

# Workplace Relations Update for OTA Members

*Issued by WorkPlacePLUS, March 2024*

## Fixed Term Contracts

A reminder that effective 6 December 2023 under the *Secure Jobs, Better Pay Act 2022*, new rules apply to the use of fixed term contracts, including the duration of the contract, extending the contract and offering new contracts that are substantially similar to previous contracts. Fixed-term contracts exceeding two years are now prohibited, except for some exceptional circumstances and some modern awards.

## Updated Information Statements

Employers must give every employee engaged under a new fixed term contract a copy of the newly introduced Fixed Term Contract Information Statement that became available in December 2023. It provides fixed term employees with information about fixed term employment, including the new rules about when fixed term contracts are allowed to be made.

Employers must also give every new employee a copy of the updated Fair Work Information Statement and if applicable, the Casual Employment Information Statement, before, or as soon as possible after, they start their new job. These have been updated with information about the recent changes to the *Fair Work Act*. To ensure you're using the latest version, download them directly from the [Fair Work Ombudsman website](#) or request the latest version from [WorkPlacePLUS](#).

## Respect@Work Positive Duty

A reminder that effective 12 December 2023, under the *Respect At Work Act 2022*, the Australian Human Rights Commission now has enforcement and investigative powers re: employers' positive duty to eliminate sexual harassment, discrimination and victimisation in the workplace. Practice owners, sole traders and independent contractors must take proactive and meaningful action to prevent these unlawful behaviours regardless of whether someone has made a complaint.

## New legislative amendments now in effect

The first set of law changes under the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* received Royal Assent on 14 December 2023. Changes that impact practice owners with less than 15 employees include:

- **Redundancy Pay** - If your business has downsized to become a small business employer during bankruptcy or liquidation, you may still be required to pay redundancy pay to your employees.
- **Anti-Discrimination** - It's unlawful to take adverse action (including dismissal) against an employee because they are currently or recently subjected to family and domestic violence (FDV). Also, awards, enterprise agreements, policies and processes must not include terms that discriminate against an employee currently or recently subjected to FDV.

The second set of law changes under the *Closing Loopholes Act 2024* received Royal Assent on 26 February 2024. Changes that impact practice owners with less than 15 employees include:

- **Changes to the definition of casual employment and employment** - Effective 26 August 2024, there will be new clearer definitions of employee and employer under the Fair Work Act, and new pathways for casual employees to convert to permanent.
- **The right for independent contractors to challenge unfair contracts** - Effective no later than 26 August 2024, independent contractors who earn less than the contractor high income threshold, including employee-like workers, will be able to apply to the Fair Work Commission if they think their services contract contains unfair terms. The contractor high income threshold is yet to be set.
- **Employer's obligation to disprove sham contracting** – Effective 27 February 2024, employers who have incorrectly classified an employee as an independent contractor may be penalised for sham contracting, unless they can show that they "reasonably believed" the contract of employment was a contract for services.
- **Increasing the maximum level of civil penalties** - Effective 27 February 2024, the maximum civil penalties available for non-compliance with a Compliance Notice have doubled for all employers of any size, to a total of \$18,780 per contravention for an individual and \$93,900 per contravention for a company. Also, what constitutes a serious contravention under the Fair Work Act has now changed to one done either knowingly or recklessly.
- **The right for employees to disconnect from communications outside working hours** - Effective 26 August 2025 for small business employers and 26 August 2024 for other employers, employees will have the right to refuse to monitor, read or respond to contact or attempted contact from an employer or third party outside of their working hours, unless their refusal is unreasonable.

### Caution Utilising AI Advice

While generative AI tools like ChatGPT can be useful, their utilisation in the workplace poses a number of risks regarding:

- Privacy and data protection
- Bias and Discrimination
- False and misleading information

It's important to note that generative AI tools may not be an accurate and reliable source of information on Australia's workplace relations system. Utilising AI advice for workplace relations matters may create compliance issues, including unenforceable HR protocols or employment contracts. OTA members can access accurate and reliable workplace relations information via the following sources:

- The [Fair Work Ombudsman](#) 13 13 94
- The [Australian Human Rights Commission](#) 1300 656 419
- The [WHS regulator in your jurisdiction](#)
- A reputable HR consultancy that works closely with the allied health sector such as [WorkPlacePLUS](#) (03) 9492 0958

All OTA members receive special member benefits through WorkPlacePLUS for support with HR and IR issues. For more information, contact Anna on (03) 9492 0958 or visit [WorkPlacePLUS.com.au](http://WorkPlacePLUS.com.au).