redundancy pay.
- ✓ New discrimination protections
 - There are stronger protections against discrimination for employees who are (or have been) experiencing family and domestic violence.
- ✓ Right of entry changes
 - Union officials are no longer required to hold a Fair Work Act (FW Act) entry permit to enter a workplace if they are assisting a work health and safety representative on request under a State or Territory OHS law.
- ✓ New workplace delegates' rights and protections
 - Workplace delegates have new rights and protections under the FW Act, including the right to represent the industrial interests of union members and potential members.
- ✓ Compulsory conciliation conferences changes in protected action ballot matters
 - There are new requirements that need to be met in respect to conciliation conferences in order for industrial action to be protected.
- ✓ Workplace health and safety and workers compensation changes
 - The functions of the Asbestos Safety and Eradication Agency are expanded to include silica.
 - The Comcare workers compensation claims process is streamlined for certain first responders who sustain post-traumatic stress disorder (PTSD).

2024

27 February 2024

- ✓ Civil penalties and serious contraventions
 - The maximum civil penalty for certain contraventions by companies who are not small businesses (those with 15 or more employees) increases to \$469,500, or \$4,695,000 for serious contraventions.
 - The maximum civil penalty for failing to comply with a compliance notice doubles for companies and individuals.
 - The threshold for what is considered to be a 'serious contravention' changes to one that is done either knowingly or recklessly.
- ✓ Changes to enterprise agreements and the bargaining process
 - Multiple employers who are franchisees of the same franchisor (or related bodies corporate of the same franchisor) can access the single-enterprise stream in the enterprise bargaining framework.
 - There are new rules allowing the transition from a single-interest employer agreement or supported bargaining agreement to a single-enterprise agreement.
 - Terms in an intractable bargaining determination made by the Commission can't be less favourable to employees (or employee organisations) than terms in the existing enterprise agreement that deal with the same matters.
- ✓ Sham contracting arrangements
 - The defence to misrepresenting employment as an independent contractor arrangement (known as 'sham contracting') changes from a test that the employer did not know and was not 'reckless' as to the type of contract, to one of 'reasonably believed' it was an independent contracting arrangement.
- ✓ Compliance notice measures
 - Clarification that compliance notices issued by the Fair Work Ombudsman can require an employer to calculate the amount of underpayment owed to an employee. A court can order an employer to comply, either in part or in full, with a compliance notice.
- ✓ Demergers of registered organisations
 - Changes made to the Fair Work (Registered Organisations) Act in 2020 will be repealed, restoring the requirement that demerger applications from amalgamated registered organisations be made 2 to 5 years after the amalgamations occurred.

1 July 2024

- ✓ Exemption certificates for suspected underpayments
 - Registered organisations (usually unions) will be able to apply for an exemption certificate from the Commission to waive the 24 hours' notice requirement for entry to investigate suspected underpayments. This applies where advance notice would interfere with the investigation.
- ✓ Workplace health and safety
 - The Commonwealth Work Health and Safety Act will be amended to introduce a new criminal offence for industrial manslaughter and significantly increase penalties for other offences.

26 August 2024

- ✓ Changes to casual employment
 - The existing definition of 'casual employee' in the FW Act will be replaced with a new one.
 - The new definition says that an employee is a casual only if:
 - > there isn't a firm advance commitment to continuing and indefinite work, factoring in the real substance, practical reality and true nature of the employment relationship
 - > the employee is entitled to be paid a casual loading or a specific pay rate for casuals.
 - A new pathway will be introduced for eligible employees to change to permanent employment if they want to, replacing the previous rules for casual conversion.
 - There will be new rules against:
 - > dismissing or threatening to dismiss employees to engage them as a casual
 - > making certain misrepresentations in relation to casual employment.
- ✓ Right to disconnect (for non-small business employers)
 - Eligible employees will have the 'right to disconnect' outside of work hours.
 - Employees will have the right to refuse to monitor, read or respond to contact (or attempted contact) from an employer or a third party, outside their working hours unless that refusal is unreasonable.
 - Rules will apply when determining whether an employee's refusal is unreasonable or not.

26 August 2024 or an earlier date set by the Australian Government

- ✓ Definition of employment
 - New definitions of 'employee' and 'employer' will be added into the FW Act, and some exceptions to the application of these definitions. When determining whether a worker is an employee or an independent contractor, consideration must be given to the:
 - > real substance, practical reality and true nature of the relationship
 - > whole relationship between the parties, including the terms of the contract and how the contract is performed in practice.
- ✓ Minimum standards for gig economy workers and the road transport industry
 - New protections will apply to certain 'employee-like workers' in the gig economy and contractors in the road transport industry. These workers are called 'regulated workers'.
 - The Commission can now set minimum standards for regulated workers.
 - Registered organisations (like a union) representing regulated workers will be able to make collective agreements with digital labour platform operators and road transport businesses.
 - The Commission will also be able to deal with disputes where a regulated worker thinks their services contract has been unfairly terminated, or that they have been unfairly deactivated from a digital platform.
 - Independent contractors who earn less than the contractor high income threshold (including regulated workers) will also be able to apply to the Commission if they think their services contract contains an unfair contract term.
 - A Digital Labour Platform Consultative Committee and a Road Transport Advisory Group will also be set up.
- ✓ Additional workplace delegates' rights
 - The rights and protections for workplace delegates under the FW Act will be expanded to include regulated workers (employee-like workers and regulated road transport contractors) who are workplace delegates.

1 November 2024

- ✓ Labour hire orders made by the Commission can come into effect

2025

No earlier than 1 January 2025

- ✓ Criminalising intentional wage underpayments
 - Intentional underpayments by employers will become a criminal offence.
 - A Voluntary Small Business Wage Compliance Code (Voluntary Code) will be established. Compliance with the Voluntary Code means a small business won't be criminally prosecuted if they underpay their employees.
- ✓ Further changes to civil penalties for wage underpayments
 - The maximum civil penalty for certain contraventions involving underpayments by companies who are not small businesses will be increased to the greater of 3 times the underpayment amount, or \$469,500. For serious contraventions, it will be 3 times the underpayment amount, or \$4,695,000.

26 February 2025 or an earlier date set by the Australian Government

- ✓ Enterprise agreement model terms
 - The Commission will be responsible for determining, varying and replacing model terms for enterprise agreements that deal with flexibility, consultation and dispute resolution.

26 August 2025

- ✓ The right to disconnect comes into effect for small business employers

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