

### Reminder: Changes to Fair Work Act commencing in June 2023

As members may recall, a number of the Albanese Government's 'Secure Jobs, Better Pay' amendments to the *Fair Work Act 2009* (FW Act) commence operation in June 2023.

A brief summary is provided below:

#### Pay Secrecy – 7 June 2023

Pay secrecy clauses in employment contracts (and variations) made on or after 7 December 2022 become unlawful (and subject to penalties) from 7 June 2023. However, pay secrecy provisions in employment contracts entered into before 7 December 2022 continue to apply (until varied). **Note:** The changes do not mean that employees can be compelled by their co-workers to disclose their rate of pay – i.e. employees have the workplace right **not** to disclose their remuneration other workers.

#### Flexible Work Arrangements – 6 June 2023

New procedural steps commence for employers responding to a formal request from an eligible employee for flexible working arrangements under section 65 of the National Employment Standards (NES) and an expanded role for the Fair Work Commission to arbitrate such disputes. In addition, pregnancy is added as a grounds for request a flexible working arrangement under the NES.

#### Extension to Unpaid Parental Leave – 6 June 2023

The same changes that apply above to flexible work arrangements (i.e. in relation to procedural steps and the role of the Fair Work Commission) commence for a request made by an employee to extend their unpaid parental leave for up to 12 months.

#### Multi-Employer Bargaining – 6 June 2023

The long-established approach of encouraging genuine enterprise-level agreement making between a single employer and its employees is effectively replaced by a new system of multi-employer bargaining (i.e. 'single-interest', 'supported' and 'cooperative') that mandates union involvement in the negotiation of what in practice, is likely to be 'industry agreements'.

TACC notes that the new arrangements serve to discourage employers from voluntarily engaging in bargaining as the 'one size fits all' approach of multi-employer agreements lacks the flexibility necessary to tailor pay and conditions to reflect the needs of individual employees and employers, ultimately resulting in lower productivity, profitability, job security and pay.

#### 'Zombie Agreements' – 6 June 2023

Employers covered by a 'zombie' agreement (e.g. collective agreement made before the FW Act commenced in 2009) must provide written notice to each applicable employee. The notice must state that they are covered by a zombie agreement, the zombie agreement will terminate on 7 December 2023 unless an extension request is made to extend the default period, and the sunseting process commenced on 7 December 2022. A template notice is available [here](#).

Members seeking further detail regarding the changes are encouraged to review our recent editions of the VACC Workplace Update which can be accessed [here](#) and [here](#).

In addition, members seeking further information and assistance are encouraged to contact the Workplace Relations team on 03 9829 1123 or [ir@vacc.com.au](mailto:ir@vacc.com.au)

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