

Barton Deakin Brief: Industrial Relations Reforms

9 December 2020

Overview

Attorney-General the Hon. Christian Porter MP has introduced industrial relations reforms to the Parliament today. The Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020 follows more than 150 hours of industry consultation and seeks to support business and protect and enhance the rights of workers.

This brief outlines the Bill as it currently stands, however it may be amended as it is debated in the Parliament.

Practical Measures

- **Award simplification** – Cutting red tape, improving flexibility and job opportunities in twelve awards covering the retail and hospitality sectors;
- **Greenfields agreements** – Boosting investment in job-creating mega-projects by making them more attractive to global investors through new maximum eight-year life-of-construction agreements, with appropriate safeguards and guaranteed wage increases;
- **Casual employment** – Ending uncertainty surrounding the legal status of casuals, while providing a clearer pathway for those working regular shifts to convert to permanent roles after 12 months if they wish to do so;
- **Enterprise Bargaining** – Reversing the decline in agreement making by simplifying the BOOT test and setting a 21-day approval deadline to help productivity gains and real wage growth;
- **Compliance and enforcement** – Reducing the risk of wage underpayments by helping employers comply with their obligations, providing improved mechanisms to rectify underpayments where they do occur, and protecting employee entitlements by introducing a new criminal penalty with a four-year jail term for the very small number of employers who deliberately exploit their workers.

Other features

The Bill seeks to:

- extend two temporary JobKeeper flexibilities to businesses, in identified industries significantly impacted by the pandemic (these flexibilities will be available for two years from the passage of the Bill and with appropriate safeguards in place);
- streamline and improve the enterprise agreement making and approval process to encourage participation in collective bargaining;
- prevent unfair outcomes in situations where employers have to pay an employee twice for the same entitlement (e.g. if an ongoing employee is misclassified as casual, the Bill enables casual loading amounts to be offset against claims for leave and other entitlements);
- increase the number of Australians covered by enterprise agreements by making agreement and approval processes easier and faster for employers and employees;



- permit the Fair Work Commission, in limited circumstances, to approve an agreement which may not pass the 'better off overall test' (BOOT) taking into account the views and circumstances of employees, employers and employee organisations covered by the agreement, the impact of COVID-19 on the enterprise, the extent of employee support for the agreement, and whether approval is in the public interest. This will be repealed automatically two years after commencement; and
- introduce a new criminal offence for dishonest and systematic wage underpayments, and increases the value and scope of civil penalties and orders that can be imposed for non-compliance.

For more information

- [Ministers' Media Release](#)
- [Bill Explanatory Memorandum](#)

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