



Secure Jobs Better Pay Overview

Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022

Act Part	Topic	Change	Commencement Date	Recommendations
6	<i>Expert Panels Fair Work Commission</i>	<ul style="list-style-type: none"> Expert panels relating to pay equity and the care and community sector will be established. 	6 March 2023 or earlier date by proclamation.	No recommendation.
7	<i>Pay Secrecy</i>	<ul style="list-style-type: none"> Pay secrecy clauses in contracts no longer have effect. Employees and potential employees permitted to ask others about their pay. 	7 December 2022	<p>Small Business</p> <ul style="list-style-type: none"> Review contracts for pay secrecy clauses. Don't take action against employees who discuss pay. <p>Large Business</p> <ul style="list-style-type: none"> Review contracts for pay secrecy clauses. Provide information to leadership teams. Review and update disciplinary or other policies that may refer to pay secrecy.
8	<i>Sexual Harassment</i>	<ul style="list-style-type: none"> Prohibitions against sexual harassment in connection with work. 	6 March 2023	<p>All Businesses</p> <ul style="list-style-type: none"> Ensure a sexual harassment policy is in place. Provide training on obligations regarding sexual harassment in the workplace. Understand vicarious liability applies – employer can be held responsible for actions of employees. <p>Large Business</p> <ul style="list-style-type: none"> Review delegation for applications made to the Fair Work Commission to stop sexual harassment.
9	<i>Anti-Discrimination</i>	<ul style="list-style-type: none"> Breastfeeding, intersex status and gender identity are now 	7 December 2022	All Businesses

	<i>n and Special Measures</i>	<p>protected by anti-discrimination provisions in the Fair Work Act.</p> <ul style="list-style-type: none"> Special measures provisions in enterprise agreements which seek to achieve equality will not be discriminatory or unlawful terms. Cease to be a special measure once substantive equality has been achieved. 		<ul style="list-style-type: none"> Update policies to ensure the protected attributes are covered with respect to discrimination. Organisations who seek to introduce special measures into enterprise agreements may now be able to do so.
10	<i>Fixed Term Contracts</i>	<ul style="list-style-type: none"> Limits to fixed term contracts for 2 year period. Some exceptions do apply including funded roles. 	<p>6 December 2023 or earlier by proclamation.</p> <p>*Proclamation is future government decision to be released by gazette.</p>	<p>Small and Large Business</p> <ul style="list-style-type: none"> Review contracts. Seek advice as to whether exceptions apply. Determine which employees are on fixed term contracts, the basis for the fixed term, period of fixed term and expiry of fixed term. Once proclamation occurs, commence new contracts and provide information to leadership teams.
11	<i>Flexible Work</i>	<ul style="list-style-type: none"> Requirement for written responses to requests within 21 days. Refusal can only be on reasonable business grounds. Reason for refusal must be explained. 	<p>6 June 2023</p>	<p>Small Business</p> <ul style="list-style-type: none"> Familiarise yourself with the changes. Give regard to the provisions and seek advice where employee makes a flexible work request. Consider amendments to Enterprise Agreements. <p>Large Business</p> <ul style="list-style-type: none"> Review contracts. Provide information to leadership teams.

		<ul style="list-style-type: none"> FWC has arbitration powers where disputes cannot be resolved at workplace level. 		<ul style="list-style-type: none"> Develop flexible work policy. Determine delegation of authority for arbitration matters. Consider amendments to Enterprise Agreements.
13	<i>Sunsetting of zombie agreements</i>	<ul style="list-style-type: none"> Applies to agreements made before 1 July 2009, Division 2B state instruments and enterprise agreements made between 1 July 2009 and 31 December 2009. Employers have 6 months to provide employees notice to employees where they are covered by an instrument and the instrument will terminate before 7 December 2023. Instruments will automatically terminate at the end of a 12 month grace period. Applications can be made to extend 12 month default period for up to 4 years. 	7 December 2022	<p>All Businesses</p> <ul style="list-style-type: none"> Check whether previous agreements have been superseded or terminated. Where an agreement made to the end of the bridging period is operating, provide a letter to employees by 7 June 2023. Determine whether the business will seek to bargain and consider whether an extension on the default period is needed.
15	<i>Changes to initiating bargaining</i>	<ul style="list-style-type: none"> Process for initiating bargaining will only require a request be made in writing to the employer where a proposed single-enterprise agreement will replace an existing agreement as long as no more than 5 years has passed 	7 December 2022	<p>All Businesses</p> <ul style="list-style-type: none"> Ensuring general awareness that employees or unions may put requests in writing to bargain. Where bargain initiations are made, all details of the provisions in the Act should be checked to ensure further requirements are not needed.

