

ACTUS WORKPLACE LAWYERS

29 February 2024

Operative dates of 'Closing Loopholes' changes to the Fair Work Act

So many amendments are being made to the Fair Work Act, due to the Government's Closing Loopholes Act and Closing Loopholes (No 2) Act, it is difficult for employers to keep up.

Here are the operative dates of various key amendments:

Operative from 15 December 2023:

- Applications can be made to the Fair Work Commission (FWC) for a **regulated labour hire arrangements order**. (However, any obligations on an employer to pay a regulated employee at the 'protected rate of pay' does not apply until at least 1 November 2024).
- New rights for **workplace delegates**.

Operative from 27 February 2024:

- Higher **civil penalties for underpayments**, including penalties of up to \$4,695,000 for a breach of the Act.
- Amendments to the **sham arrangements** provisions, to narrow the defences for employers.
- Amendments to the **intractable bargaining provisions** to prevent the FWC from making a determination that reduces any of the entitlements in a previous enterprise agreement (other than agreed terms and terms that provide for a wage increase).

Operative from 30 June 2024:

- All modern awards must contain a **delegates' rights term**.

Operative from 1 July 2024:

- Enterprise agreements that are approved on or after this date must contain a **delegates' rights term**.
- **Expanded union entry rights** where underpayments are suspected.

Operative from 26 August 2024:

- Changes to the definition of a **'casual employee'** and changes to the rights of casuals to convert to full-time or part-time employment.
- New **right to disconnect**. (12 months later for small business employers).

Operative from a date to be fixed by proclamation or 26 August 2024 if no date is proclaimed:

- New rights and entitlements for **'employee like' workers**, including gig workers.
- New rights and entitlements for **contractors in the road transport industry**.
- Changes to the definitions of an **'employee'** and an **'independent contractor'**.

Operative from 1 November 2024

- **Regulated labour hire arrangements orders** can require that an employer pay a regulated employee at the 'protected rate of pay'.

Operative from 1 January 2025:

- **Criminalising wage theft**, including penalties of up to 10 years' imprisonment.

Operative from 26 February 2025:

- New **model terms** relating to enterprise agreement flexibility, consultation and dispute settlement.

For further advice or assistance with any of the legislative changes, please contact **Stephen Smith**, Principal of Actus Workplace Lawyers on 0418 461 183 or Email: stephen.smith@actuslawyers.com.au