

Change	Effective	Summary of Change	Implication for Employers	Fair Work Act as Amended
Small Business Redundancy Exemption	15 December 2023	<p>Large businesses who have downsized their workforce due to bankruptcy or liquidation to become a small business will no longer have a redundancy exemption.</p> <p>Employees terminated due to the insolvency of their employer will retain their entitlement to redundancy pay if their employer was not a small business prior to insolvency.</p>	<p>Employers will need to factor these changes into account if they are affecting redundancy of certain employees at a later stage in the insolvency process.</p> <p>This change will not affect viable small business with less than 15 employees who can still claim the small business redundancy exemption.</p>	section 121
New Discrimination Protections	15 December 2023	<p>There are new and stronger protections against discrimination for employees experiencing family and domestic violence.</p> <p>It is now unlawful for an employer to take adverse action (such as dismissal, changing an employee's job to their disadvantage or treating an employee differently to others) because the employee is, or was, experiencing family or domestic violence.</p>	<p>Employers should review policies, safety plans and procedures to support employees experiencing family and domestic violence. Fair Work has prepared a guide for small businesses to best support their workplace.</p>	sections: 351(1), 789HD
Closing the labour hire loophole	15 December 2023	<p>Labour hire employees will be entitled to be paid at least what they would receive if they had been hired by the host employer.</p> <p>From 1 November 2024, the Fair Work Commission (<b>FWC</b>) will have the power to</p>	<p>Employers should review agreements with labour hire workers and consider their purpose if they have an enterprise agreement which would ordinarily cover these workers.</p>	sections: Part 2-7A

		<p>make an order to ensure labour hire workers are paid at least the minimum rates in the host business's enterprise agreement (excluding specialised or expert services) provided its fair and reasonable to do so.</p> <p>This does not apply to small businesses or where employees are working for a host business under a training arrangement.</p>	<p>Host employers also need to be aware of their obligations around providing information to employees when requested.</p>	
Workplace delegates' rights	<p>15 December 2023</p> <p>and</p> <p>1 July 2024</p>	<p>Delegates will be allowed to have reasonable access to communicate with members and potential members about industrial concerns, and reasonable access to workplace facilities.</p> <p>As of 1 July 2024, every modern award must include a clause setting out the rights and protection of delegates (such as a Union) covered by the Award.</p>	<p>Employers should familiarise themselves with the new rights of workplace delegates and also update any internal policies and procedures. Employers will also need to be aware of the updated rights of Delegates to be included in any enterprise agreements voted on after 1 July 2024.</p>	<p>sections: 149E, 205A, 350A, 350C</p>
Exemption certificates for suspected underpayment	<p>1 July 2024</p>	<p>A union no longer has to give 24 hours' notice for right of entry to a workplace if it concerns the underpayment of wages. The union will only have to obtain an exemption certificate from the FWC.</p> <p>The FWC can issue an exemption certificate if it reasonably believes that advance notice of the entry given by an entry notice might result in the destruction, concealment or alteration</p>	<p>Employers should review their right of entry policies to ensure they do not inadvertently breach this exemption.</p>	<p>sections: 519(1)(b)</p>

		of evidence and hinder an effective investigation.		
Right to Disconnect	27 August 2024  (27 August 2025 for small businesses)	<p>Employees can refuse to monitor, read or respond to contact, or attempted contact, from their employer or third party outside of their usual work hours, unless their refusal is unreasonable.</p> <p>Whether a refusal is unreasonable will take into consideration, for example:</p> <ul style="list-style-type: none"> <li>• Reason for the contact;</li> <li>• How the contact is made</li> <li>• Disruption the contact causes the employee;</li> <li>• Compensation for additional hours;</li> <li>• Employees role and level of responsibility; and</li> <li>• Employees personal circumstances.</li> </ul>	<p>Employers should:</p> <ul style="list-style-type: none"> <li>• Consider the prevalence of out of hours contact occurring.</li> <li>• Review employment contracts and consider any clauses for remuneration for out of office contact.</li> <li>• Ensure supervising staff are trained on the new legislative amendments and implement policy if necessary.</li> </ul>	sections: 333M-333W
Casual Employees	27 August 2024	<p>New definition of casual employee.</p> <p>The casual relationship is characterised by having no firm advance commitment to continuing and indefinite work, factoring in the real substance, practical reality and true nature of the relationship and is receiving casual loading or a rate of pay for casual employees.</p> <p>A casual employee who has worked more than 6 months (or 12 months with a small business</p>	<p>Employers should review all casual employees terms and their working arrangements and length of employment.</p> <p>Employers also need to familiarise themselves with the statutory requirements for responding to a request given by a casual employee to change their employment status</p>	sections: 15A, 66AAB

