

# MAJOR OVERHAULS IN EMPLOYMENT LAW: A LOOK AT THE FAIR WORK ACT CHANGES

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The Australian Parliament passed the Closing Loopholes No. 2 Bill on 12 February 2024, marking another shift in employment legislation. This legislation makes yet more changes to several aspects of the Fair Work Act, aiming to close loopholes created by the secure jobs, better pay act which was passed in 2022 and closing the loopholes No1, passed in 2023.

Here are the main updates employers and employees need to be aware of:

## Refined Definitions of Employee and Employer

The bill introduces a clearer definition of "employee" and "employer," prioritising the practical reality of the employment relationship over formal titles. This amendment will particularly affect the classification of contractors through the reintroduction of the Multi Factorial test, determining the distinction between contractors and employees more clearly.



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## Casual Employment Clarification

A new framework for identifying casual employment will be implemented, taking into account factors like the presence of a firm advance commitment to continuing work and entitlement to casual loading or specific pay rates. This adjustment aligns with the broader goal of ensuring employment classifications reflect the true nature of work relationships.

## Stricter Penalties for Underpayments

The bill introduces stringent penalties for wage theft. This includes the possibility of imprisonment and substantial fines for offenders. Moreover, the legislation will facilitate easier access for unions to enter workplaces to investigate suspected underpayments.

As the Fair Work Act awaits the final step of Royal assent, the implications of these changes are profound. Upon enactment, the alterations regarding contractors and underpayments will become effective immediately, signalling a new era of employment law in Australia, geared towards fairness, transparency, and the recognition of modern work dynamics.

## The Right to Disconnect

In a significant move towards work-life balance, the legislation grants employees the right to disconnect from work-related communications outside their working hours. This right will consider various factors, including the reason for contact, its level of disruption, compensation, role responsibilities, and personal circumstances, embedding it within the general protection regime as a workplace right.

### How ProcessWorx can help your business:

With over 10 years of experience working with small businesses, ProcessWorx knows the importance of understanding and protecting your business from ongoing changes to the Industrial Relations landscape, while ensuring you remain compliant.

If you need assistance implementing any changes in your business or would like a review of your current workforce planning and contracts, please contact ProcessWorx and they can assist you with your IR compliance.

If you would like more information about Industrial Relations for your business, please contact ProcessWorx on **(08) 9316 9896** or email **[enquiries@processworx.com.au](mailto:enquiries@processworx.com.au)**