		since nominal expiry date and the agreement proposes to cover substantially the same employees.		
16	<i>Changes to BOOT provisions</i>	<ul style="list-style-type: none"> Better Off Overall Testing will now be simplified, with a global assessment applied which gives regard to the patterns of work reasonably foreseeable at the time. 	Date fixed by proclamation or 6 June 2023	All Businesses Ensure proposed agreements reflect the actual patterns of work employees are performing at the time of the BOOT.
17	<i>Fair Work Commission dealing with errors in enterprise agreements</i>	<ul style="list-style-type: none"> The Fair Work Commission now has the ability to correct obvious errors and defects in enterprise agreements at its own initiative or on application. The Fair Work Commission can validate approval decisions where an incorrect version of an enterprise agreement has been approved. 	7 December 2022	All Businesses Where errors are identified in enterprise agreements (including incorrect document version lodged with the Fair Work Commission for approval), application can be made to fix those errors.
18	<i>Changes to bargaining disputes</i>	<ul style="list-style-type: none"> Where the Fair Work Commission considers there is no reasonable prospect of agreement being reached by bargaining parties after the minimum bargaining period, the Fair Work Commission can make an intractable 	Date fixed by proclamation or 6 June 2023	All Businesses <ul style="list-style-type: none"> All businesses should be aware the Fair Work Commission arbitration powers can result in terms of an enterprise agreement being decided for them. Engaging experienced bargaining consultants is advisable.

		bargaining declaration resulting in unresolved matters being resolved at arbitration.		
19	<i>Changes to industrial action</i>	<ul style="list-style-type: none"> ▪ The Fair Work Commission can make an order directing bargaining representatives to attend mediation in relation to a proposed agreement. ▪ Where applications are received for protected action ballot on multi-enterprise agreements, the Fair Work Commission will deal with applications separately. 	Date fixed by proclamation or 6 June 2023	<p>All Businesses All businesses should familiarise themselves with the changes to industrial action where there industrial action is apparent.</p> <p>Large Businesses Determine delegation of authority for attendance at relevant mediation.</p>
20	<i>Supported bargaining</i>	<ul style="list-style-type: none"> ▪ A supported bargaining agreement may cover more than one employer where covered by a supported bargaining authorisation. ▪ A supported bargaining authorisation can be issued by the Fair Work Commission. ▪ The Fair Work Commission will need to be satisfied it is appropriate for the bargaining to occur. 	Date fixed by proclamation or 6 June 2023	<p>All Businesses</p> <ul style="list-style-type: none"> ▪ These provisions are intended to support employees and employers who might otherwise have difficulty bargaining. ▪ Businesses will need to ensure they do not seek to engage in bargaining for another type of agreement while covered by a supported bargaining authorisation.

21	<i>Single interest employer authorisations</i>	<ul style="list-style-type: none"> A single interest agreement may cover more than one employer where they are covered by a single interest employer authorisation. 	Date fixed by proclamation or 6 June 2023	<p>All Businesses</p> <p>These agreements will apply to franchisees of the same franchisor, related bodies corporate of the same franchisor and consideration of regulatory regimes and geographical location may be considered.</p>
22	<i>Varying enterprise agreements to remove employer and employee</i>	<ul style="list-style-type: none"> Multi-enterprise agreements can be varied to remove employers and employees on application and approval by the Fair Work Commission. 	Date fixed by proclamation or 6 June 2023	<p>All Businesses</p> <p>This process will require ballot or electronic vote to show majority support of employees.</p>
23	<i>Cooperative workplaces</i>	<ul style="list-style-type: none"> A cooperative workplace agreement can cover more than one employer but is not a supported bargaining agreement. Some employees will need to be covered by a union. 	Date fixed by proclamation or 6 June 2023	<p>All Businesses</p> <ul style="list-style-type: none"> Terms should be understood to ensure the difference between the multi-enterprise agreement options in the Act. A cooperative workplace agreement is made without a supported bargaining or single interest employer authorisation.
23A	<i>Excluded work</i>	<ul style="list-style-type: none"> The Fair Work Commission will not approve multi-enterprise agreements which cover building and construction work. 	Date fixed by proclamation or 6 June 2023	<p>All Businesses</p> <p>This will only impact businesses who perform general building and construction work.</p>
25	<i>Prohibition of incorrect rates on advertisements</i>	<ul style="list-style-type: none"> Advertisement rates must not be less than the relevant award or EA. 	7 December 2022	<ul style="list-style-type: none"> Ensure Talent Acquisition team are aware. Provide information to leadership teams.

25B	<i>Unpaid parental leave</i>	<ul style="list-style-type: none"> ▪ Where employee seeks approval for a further 12 months of parental leave, refusal can only be on reasonable business grounds. ▪ Written response required within 21 days. ▪ Employer must explain grounds for refusal. 	6 June 2023	<ul style="list-style-type: none"> ▪ Provide information to payroll. ▪ Provide information to leadership teams. ▪ Update leave policy.
28	<i>Paid family and domestic violence</i>	<ul style="list-style-type: none"> ▪ 10 days paid leave at full rate of pay (including loadings etc). ▪ All 10 days available from commencement. ▪ Does not accrue, 10 days are available at the commencement date anniversary each year. ▪ Payslip restrictions regarding how this leave should appear. 	1 February 2023	<ul style="list-style-type: none"> ▪ Provide information to payroll regarding payslip requirements and payment terms for leave. ▪ Provide information to leadership teams. ▪ Provide information to employees. ▪ Update leave policies where required.

RESOURCES

[Fair Work Legislation Amendment \(Secure Jobs, Better Pay\) Act 2022](#)

FACT SHEETS:

- [Small Business](#)
- [Bargaining and Workplace Relations](#)
- [Compliance and Enforcement](#)
- [Job Security and Gender Equality](#)
- [Workplace Conditions and Protections](#)
- [Workplace Relations Institutions](#)