

# THE AUSTRALIAN GOVERNMENT TABLES SECURE JOBS, BETTER PAY BILL 2022: WHAT IT MEANS FOR YOUR BUSINESS

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Legal Briefings

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The Australian Federal Government is pushing ahead with the most extensive industrial relations reform seen since the introduction of the Fair Work Act some 13 years ago, commencing with the tabling of the Secure Jobs, Better Pay Bill in the House of Representatives on 27 October 2022.

While further industrial relations reform (such as on 'same job, same pay', among other topics) is expected to follow next year, the reforms tabled are significant and will substantively impact how Australian employers structure and manage their workforces and set terms and conditions of employment.

[Download our full summary here](#)

## SUMMARY

In summary, the key changes relate to:

- **agreements covering multiple employers** – employers can be forced to bargain for agreements that cover multiple employers as the FWC can make a supported bargaining authorisation and a single interest employer authorisation. Employees are able to take protected industrial action or seek bargaining orders in support of these agreements and there are limits on employers'/employees' ability to remove themselves as parties to single interest employer agreements or multi-enterprise agreements;

- **bargaining disputes** – broader powers for the FWC to intervene and make workplace determinations (effectively arbitrating an enterprise agreement) where bargaining is ‘intractable’;
- **industrial action** – 3 month limits on employee claim and employer response action after the protected action ballot results are declared, and the removal of limitations on protected industrial action in relation to multi-enterprise agreements;
- **terminating agreements** – materially reduced scope for termination of enterprise agreements, particularly during bargaining, and the sunseting of ‘zombie’ agreements within 12 months of commencement (unless an extension is granted);
- **enterprise agreement approval process (BOOT and pre-approval requirements)** – bargaining can start when an employee bargaining representative gives notice in certain circumstances (and without a MSD), certain pre-approval requirements have been removed, the ‘genuinely agreed’ test remains, there are limits on the use of start-up enterprise agreements (the voting employees must have a sufficient interest in its terms, and must be representative of the employees to be covered), the BOOT has been simplified and must involve a global (not line by line) assessment, the FWC can amend an enterprise agreement during the approval process rather than relying on employer undertakings, and parties may apply for a reassessment of the BOOT during the life of the enterprise agreement, e.g. if employees’ work patterns change;
- **pay equity** – expanded scope for the FWC to make Equal Remuneration Orders, prohibitions on and invalidation of pay secrecy clauses in employment contracts with penalties for non-compliance, the establishment of two new expert panels within the FWC on pay equity and the care and community sector, to tackle low pay in female dominated industries;
- **Respect @ Work** – introduction of a positive duty to prevent sexual harassment in the workplace;
- **discrimination** – minor amendments to the anti-discrimination provisions in the FW Act to reflect other Commonwealth anti-discrimination legislation. These include adding protected attributes (breast feeding, gender identity, intersex status), and clarifying the operation of special measures to achieve equality;
- **fixed term contracts** – prohibitions on fixed term contracts of more than two years, with anti-avoidance provisions and exceptions for certain roles, industries, and uses of fixed term contracts;
- **flexible work requests** – expanded scope for employees to request flexible work arrangements, including a requirement for businesses to give reasons for any refusal of a flexible working request, and limits on reasons for refusing a request;
- **the objects of the FW Act** – these have been expanded to include promotion of job security and gender equity;

- **abolishing the Australian Building and Construction Commission** – the ABCC would be abolished, with its industrial functions assumed by the Fair Work Ombudsman;
- **abolishing the Registered Organisations Commission** – the ROC would be abolished, with its functions transferred to the FWC; and
- **other matters** – there are a range of other discrete amendments, including prohibitions on advertising roles at less than the applicable minimum rate of pay, an expansion of the small claims proceedings division in the FW Act from \$20,000 to \$100,000, and certain other changes.

[Download our full summary here](#)

## NEXT STEPS?

The Government has indicated a willingness to amend the proposed reforms on the basis of further consultation. The Bill will be subject to further political debate and possible changes as the Government will be required to seek the support of crossbench Senators.

We will provide updates of any major changes to the Bill and will provide additional insight and analysis once the Bill passes the Senate.

Over the course of the last few months, we have been keeping a close eye on industrial relations reform. Some of our insights can be found on our [Australian Industrial Relations and Workplace Reform Hub](#), or on our dedicated industrial relations video podcast, [InsideIR](#).

## KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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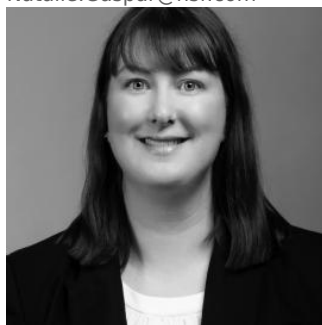
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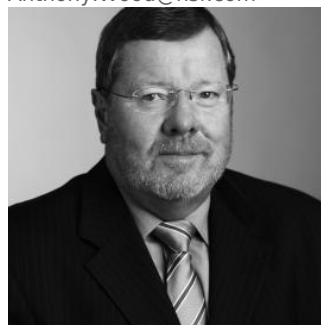
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