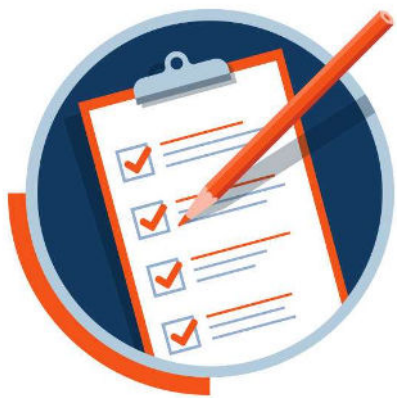




**HR UPDATE:
IR Reforms and Other 2023 Changes**

Presented by Emma Edwards

Today's Agenda



About Edwards HR



IR Reforms Update & Changes to Awards – Sept-Dec 2023



Steps Employers should be taking



Some Tips for Xmas



Q&A







Your Presenter – Emma Edwards

- Founder and Managing Director of Edwards HR.
- Close to 15 years leading executives, HR teams, and front line teams in the understanding and application of best practice HR and risk mitigation (across all areas of operational and strategic HR).
- Unique background in heavy industry, working with some of Australia's largest and smallest businesses.
- Established Edwards HR in 2018 realising that heavy industry businesses need advisors who actually understand their industries and unique people, risks and challenges.
- Bachelor of Business (HR) and Bachelor of Psychological Science.



About Edwards HR

Established in 2018,
we are the leaders in HR for heavy industry with over 40 years of unrivalled industry experience working with some of Australia's largest and smallest heavy industry businesses across the entire operational and strategic HR scope.

WHAT WE DO					
					
Outsourced HR Solutions Customisable, outsourced HR management packages, tailored to your requirements and budget, for your required timeframe.	Contract & Document Drafting Employment contracts, contractor agreements, company policies, employee handbooks, letters, comms and more.	Recruitment Helping you hire the right people in the right roles, the first time.	Compliance & Audits Understand your risks and meet compliance requirements easily through our auditing and HR Health Check services.	Consulting Solutions General consulting and project solutions across the HR scope, no matter your challenge, budget or business size.	HR Foundations Program 10-month Program that provides participants with practical knowledge, tools, and confidence to bolster their HR function.

WE SPECIALISE IN							
							
Transport & Haulage	Construction Materials & Quarrying	Civil Construction & Earthmoving	Manufacturing	Mechanical, Electrical & Fabrication Trades	Warehousing & Supply Chain	Cranes & Lifting	Engineering & Professional Services



Why does this matter?

- The IR reforms, changes to awards, and new and changed employee entitlements are the biggest change in the employment relations landscape we have seen in many years.
- HR and payroll compliance is often a neglected risk in most businesses that comes with costly consequences.
- Employers are strongly encouraged to familiarise themselves with the changes and seek advice specific to their circumstances to ensure they are compliant and mitigating risk.



What has already changed?

TOPIC (overview only, not all are covered here)	EFFECTIVE DATE	CATEGORY
Enterprise Agreements – Dealing with errors, changes to initiating bargaining, Zombie agreements, multi-employer bargaining, and terminating EA's	7 December 2022	IR Reform
New Rules Prohibiting Pay Secrecy	7 December 2022 / 7 June 2023	IR Reform
New Equal Remuneration Orders	7 December 2022	IR Reform
Changes to Anti-discrimination & Special Measures	7 December 2022	IR Reform
Rules for Pay Rates in Job Ads	7 January 2023	IR Reform
Paid Family & Domestic Violence Leave	1 February 2023	Legislation Change
Abolishment of the ABCC & ROC	6 February 2023	IR Reform
Prohibiting Sexual Harassment in Connection with Work	6 March 2023	IR Reform
Changes to Public Holidays	28 March 2023	Legislation Change
Psychosocial Hazards Code of Practice	1 April 2023	Legislation Change
New Shutdown provisions for awards	1 May 2023	Award Change
Enterprise Agreements – Changes to Approval of Agreements, BOOT test and handling bargaining disputes	6 June 2023	IR Reform
Changes to Requests for Flexible Work & Unpaid Parental Leave	6 June 2023	IR Reform
15% Increase to SCHADS Award Wages	30 June 2023	IR Reform
Superannuation Changes and Wage Increases	1 July 20223	Legislation Change
Changes to Paid Parental Leave – Centrelink	1 July 2023	Legislation Change
Changes to Professional Employees Award	16 September 2023	Award Change
Limits to Fixed Term Contracts	6 December 2023	IR Reform
Sunsetting of Zombie Agreements	7 December 2023	IR Reform
Sexual Harassment – New Positive Duty	12 December 2023	Legislation Change
Changes to Authorised Employee Deductions	30 December 2023	Legislation Change