		employer) with a regular pattern of hours must now be offered and can still request to be a full time or part time employee.		
Definition of Employment	27 August 2024 (or a date by proclamation)	<p>The meaning of employment is to be determined by the “real substance, practical reality and true nature of the relationship between the individual and the person” which involves a multifactorial test that goes beyond the terms of the contract.</p> <p>What is being proposed returns to the multifactorial assessment as was the case prior to the High Court decisions in <i>Personnel Contracting</i> and <i>Jamsek</i> which gave primacy to terms of the written contract when determining whether an individual was an employee or contractor.</p>	Employers should review contract arrangements with contractors and employees and consider how they operate in practice.	sections: 15AA
Gig Economy	27 August 2024 (or a date by proclamation)	<p>The FWC now has the power to set employee-like standards for digital platform work. The standards include for example, minimum pay and insurance.</p> <p>A minimum standards order may be made by the FWC on its own initiative or by an organisation who represents a worker.</p>	If a minimum standards order is enforced by the FWC, the Commission will govern the relationship between a business and their digital ‘employees’.	sections: 15L-15P

<p>Collective Agreements for Regulated Workers</p>	<p>27 August 2024 (or a date by proclamation)</p>	<p>A collective agreement may be made between a regulated business (specifically a digital labour platform operator or a road transport business) and an organisation entitled to represent the industrial interests of one or more employee-like workers, in respect of:</p> <ul style="list-style-type: none"> <li>• the terms and conditions on which regulated workers covered by the collective agreement perform work; and</li> <li>• how the collective agreement will operate.</li> </ul> <p>The Act sets out what is to be included in such agreements, including:</p> <ul style="list-style-type: none"> <li>• Consultation notice;</li> <li>• making reasonable efforts to give notice to regulated workers;</li> <li>• applying to the FWC to deal with disputes when making an agreement;</li> <li>• requesting that a negotiating entity sign a proposed collective agreement;</li> <li>• registration by the FWC; and</li> <li>• Variation and termination of registered collective agreements.</li> </ul>	<p>If a collective agreement is registered with the FWC, the Commission will formally govern the relationship between these regulated businesses and their workers.</p>	<p>sections: 536MH-536MX</p>
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Road Transport Workers	27 August 2024 (or a date by proclamation)	<p>The Act established a ‘Road Transport Advisory Group’ to advise the FWC in relation to modern awards, minimum standards, contractual chain guidelines and others.</p> <p>The group includes an Expert Panel to advise on minimum standard safety nets for all workers and employees in the road transport industry.</p>	<p>This new oversight by the Road Transport Advisory Group, separate to the Commission, will advise the Commission to improve matters that relate to the road transport industry.</p> <p>The FWC will shortly publish an Implementation Report and consultation on proposed procedural matters.</p>	sections: 40C-40G, 239-248
Wage theft	1 January 2025	<p>Employers will commit an offence if:</p> <ul style="list-style-type: none"> <li>• they are required to pay an amount to an employee under the Fair Work Act, or an industrial instrument; and</li> <li>• they <b>intentionally</b> engage in conduct that results in failure to pay those amounts to or for the employee on or before the day they are due to be paid.</li> </ul> <p>The offences carry substantial financial penalties and up to 10 years imprisonment for individuals.</p>	Employers should not adopt a “set and forget” practice when considering employee entitlements. Staying well informed ahead of time will ensure compliance with the <i>Fair Work Act</i> , industry agreements and enterprise agreements.	sections: 327A-327C

<p>Model Terms in Enterprise Agreements</p>	<p>26 February 2025 (or a date by proclamation)</p>	<p>A determination of any of the model terms must be made by a Full Bench:</p> <ul style="list-style-type: none"> <li>• Flexibility term (section 202(5)),</li> <li>• Consultation term (section 205(3)), and</li> <li>• Term for dealing with disputes (section 737).</li> </ul> <p>The FWC must determine a model term for dealing with disputes for enterprise agreements.</p>	<p>This amendment transfers this responsibility from the Minister for Employment to the FWC.</p> <p>In determining the model term the FWC must ensure that the model terms of consistent with the requirements set out on 186(6); and take into account, for example, the following matters: best practice workplace relations and any views provided by the stakeholders.</p>	<p>sections: 202, 205, 737</p>
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