

Closing Loopholes Bill

The *Closing Loopholes No. 2 Bill* proposes significant changes to the *Fair Work Act 2009*, including redefining the terms employee and employer, casual employment, and the right to convert to permanent employment. The bill also proposes minimum standards, dispute resolution, and independent contractor protections, along with a right of entry for suspected underpayments and increased maximum penalties for underpayments. It also introduces a new statutory right to disconnect outside of work hours.



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DEFINITION OF 'EMPLOYEE' AND 'EMPLOYER'

A new 'ordinary meaning' definition of 'employee' and 'employer' determined by the real substance, practical reality and true nature of the relationship between the individual and the person.



CHANGES TO THE DEFINITION OF CASUAL EMPLOYMENT

A 'general rule' is introduced that defines a casual employee through the application of this criteria: the employment relationship is characterised by an absence of a firm advance commitment to continuing and indefinite work; and the employee would be entitled to casual loading under the fair work instrument or contract of employment.



IMPROVED PROTECTIONS FOR EMPLOYEES EXPERIENCING FAMILY OR DOMESTIC VIOLENCE AGAINST WORKPLACE DISCRIMINATION

Employees who have been 'subjected to family or domestic violence' will now be considered an additional class of employees who gain stronger protections against workplace discrimination.



SMALL BUSINESS REDUNDANCY EXEMPTION

New definitions that apply to exempt small business to redundancy when a small business employer becomes insolvent, bankrupt or wound up.



ENTERPRISE BARGAINING RELATED CHANGES

The Fair Work Commission enabled to determine model terms for enterprise agreements and changes to interaction rules between single-enterprise agreements and multi-enterprise agreements.



WORKPLACE HEALTH AND SAFETY

Increased focus on silica related diseases and new definitions of 'silica safety', introduction of a Commonwealth industrial manslaughter offence, with penalties increased to up to 25 years imprisonment for an individual and fines of 18,000,000 for a body corporate.



IMPROVED ACCESS TO WORKERS COMPENSATION FOR FIRST RESPONDERS

First responders suffering from PTSD will now no longer have to prove that their job significantly contributed to the condition to claim compensation.



ENHANCED FOCUS ON SHAM CONTRACTING ARRANGEMENTS

An amendment to the defence for employers who at the time a contract was made reasonably believed that the contract was a contract for services.



SAME JOB, SAME PAY FOR LABOUR HIRE WORKERS

Applications will now be able to be made to the *Fair Work Commission* requiring the 'regulated host' who engages labour hire workers to pay the same rate of pay to labour hire workers as other employees who perform the same job.



WAGE-THEFT PROTECTIONS AND PENALTIES

The introduction of criminal offences for certain types of underpayments and enabling more immediate right of entry for unions involved in underpayment cases.