Professional Employees Award 2020

Following the FWC's review of the Professional Employees Award 2020:

- Changes have been applied to the coverage, hours of work, overtime, time in lieu and penalty rates clauses
- New provisions added for averaging of hours, accumulation of TOIL, requirement for employees to keep records where they have worked remotely and outside the span of ordinary hours etc.



- Classification Structure updated to clarify that (broadly speaking) the classifications/Award do not apply where the **employee is employed in a wholly or principally managerial position.**
- **These changes took effect from the first full pay period commencing on or after 16 September 2023.**

The changes do not apply to employees who are paid a salary that is at least 25% higher than the minimum annual wage for their relevant classification under the Award.

Limits to Fixed Term Contracts



Limit on use of fixed term contracts to 2 years or 2 consecutive contracts (unless there is an available exception)

From 6 December 2023, employers can no longer employ someone on a fixed term contract for the **same role beyond two years (including renewals) or two consecutive contracts - whichever is shorter.**

This means that if someone:

- is employed for an initial fixed period of 6 months;
- then extended for 6 months;
- = the total 12 months becomes their maximum period before they are deemed a permanent employee.

A new Fixed Term Info Statement will be published in Dec 2023 – this must be issued with the existing Fair Work Info Statement.

Limits to Fixed Term Contracts

BREACHES: Where a fixed term contract is made in breach of the limitations, the employee will be considered a 'permanent employee' and the end date under the relevant contract will have no effect. Employee then has access to entitlements which may apply.

DISPUTES: If a dispute arises, the FWC will have the power to conciliate, mediate or arbitrate (by consent), and also commence court proceedings. Employees will also be able to access the small claims court if they wish to take civil action.



EXCEPTIONS:

Some exceptions that may apply to your workforce:

- The employee is employed under a training arrangement (such as apprentices and trainees);
- The employee is covered by an Award that allows for fixed term contracts in the new limitation circumstances;
- The employee is engaged to undertake work during emergency circumstances or during a temporary absence of another employee (for example, a period covering someone on worker's compensation);
- The employee is engaged to perform only a distinct and identifiable task involving specialised skills;
- In the year the contract is entered into the amount of the employee's earnings under the contract is above the high-income threshold for that year (NB: currently \$167,500 per annum);
- The contract relates to a position for the performance of work that:
 - is funded in whole or in part by government funding or funding of a kind prescribed by the regulations; and
 - the funding is payable for a period of more than 2 years; and
 - there are no reasonable prospects that the funding will be renewed after the end of that period.

Sexual Harassment – New Positive Duty

The *Respect at Work Act 2022* applies to *all* employers in Australia, as well as all employees, contractors, and volunteers working for these businesses or organisations. This covers all aspects of the workplace, from in-person interactions to online communications.

Key changes from 12 December 2023:

- Employers are required to take proactive steps to prevent sexual harassment, sex discrimination, victimisation and conduct that causes a workplace environment that is hostile on the ground of sex. This includes where conduct is not directed at a particular person, but nevertheless creates a hostile workplace environment.
- An extended timeframe from 6 months to 24 months to make a complaint(s) relating to alleged unlawful conduct.
- Representative bodies (e.g. unions) will be able to make applications to the courts on behalf of persons in relation to a terminated complaint.



Sexual Harassment – New Positive Duty

The changes are designed to ensure safer, more respectful and more equitable workplaces.

The **new positive duty on employers** requires them to take ‘reasonable and proportionate measures to eliminate, as far as possible’ sex discrimination, sexual harassment, victimisation and conduct that causes a workplace environment that is hostile on the ground of sex.

