



SADA IR UPDATE



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Industrial Relations Changes

By now you will have heard of several changes by the Federal Government's Closing the Loop Legislation. The *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* is changing laws relevant to our work, including family and domestic violence and workplace delegates protections, changes for labour hire workers and changes to protected action ballot order conferences. The Australian Government has passed new workplace laws as part of its 'Closing Loopholes' legislation.

Employers, employees, and others should stay across these changes as they may impact their workplace.

The information below has been isolated to cover the issues that will most likely impact on family farms which employ.

The [Fair Work Legislation Amendment \(Closing Loopholes\) Bill 2023](#) received Royal Assent on 14 December 2023.

Some of the changes are relevant to the work of the Commission, including:

1. empowering the Commission to consider applications relating to some labour hire workers .
2. amendments to the general protections' provisions to:
3. strengthen protection for employees who have been, or are being, subjected to family and domestic violence from discrimination in the workplace.
4. introduce a general protection for workplace delegates when carrying out their role at a workplace.
5. empowering the Commission to make a model term for modern awards relating to delegate rights.
6. increase workplace delegates rights.
7. disconnection from work after hours.
8. making amendments to provisions regarding protected action ballot order conferences.

Federal Government's Industrial Relations Timetable Changes

There have been several changes, in fact quite many changes that have been legislated but at the time of preparing this update, Royal Assent hadn't occurred. This means some of the dates listed below may change.

The changes take effect at different times between now and 2025 and two time tables appear at the end of this Update. The Fair Work Ombudsman has created a snap shot of these changes which also appear at the end of this Update.

Issues for Small Employers and family farms.

As there is a lot happening, this Member Update will focus on the issues most likely to impact on farmers who employ.

A brief overview of the above is as follows:

Casual Employment: This is the area most likely to affect the farming community.

- The new definition of casual employment inserted into the Fair Work Act provides a clear definition of a casual employee as someone who 'accepts a job offer, knowing that there is no firm advance commitment to ongoing work with an agreed pattern of work. The new definition states that a person is a casual employee if they accept a job offer from an employer knowing that there is no firm advance commitment to ongoing work with an agreed pattern.

- This definition of casual is likely to come into effect later this year.
- The new definition of a casual will mean that that employee can NOT be given “*a firm, advanced commitment to continue an indefinite work*”. This means engaging someone on a casual basis, on an ongoing basis, or than for peak periods, seasonal work, “one-offs”, can be challenged. For example, if a casual employee is engaged for calving, silage, shearing, crutching, seeding, harvesting, and the like and is only engaged for that time, they will fall within the definition of a casual employee. If, however, employee(s) are engaged for those seasons and continue to work as a casual, they will most likely fall into the definition outside of the new definition of casual.
- Often those ongoing casual arrangements settle into a regular pattern of shifts later and the employee may then request to become part time or fulltime.
- Most significantly what all employers must do with casuals is issue the Casual Employment Information Statement to ALL casual staff every 12 months, even if they have been employed for less than 12 months.
- To put it simply, a casual employee is one without a firm commitment of regular work and who does not have a regular pattern must be paid 25% casual loading and the test will be applied on the date of commencement of employment.
- Don’t forget Clause 8 of the Pastoral Award 2020 which states “*At the time of engagement an employer will inform each employee of the terms of their engagement and in particular whether they are to be full-time, part-time or casual.*” If you haven’t with existing staff, at least put on the payslips for all employees.
- In future make sure employees are provided with this written advice prior to commencement or no later than on commencement and issue,
 - (a) the [Fair Work Information Statement](#) to ALL employees and
 - (b) to casual employees [Casual Employment Information Statement - Fair Work Ombudsman](#)

If you have any queries, please don’t hesitate to contact the SADA Office on 8293 2399 or email sada@sada.asn.au

SADA members are entitled to contact MERS for a free half hour consultation, per member per year.



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