

ACTUS WORKPLACE LAWYERS

Insights into Current Workplace Relations Issues

Workplace bill is beyond repair

Industrial relations

Crossbench senators would be doing the Albanese government a great service if they block the flawed legislation, which is not going to end well for anyone other than militant unions.



Stephen Smith

There are so many problems with the government's industrial relations bill, it's difficult to know where to start. The

Building projects require a large number of specialised workers. It is impossible, of course, to construct a high-rise building without power, water or elevators. A large proportion of the specialised workers do not fall within the proposed exclusion for "general building and construction work".

The Electrical Trades Union, the Australian Workers Union, the Australian Manufacturing Workers Union and the like would be able to freely organise industrial action pursuing excessive outcomes and bring construction projects to a grinding halt.

This would only be avoided if contractors capitulated to the unions' demands, which are likely to be unreasonable given that the unions would have far more bargaining power. Capitulation would drive up the cost of vital community infrastructure like roads, hospitals and schools.

Some limited exclusions apply for small businesses, but they typically rely heavily on larger businesses as customers and suppliers. If larger businesses are shut down due to industrial action, it would be naïve to believe that small businesses will not be affected.

The bill is a recipe for uncertainty, risk, poor productivity and less competitive Australian businesses. The unions' argument that productivity will be boosted if employers are unable to compete on employment terms and conditions is complete nonsense.

The award system stops businesses paying less than a fair and relevant safety net of wages and conditions. Beyond that, the workplace relations system should encourage employers, employees and their representatives to search for win-win outcomes at the enterprise level that would deliver flexibility and innovation for businesses and their employees.

The bill is like a colander. Every time the

15 December 2022

Wishing you all a very Happy Christmas and New Year, and a relaxing break.

2023 is set to be a challenging year for workplace relations in Australia. Please get in touch if there are any services or support that Actus Workplace Lawyers can provide to assist your business to maintain a productive and harmonious workplace relations environment.

Government's IR Bill passed with numerous amendments

On 2 December 2022, the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022* (Cth) was passed by Parliament with numerous amendments. Despite the amendments to the Bill, the new multi-enterprise bargaining laws are set to be very problematic for businesses. Some provisions in the legislation operate from 7 December 2022, but many of the provisions will be operative from various dates next year.

Most of the enterprise bargaining changes are operative from a date to be proclaimed by the Government or from 6 June 2023, whichever is earlier. It appears likely that the Government will proclaim an earlier operative date, rather than waiting for the provisions to become operative on 6 June 2023.

[Read more](#)

Workplace bill is beyond repair

In an opinion piece published in the *Australian Financial Review* on 29 November, Stephen Smith, Principal of Actus Workplace Lawyers, argued that the Government's IR Bill was like a colander. Every time the Government tried to plug holes with amendments, the problems just poured out somewhere else. [Read more](#)

New bargaining laws – A guide for employers

Actus Workplace Lawyers has prepared a handy 30-page digital *Guide to Bargaining under the Secure Jobs, Better Pay Amendments*. The Guide outlines the agreement-making requirements and related considerations for each of the following types of agreements, following the Secure Jobs, Better Pay Amendments:

- Single-enterprise agreements;
- Single interest employer agreements;
- Supported bargaining agreements;
- Cooperative workplace agreements.

The Guide also deals with industrial action, the powers of the Fair Work Commission to arbitrate 'protracted bargaining disputes' and the termination of enterprise agreements. The Amendments will result in significant changes in each of these areas.

A digital copy can be ordered and immediately downloaded [here](#).

Employers with expired EAs should consider whether to renew them before being roped-in to multi-enterprise agreements

Employers with 20 or more employees will be very exposed to being roped-in to multi-enterprise agreements once the new bargaining laws come into operation. Thousands of employers are currently covered by enterprise agreements which have passed the nominal expiry date. These employers should give serious consideration to renewing their agreements without delay before losing control over the wage rates and employment conditions which apply to their employees. Once an employer is covered by a multi-enterprise agreement, it will be extremely difficult to return to bargaining at the single-enterprise level in the future, given the way that the new bargaining laws operate. Actus Workplace Lawyers can provide whatever assistance employers may require.

Manufacturing industry enterprise agreement wage increases are still moderate

The fortnightly enterprise agreement statistical reports issued by the Fair Work Commission (FWC) show that average annualised wage increases (AAWI) in manufacturing industry agreements are still moderate and well below inflation. The AAWI for manufacturing industry agreements in the latest report was 3.4 per cent. 50% of these agreements included a higher wage increase on commencement than the other increases in the agreement. [Read more](#)

The Federal Government is developing its second tranche of IR amendments

The Federal Government is currently developing a second tranche of industrial relations amendments for implementation next year, including:

- More restrictions on casual employment;
- Gig work reforms;
- The implementation of Labor's 'same job, same pay' policy; and
- 'Wage theft' laws.

[Read more](#)

Trade union membership falls to an all-time low

Every two years the ABS releases its statistics on the level of union membership in Australia. Its latest report, released on 14 December 2022, shows that union membership has fallen to an all-time low of 12.5% – a 1.8% fall in the past two years. [Read more](#)

Should you wish to discuss any of the issues in this report or require any legal advice or assistance, please contact Stephen Smith, Principal of Actus Workplace Lawyers at stephen.smith@actuslawyers.com.au. If any other members of your staff would like to receive this regular report, please advise of the details through this link: <https://actuslawyers.com.au/contact-us>

Website: www.actuslawyers.com.au

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