This duty shifts the burden from individuals needing to make complaints after an incident has occurred, to employers needing to take proactive steps to prevent harassment from occurring in the first place.



Sexual Harassment – New Positive Duty

Examples of Proactive Measures:



- Utilise the free employer resources available at <https://www.respectatwork.gov.au/> to help employers prevent, and workers respond to workplace sexual harassment;

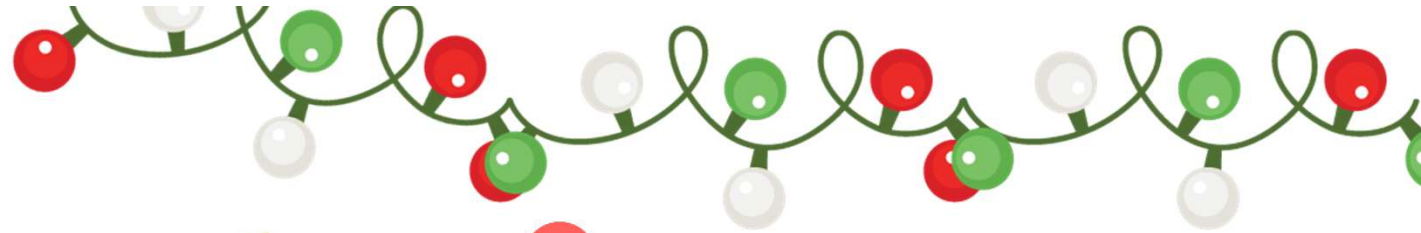
What is proposed for 2024?

Further IR reforms proposed for 2024 (beyond what was originally announced in 2022).

***Note that any new laws that pass will not necessarily pass in their current (proposed) form.**

Area	Proposed Change
Definitions	Introduction of a 'definition of employment' into the Act
Casuals	More changes for casuals, including updating definition of casual employment and implementing a new 'choice' process which may change the existing casual conversion process/entitlement
Contractors	A new test (employee vs. contractor) is on the cards, focused on the totality of the relationship. Unfair contract terms to also be covered.
Gig workers	New minimum standards orders for this industry
Same Job, Same Pay	A claim could be made to the Commission to have labour hire workers paid as per the site enterprise agreement. Note this is not proposed to automatically be an entitlement or requirement as has been spruiked in recent news.
Road Transport	New expert panel and advisory group to be established, along with new powers for the Commission to make minimum standards orders
Wage Theft	New national laws and penalties for intentional failure to pay entitlements.
23-24 Modern Award Review	Limited group of Awards inc. Clerks – Private Sector. The review will consider the new objective of the Fair Work Act 2009 and modern awards regarding job security and the need to improve access to secure work across the economy, plus the impact of workplace relations settings on work and care
More changes	to bargaining, delegates and union powers

Christmas Tips



WE ARE OPEN

Communicate open days/hours

Communicate leave blackout periods

Changes to awards – requirement to request employees to work PH's, not assume they will

Recruit new starters for January NOW!

WE ARE CLOSED

Notice requirements – changes to Awards and there may be different requirements between employees (depending on award coverage)

Insufficient leave balances

Taking leave in advance (negative leave balances)

Payroll processing – remember public holidays

All leave requests approved

Recruit new starters for January NOW!

Take Action



FOR COMPLIANCE WITH THE CHANGES

Train your leaders and HR teams in the changes and what they mean for your business

Employees covered by the Professional Employees Award – review the changes to the award and the arrangements with employees

Employees on fixed term contracts – reassess and consider how to best use them in future

Evaluate your practices RE sexual harassment and implement proactive measures with urgency

Stay across the further changes in 2024

GENERAL PLANNING

Communicate with your team at Xmas, leave, payroll processing etc – be aware of award changes to shut downs and PH's

Talk to Edwards HR about training and workshops

Let's discuss our HR Foundations Program

Plan now for 2024 recruitment

THANK YOU!



Get in touch!

Emma Edwards | Managing Director

P: 07 3568 0866 | 0459 818 011

E: emma@edwardshr.com.au

W: www.edwardshr.com.au