

# KEY CHANGES TO AUSTRALIAN EMPLOYMENT LAW IN 2022

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# FWC MINIMUM WAGE INCREASE

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- On 15 June 2022, the FWC handed down its Annual Wage Review and National Minimum Wage Order increasing the federal minimum wage to \$21.38 per hour or \$812.60 per week ie. 5.2% increase or \$40 per week
- For employees covered by Modern Awards, we saw wage increases for majority of awards take effect on the first full pay period on or after 1 July 2022; with remaining tourism and hospitality awards taking effect on the first full pay period on or after 1 October 2022
- Modern Award wages where the weekly rate is
  - Above \$869.60 were increased by 4.6%
  - Below \$869.60 were increased by \$40



# HIGH INCOME THRESHOLD INCREASED

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- FWC increased the high income threshold to \$162,000 on 1 July 2022 (up from \$158,500)
- Earnings that contribute towards the high income threshold include wages, non-monetary benefits (eg. use of work related vehicle or mobile phone for personal use) fringe benefits and salary sacrifice arrangements, but not super. Some other types of payments may be excluded from the calculation, such as bonuses or commissions
- Unfair dismissal payouts capped at 50% of high income threshold





# CHANGES TO SUPERANNUATION

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- From 1 July 2022 the superannuation guarantee increased from 10% to 10.5%
- Super guarantee will continue to increase by 0.5% on the 1<sup>st</sup> of July each year until it reaches 12% in 2025
- From 1 July 2022 the \$450 per month threshold for super guarantee eligibility was removed
- FWC is currently reviewing and proposes to vary superannuation clauses in modern awards to reflect current superannuation requirements

<https://www.fwc.gov.au/agreements-awards/awards/create-or-change-award/applications-change-award/modern-awards>

# FAMILY & DOMESTIC VIOLENCE LEAVE

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- Fair Work Amendment (Paid Family and Domestic Violence Leave) Bill 2022 received royal assent on 9 November 2022 and amends the NES
- FDVL will change from 5 unpaid days to 10 paid days leave for all staff ie. full time, part time and casual. New paid entitlement takes effect on:
  - 1 February for other businesses ie. businesses that employ 15 or more employees
  - 1 August for small businesses ie. businesses that employ 14 or less employees
- Employees can take the leave if they need to do something to deal with the impact of family and domestic violence and it's impractical to do so outside their ordinary hours of work. Employer can ask for documentary evidence to support absence.



# ENHANCED PAID PARENTAL LEAVE SCHEME

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- From 1 July 2023, Parental Leave Pay and Dad and Partner Pay will be combined into a single 20 week payment rather than 18 weeks + 2 weeks respectively
- From 1 July 2024, PLP will increase by 2 weeks each year. This is until 1 July 2026 when it will reach 26 weeks
- New household income threshold of \$350,000 instead of current personal income test
- Eligible working parents will be able to share the PLP payments between them as they like

# LABOR GOVERNMENT'S NEW PROPOSED IR LAWS

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- Labor government introduced Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022. The Bill seeks to create job security, fair pay, and gender equality.

## **What are the proposed changes?**

1. *Objects of the Fair Work Act* | Include job security & gender equity
2. *Prohibiting pay secrecy* | Create a new positive right for employees, regardless of any contractual term allowing them to disclose information about their remuneration.



# LABOR GOVERNMENT'S NEW PROPOSED IR LAWS CONT...

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3. *Prohibiting sexual harassment at work* | Amendments will introduce broader protections against sexual harassment for all workers, including candidates. Express prohibition to protect staff from hostile workplace environments create a positive duty on employers who must take reasonable & proportionate measures to eliminate sex discrimination, sexual harassment, and victimization in the workplace.
4. *Flexible working arrangements* | The Bill seeks to amend the flexible working arrangements by requiring employer to make “genuine efforts” to identify alternate working arrangements, where a request cannot be accommodated. Where a dispute arises between the parties, a dispute resolution process, including conciliation must be followed and matter can be referred to FWC for a binding decision to be made.



# LABOR GOVERNMENT'S NEW PROPOSED IR LAWS CONT...

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5. *Fixed term contracts* | The Bill will prohibit an employer to engage an employee on a fixed term arrangement on a period of 2 or more years, or on a contract that may be extended more than once. If the fixed term contract exceeds the limitation period, employees may have entitlements to claim permanent ongoing employment.
6. *Industry bargaining* | The Bill will allow multi-employer enterprise bargaining.
7. *Better Off Overall Test* | The amendments propose that the BOOT is applied flexibly as a global assessment rather than a line by line comparison between the agreement and modern award. This amendment is an attempt to restore the intended operation of the BOOT.



# LABOR GOVERNMENT'S NEW PROPOSED IR LAWS CONT...

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8. *Small Claims & Unpaid Wages* | the small claims procedure in the court system will be expanded to cover claims up to \$100,000 plus interest. The current limit is \$20,000. The amendments will also permit the FWC to hear small claims instead of the matter being heard in Federal Court.
9. *Advertising jobs* | The Bill proposes penalties on employers if they advertise jobs at rates of pay that are less than what the applicable award provides or the national minimum wage if the position is award free.



# QUESTIONS & CONTACT DETAILS

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