



**SMALL BUSINESS
PEAK**

Secure Jobs, Better Pay

The Australian Government has passed the Secure Jobs, Better Pay Act 2022.

The Secure Jobs, Better Pay changes were introduced to enhance workers' rights and conditions.

We're here to help you with

- Pay secrecy
- Job ads
- Flexible work
- Gender equality measures and small claims process
- Enterprise agreements and enterprise bargaining
- Abolition of the Australian Building and Construction Commission (ABCC) and the Registered Organisations Commission (ROC)

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Secure Jobs, Better Pay

What is Secure Jobs, Better Pay?

This legislation amends the Fair Work Act to change a number of existing rules and introduces a range of new workplace laws.

Pay secrecy

These changes **prohibit secrecy about employees' pay**.

Any **pay secrecy clauses** previously included in employment contracts or other industrial instruments, such as enterprise bargaining agreements, **are now unenforceable**.

Employees and future employees **have the right to share (or not share) information**, and **ask other employees** with the same or a different employer **about their pay** and **employment terms** and **conditions** required **to work out their pay** including their hours of work.

Abolition of the Australian Building and Construction Commission (ABCC) and the Registered Organisations Commission (ROC)

All **ongoing legal matters** currently before the courts previously run by the ABCC have now **transferred to the Fair Work Ombudsman**.

The Registered Organisations Commissioner's regulatory powers and functions have transferred to the General Manager of the Fair Work Commission.



Visit our **Resource Hub** for **more information** on specific **Secure Jobs, Better Pay** changes

Job ads

Job advertising **cannot include pay rates** that would breach the Fair Work Act or a fair work instrument such as an award or enterprise agreement.

Enterprise agreements and enterprise bargaining

The recent changes have **reduced several barriers** that may arise during the bargaining process, particularly when **negotiating a replacement agreement** as an existing one is due to expire.

Amongst other changes, this included **simplifying the 'better off overall test'**, which has been criticised for being excessively burdensome and inflexible.

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Prohibiting workplace sexual harassment

The new laws **expressly prohibit a person** from **sexually harassing another person** in connection with work.

The changes extend this prohibition to all “workers”, encompassing employees, contractors, subcontractors, apprentices, trainees, students and volunteers, as well as third-party and prospective employees.

The recent changes have also broadened anti-discrimination provisions to include protections to **breastfeeding, gender identity** and **intersex status** (which are already protected characteristics).

Flexible work arrangements

The new laws mean **more employees** can now request flexible working arrangements.

The new grounds (in addition to the existing grounds) for requesting flexible work arrangements are:

- where the employee has been the **subject of family and domestic violence**; or
- where the employee is **pregnant**.

The grounds for refusing the request have been narrowed and an employer can only refuse a request following discussion with the employee.

Small claims process

The **small claims process has been enhanced** to provide a **more efficient and accessible** means for individuals to pursue claims related to workplace disputes.

The amendments **increase the cap on the amount** that can be awarded through small claims court proceedings from \$20,000 to \$100,000 and clarify the courts’ ability to award filing fees as costs to successful small claims applicants.



Not sure where to start?

If you're struggling to navigate these changes, you don't have to tackle them alone, find more information at Small Business Peak, or visit fairwork.gov.au

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Fixed term contracts

From **6 December 2023**, new rules apply to fixed term contracts.

Employers **must give every employee** employed **under a new fixed term contract** a copy of the **Fixed Term Contract Information Statement (FTCIS)** at the time they enter, or as soon as possible after entering, the fixed term contract.

Employers must **provide the Fair Work Information Statement (FWIS)** as well as the FTCIS.

There are three main limitations which apply for fixed term contracts:

1. **Time limitation:**

- A fixed term contract cannot be longer than 2 years including any extensions or renewals.

2. **Renewal limitation:**

- A fixed term contract cannot have an option to extend or renew the contract so that the total period of employment lasts longer than 2 years, or extend or renew the contract more than once.

3. **Consecutive contract limitation:**

- An employee cannot be offered a new fixed term contract if
 - i. their previous contract was also a fixed contract;
 - ii. their previous contract and the new contract are for the same or similar work;
 - iii. there is substantial continuity in the employment relationship between the previous and new contracts;
 - iv. and either: the previous contract contained an option to extend that was used, the total period or both the previous and new contracts is more than 2 years, the new contract contains an option to extend, or there was an initial contract prior to the previous contract which was for a fixed term, for same or similar work, and there was substantial continuity in the employment relationship.

Exceptions to the limitations

There are **exceptions** to the above rules. These include the following:

- An employee who **uses specialised skills** for a specific task;
- An employee who is **engaged under a formal training arrangement** made under State or Territory law;
- An employee who **performs essential work** during a **peak period**;
- An employee who **works in emergency or temporary circumstances**;
- An employee who **earns more than the high-income threshold**;
- An employee whose **position is subject to government funding**;
- An employee's role is a **governance position for a limited time**; and
- An employee's role which is **covered by an award** that expressly **permits any circumstances** which is prohibited by the new rules.

Secure Jobs, Better Pay

Key dates

From 7 December 2022

- Changes to objectives in the Fair Work Act
- Prohibiting pay secrecy
- New protected attributes under the Fair Work Act
- Automatic termination of zombie agreements
- Increased Fair Work Commission powers to correct errors in enterprise agreements

From 7 January 2023

- Changes to job ads

From 6 February 2023

- Abolition of the Australian Building and Construction Commission

From 6 March 2023

- Abolition of the Registered Organisations Commission
- Prohibiting workplace sexual harassment

From 6 June 2023

- Enterprise agreements and enterprise bargaining
- Changes to flexible working arrangements
- Changes to unpaid parental leave
- Small claims process

From 1 July 2023

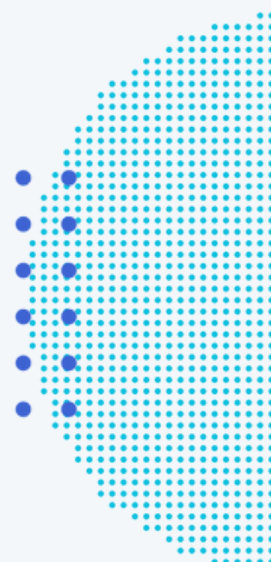
- Enhanced small claims process

From 6 July 2023

- Creation of National Construction Industry Forum
- Increase in monetary cap for recovering unpaid entitlements through the small claims process

From 6 December 2023

- Changes to fixed term contracts



Visit our **Resource Hub** for **more information** on specific **Secure Jobs, Better Pay** changes



SMALL BUSINESS PEAK

A large white arrow graphic pointing upwards and to the right, with the text 'SMALL BUSINESS PEAK' written in white, bold, sans-serif capital letters across its shaft.

Legal Disclaimer

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