

# ACTUS WORKPLACE LAWYERS

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## Update on the Government's upcoming IR reforms

The Federal Government is pursuing so many IR reforms this year, it is difficult to keep up. A summary is below.

### 1. First tranche

The [Fair Work Legislation Amendment \(Secure Jobs, Better Pay\) Act 2022](#) was passed by Parliament and received royal assent in December 2022. The main topics dealt with in the legislation can be found [here](#). Most of the enterprise bargaining changes will be operative from 6 June 2023.

### 2. Second tranche

The [Fair Work Legislation Amendment \(Protecting Working Entitlements\) Bill 2023](#) was introduced into Parliament on 29 March 2023. It is currently the subject of a Senate Committee inquiry that is required to report to Parliament by 28 April 2023.

The legislation would implement changes in the following six areas:

- Provide greater certainty about the work status of migrant workers by dealing with the interaction between the *Fair Work Act 2009* and the *Migration Act 1958*;
- Provide more flexible access to unpaid parental leave so that families can share work and care responsibilities, to complement recent changes to the *Paid Parental Leave Act 2010*;
- Insert an entitlement to superannuation in the National Employment Standards;
- Clarify the interaction rules between enterprise agreements and workplace determinations to ensure that when a workplace determination comes into effect the relevant enterprise agreement will no longer operate;
- Expand the circumstances in which employees can authorise employers to make valid deductions from payments due to employees, where the deductions are principally for the employee's benefit; and
- Ensure that casual employees working in the black coal mining industry are treated no less favourably than permanent employees in the accrual, reporting and payment of their long service leave entitlements under the Coal Mining Industry Long Service Leave Scheme.

### 3. Third tranche

The Federal Government is currently [consulting](#) about potential workplace relations changes in the following 11 areas, for implementation in the second half of 2023:

- Implement an objective test for the meaning of a 'casual employee';

- Implement the Government's 'same job, same pay' policy to require that labour hire employees are paid no less than directly engaged employees;
- Criminalise 'wage theft';
- Regulate 'employee like' forms of work, including gig work;
- Give independent contractors the right to challenge unfair contractual terms;
- Enable the Fair Work Commission to set minimum standards for contract road transport drivers;
- Provide stronger protections against discrimination, adverse action and harassment;
- Implement a single national framework for labour hire regulation in place of existing State and Territory schemes;
- Address the impact of the small business redundancy exemption on entitlements under the Fair Entitlements Guarantee;
- Enable the Fair Work Commission to issue model terms for enterprise agreements; and
- Repeal the 2020 amendments to the *Fair Work (Registered Organisations) Act 2009* which enable the withdrawal of a constituent part from an amalgamated organisation.

On 14 April, the Department of Employment and Workplace Relations released the following consultation papers, with submissions due by 12 May:

Consultation papers are now available for the following items on the above list:

- [Same Job, Same Pay](#)
- [Compliance and enforcement: Criminalising wage theft](#)
- [Extend the powers of the Fair Work Commission to include 'employee-like' forms of work](#)
- [Provide stronger protections against discrimination, adverse action and harassment](#)

For any strategic or operational assistance in preparing for or influencing the new laws, please contact Stephen Smith, Principal of Actus Workplace Lawyers on 0418 461 183 or Email: [stephen.smith@actuslawyers.com.au](mailto:stephen.smith@actuslawyers.com.au).