

Contentious Closing Loopholes (No. 1 Bill) receives Royal Assent

As members will recall from our previous [Bulletin](#), the contentious Closing Loopholes Bill was split following a deal being reached with the Albanese Government and crossbench Senators David Pocock and Jacqui Lambie. As a result, the amended Bill was rushed through the Senate, without proper scrutiny, on 7 December 2023.

On 14 December 2023, the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* received Royal Assent, amending the *Fair Work Act 2009*.

Changes that commenced on 15 December 2023

As a result, from 15 December 2023 the amendments:

- empower the Fair Work Commission (FWC) to consider applications relating to some **labour hire workers** (under 'Same job, Same Pay' amendments)
- amend the general protections provisions of the *Fair Work Act 2009* (FW Act) to
 - Introduce a **general protection for (union-nominated) workplace delegates** when carrying out their role; and
 - strengthens discrimination protections for employees who have been, or are being, subjected to **family and domestic violence**
- empower the FWC to make a **model term for modern awards relating to workplace delegate rights**
- amend the **union right of entry** provisions of the FW Act to enable a union official to enter a workplace **without a federal right of entry permit** on OHS/WHS grounds, **when assisting a health and safety representative** to perform their functions under a state or territory OHS/WHS law
- amend the small business redundancy exemption for claims under the Fair Entitlements Guarantee, in the case of employer insolvency
- makes amendment to provisions regarding protected (industrial) action ballot order conferences

Change that will not take effect before 1 January 2025

Members should note that whilst also receiving Royal Assent, the contentious '**wage theft' criminalisation of intentional underpayments will currently take effect from 1 January 2025.**

However, if the Minister for Employment and Workplace Relations declares the proposed Voluntary Small Business Wage Compliance Code (Code) on a later day, then the provisions will commence from that date. Members may recall that it is intended that a small business deemed compliant with the Code by the Fair Work Ombudsman, will be provided with 'safe harbour' from criminal, but not civil, prosecution.

Members seeking further information are encouraged to contact VACC's Workplace Relations team on 03 9829 1123 or ir@vacc.com.au

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