

Article Information

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Changes coming to employers - a look at the 2022 Jobs and Skills Summit

You may have heard about the Jobs and Skills Summit held in Canberra, but what does it actually mean for employers? Emily Haar, Erin McCarthy and Juliana Marcus discuss potential changes coming to workforces as a result from the Summit.

The overriding objective of the Jobs and Skills Summit held in September 2022 was stated to be full employment and growing productivity for the benefit of all Australians. The Summit reached consensus on 5 main outcomes:

1. A better skilled, better trained workforce
2. Addressing skills shortages and strengthening the migration system
3. Boosting job security and wages, and creating safe, fair and productive workplaces
4. Promoting equal opportunities and reducing barriers to employment
5. Maximising jobs and opportunities in our industries and communities

While these are very broad outcomes, there are a number of immediate actions and commitments arising out of the consensus that are likely to impact how employers manage their workforce.

Boosting Job Security and Wages, and Creating Safe, Fair and Productive Workplaces

A tripartite National Construction Industry Forum will be established between business, unions and the Federal Government to address issues such as mental health, safety, training, apprentices, productivity, culture, diversity and gender equity in the industry.

A number of updates to the *Fair Work Act 2009* (Cth) (**Fair Work Act**) were agreed at the Summit, though the majority of amendments have not been presented to Parliament at this time. The proposed changes are intended to allow employees and businesses to be able negotiate in good faith for agreements that benefit them.

One of the major headline proposals from the Summit was support for industry and sector bargaining, rather than (primarily) enterprise-level bargaining. How this will work in practice has not yet been detailed, and has been the subject of controversy amongst business and industry groups.

Those attending the Summit agreed that the Better Off Overall Test should be made more “simple, flexible and fair”. Again, more detail on the specific changes is awaited.

The Federal Government also agreed that the Fair Work Act will be amended to terminate ‘zombie’ agreements (being those pre-Fair Work Act agreements that continue in force under transitional provisions) and to adjust the process for termination of expired agreement so that it is “fit for purpose and fair”. Employers who are still bound by pre-Fair Work Act enterprise agreements should start to consider how their organisations can transition to the Modern Awards now, so that any change over is as painless as possible. The proposed changes to the process for terminating expired agreements have not been released, but will likely be designed to limit employers’ ability to use the process as a bargaining tool.

The Summit agreed that an updated Fair Work Act will provide stronger access to flexible working arrangements and unpaid parental leave so families can share work and caring responsibilities. It has been noted that these improvements will be reflected in changes to the National Employment Standards (NES), with the possibility of further penalties being introduced for non-compliance.

The proposals above are in addition to the following existing commitments of the present Government:

- Legislating same job, same pay, meaning that labour hire or “third party” workers needing to be paid the same rates as direct employees;
- Prohibiting pay secrecy clauses and giving employees a right to disclose their remuneration if they wish;
- Limiting the use of fixed-term contracts;
- Criminalising wage theft; and
- Enhancing the Fair Work Act compliance and enforcement framework, including the small claims procedure, though increasing civil penalties for breaches to ensure workers’ wages are protected.

The *Fair Work Amendment (Equal Pay for Equal Work) Bill 2022* (Cth) has been referred to the Senate Education and Employment Legislation Committee. If successfully passed, labour hire workers covered by certain modern awards will be offered the same or greater rate as directly employed workers.

Whilst it is not yet known exactly how the other amendments will be incorporated into the Fair Work Act, employers should consider how such changes could impact their workforce strategy in the near to medium future.

Promoting Equal Opportunities and Reducing Barriers to Employment

Following the Summit, the Federal Government announced plans to strengthen gender equality reporting standards. The primary proposal is that employers with 500 or more employees will have to commit to measurable targets to improve gender equality in their workplaces.

Additionally, businesses with 100 employees or more will be required to publicly report their “gender pay gap” to the Workplace Gender Equality Agency. The gender pay gap “*measures the difference between the average earnings of women and men in the workforce*”.^[1] The Australian Public Service will also be required to report to the Agency, and set targets to improve gender equity in the public service.

The Government also announced that it intends to improve disability employment outcomes through a “*Visitor Economy Disability Employment*” pilot. This is proposed to deliver place-based employment outcomes by connecting small businesses, employment service providers and jobseekers with disability.

The Summit commitments are in addition to a number of existing Government commitments likely to affect employers including:

- introduction of 10 days of *paid* family and domestic violence leave in the NES;
- supporting, and if successful, funding increases to Award wages for aged care workers through the Government’s submission to the Fair Work Commission; and
- working with Australia’s largest 200 employers on public reporting and improving employment levels of First Nations employees.

The *Fair Work Amendment (Paid Family and Domestic Violence Leave) Bill 2022* (Cth) is before the Senate and awaiting a second reading. Currently no deadlines have been set for the other amendments, so it remains to be seen when in the legislative calendar these will come before Parliament.

Conclusion

Although a number of flagged changes have not had a specific deadline set, employers should take steps to get their ‘houses in order’ now to make transitions as seamless as possible. If your workforce strategy requires some review, Piper Alderman’s National Employment Relations Team can assist.

For further information on other actions and areas for further work, the full Jobs and Skills Summit 2022 Outcomes document can be found [here](#).

^[1] Workplace Gender Equality Agency, *The Gender Pay Gap* <<https://www.wgea.gov.au/the-gender-pay-gap>>.