

Key changes and actions | Fair Work Act 2009 (Cth)

7 December 2022

- Prohibition on pay secrecy clauses in new employment contracts.
Action: Remove pay secrecy clauses from, and review confidentiality clauses in, template contracts.
- Changes to the objectives of the *Fair Work Act 2009* (Cth) (FWA) and equal remuneration.



- Three new protected attributes under the FWA.
Action: Review and update discrimination policies to align with the changes to the FWA.
- Sunsetting of zombie agreements. Check for transitional enterprise agreements (made before 1 January 2010).

- Fair Work Commission (FWC) powers to correct errors in Enterprise Agreements.
Action: Where applicable, correct errors in enterprise agreements. Seek advice as required.

- Changes to the initiation of bargaining through the FWC.
Action: Where applicable, the commencement of the bargaining process will now be simplified.

- Updates to termination of an Enterprise Agreement that has passed its nominal expiry date.
Action: Where applicable, consider the interests of employees covered.

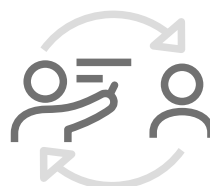
6 February 2023

- Abolition of the Australian Building and Construction Commission (ABCC).



7 January 2023

- Job advertisements cannot include pay rates that would breach the FWA or a Fair Work Instrument (award/enterprise agreement, etc.).
Action: Implement internal systems to ensure rates of pay for any advertised positions are not in breach of the relevant modern awards and enterprise agreements.



1 February 2023

- 10 days' paid family and domestic violence leave (non-small businesses).
Action: Implement internal systems and documentation to ensure compliance with information and pay slip reporting of family and domestic violence leave. Review leave policies.

6 March 2023

- Prohibition on sexual harassment in connection with work, sexual harassment orders, and FWC applications.
Action: Review and update harassment policies, and conduct proactive workplace training and facilitate education for workers.
- Registered Organisations Commissions' (ROC) functions transferred to the FWC.
- Expert panels to focus on pay equity and the care and community sector.
Action: Where applicable, consider impact on employee remuneration.

6 June 2023

- Zombie agreement notification.
Action: On or before this date, notify affected employees they are covered by a zombie agreement and the sunsetting impacts in accordance with the requirements.
- Extension of eligibility to access flexible working arrangements and changes to the process, including FWC powers to deal with disputes.
Action: Review current policies and procedures, and implement internal guidelines to respond to flexible work requests.
- Changes to responding to extension of unpaid parental leave and FWC has power to deal with unpaid parental leave disputes.
Action: Review and amend policies and procedures, and implement internal guidelines to respond to extensions for unpaid parental leave.
- Changes to enterprise agreement making, including the Better Off Overall Test (BOOT).
Action: Where applicable, apply the BOOT as a global assessment and be aware of barriers to the approval process.
- Increased access to multi-employer bargaining.
Action: Be aware of the three streams of bargaining: single-interest agreements, supported bargaining agreements and co-operative workplace agreements.



7 June 2023

- Penalties for pay secrecy clauses in employment clauses.
Action: Prior to this date, ensure that pay secrecy clauses have been removed from template contracts.

1 July 2023

- Small claims cap increases to \$100,000.

1 August 2023

- 10 days' paid family and domestic violence leave (small businesses).
Action: Implement internal systems and documentation to ensure compliance with information and pay slip reporting of family and domestic violence leave. Review leave policies.



6 December 2023

- Limits on the use of fixed term contracts.
Action: If applicable, review and consider use of fixed-term contracts as part of workforce planning. Review existing fixed-term contracts to ensure compliance.
- Provision of the Fixed Term Contract Information Statement.
Action: Ensure Fixed Term Contract Information Statement will be provided to new fixed-term employees.
- Zombie agreements sunset date.
Action: Commence paying employees pursuant to applicable modern awards.

Key contacts

Group leader



Siobhan Mulcahy
Partner
+61 3 9252 2556
siobhan.mulcahy@gadens.com



Bryony Binns
Partner
+61 2 8349 3695
bryony.binns@gadens.com



Deivina Peethamparam
Partner
+61 3 9252 7790
deivina.peethamparam@gadens.com



Erin Lynch
Partner
+61 2 8349 3601
erin.lynch@gadens.com



George Haros
Partner
+61 3 9252 2580
george.haros@gadens.com



Louise Rumble
Partner
+61 2 9163 3058
louise.rumble@gadens.com



Steven Troeth
Partner
+61 3 9612 8421
steven.troeth@gadens.com