

# IR Bill Quick Guide



Chamber of Commerce  
and Industry WA

CCIWA will be developing more detailed guidelines on the changes, which will be made available exclusively to members only.

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### OBJECTS OF THE FAIR WORK ACT

Gender equity and secure work to be included in the Objects of the Fair Work Act which means the Fair Work Commission (FWC) needs to take these concepts into account when performing its duties or exercising its powers.

#### When will this happen

As soon as the Bill becomes law.

### ABCC AND ROC

The Australian Building and Construction Commission and Registered Organisation Commission will be abolished, and the Fair Work Ombudsman is receiving funding to replace the ABCC's functions.

#### When will this happen

As soon as the Bill becomes law.

### PAY EQUITY

New provisions will facilitate the bringing of gender-based pay equity claims including a new objective that modern Awards should seek to eliminate gender-based undervaluation of work and new expert panels comprised specialist members of the FWC to hear and consider matters of pay equity.

#### When will this happen

As soon as the Bill becomes law.

### FLEXIBLE WORK

Employees who are eligible to request flexible working arrangements under the Fair Work Act will now have access to have any decision by the employer they are unhappy with, arbitrated by the FWC. This means the FWC can decide whether the business has to grant a flexible working request.

#### When will this happen

6 months after the Bill becomes law.

### PAY SECRECY LAWS

There will be a prohibition on any terms of an employment contract or other agreement that says employees are not allowed to disclose their pay details. There will also be a new workplace right that allows employees to disclose their pay details to other employees, and to ask other employees what their pay details are. There is no obligation for employees to disclose their pay.

#### When will this happen

As soon as the Bill becomes law.

### SEXUAL HARASSMENT AND ANTI-DISCRIMINATION

Expanded provisions pertaining to sexual harassment and the FWC's stop sexual harassment orders will be incorporated into the Fair Work Act, including a prohibition on sexual harassment and new protections against discrimination for employees including breastfeeding, gender identity and intersex status.

#### When will this happen

3 months after the Bill becomes law.

### FIXED-TERM CONTRACTS

There will be a new two-year limitation on fixed-term contracts (including extensions). There will be some exceptions, but these are limited.

#### When will this happen

12 months after the Bill becomes law.

### SMALL CLAIMS

Jurisdictional limit for small claims that employees can bring about issues such as underpayments will increase from \$20,000 to \$100,000.

#### When will this happen

As soon as the Bill becomes law.

### ADVERTISING

Employers will not be able to advertise for positions at rates below the award of enterprise agreement.

#### When will this happen

As soon as the Bill becomes law.

## ENTERPRISE AGREEMENT

### CHANGES TO THE BETTER OFF OVERALL TEST (BOOT)

The FWC must undertake a global assessment of whether employees will be better off (not line by line against the Award) and the FWC can only consider patterns or kinds of work or types of employment if they are reasonably foreseeable at the time of the BOOT (not hypothetical scenarios).

However, there will also be a "reconsideration process" that enables employees and unions to apply to have the EA re-tested at any point against the relevant Award in certain circumstances.

#### When will this happen

6 months after the Bill becomes law.

### INITIATING BARGAINING

A union may compel an employer to commence bargaining for a new enterprise agreement as soon as its nominal expiry date passes as long as it is replacing the previous enterprise agreement, covers substantially the same workforce and is within five years of the nominal expiry date.

#### When will this happen

As soon as the Bill becomes law.

### MULTI-EMPLOYER BARGAINING

There will be complex new laws and rules about bargaining for enterprise agreements, which may mean that employers are required to bargain with other employers for an enterprise agreement that covers all of their workforces where the FWC determines that employers share a common interest. This may be determined by geographical location, regulatory regime or nature of the enterprises.

#### When will this happen

6 months after the Bill becomes law.

### PRE REFORM AGREEMENTS

Enterprise agreements that have been around since before the Fair Work Act will have a sunset date at which time they will cease operation.

#### When will this happen

12 months after the Bill becomes law.

### ARBITRATION

There will be new avenues for parties to take issues that arise during the enterprise agreement making process to the FWC. The FWC will then have powers to arbitrate any issues or disputes and make binding determinations on the parties.

#### When will this happen

6 months after the Bill becomes law.

### SUFFICIENT REPRESENTATION

Employers will not be able to make an enterprise agreement if the FWC is not satisfied that the employees bargaining and voting on the enterprise agreement do not provide sufficient representation of the actual workforce that the agreement will eventually cover.

#### When will this happen

6 months after the Bill becomes law.