



President's statement

Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024 – minimum standards for regulated workers

Justice Hatcher, President

Sydney, 12 April 2024

[1] This Statement deals with upcoming amendments to the *Fair Work Act 2009* (Cth) (FW Act) made by the *Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024* (Closing Loopholes No. 2 Act) relating to minimum standards and collective agreements for regulated workers.

[2] In my [27 February 2024 Statement](#), issued the day after the Closing Loopholes No. 2 Act received Royal Assent, I noted that:

The Closing Loopholes No. 2 Act reforms are significant, and the successful implementation of these reforms will require extensive consultation with diverse stakeholders, subject matter experts and interested persons. It will be our priority to establish case management processes that are easy for users to understand and navigate, are clearly communicated, minimise the regulatory burden and are fit for purpose.¹

[3] This Statement concerns provisions relating to regulated workers set out in Part 16 of Schedule 1 to the Closing Loopholes No. 2 Act. These provisions commence either by proclamation or on 26 August 2024, being six months after Royal Assent.

Implementation report – minimum standards for regulated workers

[3] The Commission is today publishing the *Implementation Report – minimum standards for regulated workers* (Report), which discusses the Commission's future functions to:

- make minimum standards orders and guidelines for regulated workers,
- make road transport contractual chain orders and guidelines, and
- register collective agreements for regulated workers and regulated businesses.

[4] The Report is intended to support engagement and consultation with stakeholders about the implementation of these new jurisdictions.

[5] The Report does not cover all functions to be conferred relating to regulated workers. A separate implementation report will be published relating to the Commission dealing with unfair deactivation for employee-like workers and unfair termination for regulated road transport contractors.

¹ [President's Statement, 27 February 2024](#) at [6].

[6] The Report provides an overview of the provisions of the Closing Loopholes No. 2 Act most relevant to the Commission's implementation of its future functions relating to minimum standards and guidelines for regulated workers, road transport contractual chain orders and guidelines, and collective agreements for regulated workers and regulated businesses.

[7] In relation to minimum standards for regulated workers, it notes that two forms of order may be made:

- employee-like worker minimum standards orders, setting standards for employee-like workers performing digital platform work (including in the road transport industry), and
- road transport minimum standards orders, setting standards for regulated road transport contractors.

[8] The Commission will also be able to make non-binding minimum standards guidelines for employee-like workers and regulated road transport contractors.

[9] The Report also outlines:

- the new minimum standards objective and road transport objective and the circumstances in which they must be taken into account,
- who will be able to apply for minimum standards orders and guidelines,
- the Commission's powers to make orders and the consultation processes relating to the making of employee-like worker minimum standards orders and road transport minimum standards orders,
- the provisions relating to the deferral and suspension of minimum standards orders,
- relevant provisions in relation to road transport contractual chain orders, and
- the establishment and role of the Expert Panel for the road transport industry and the Road Transport Advisory Group.

[10] The Report explains the requirement for the President to issue a direction as to how the Commission will prioritise its work in relation to minimum standards orders and guidelines, and road transport contractual chain orders and guidelines. It also sets out provisions relating to the Commission's new functions concerning the registration of collective agreements between regulated businesses and relevant organisations.

[11] In respect of the process of implementation, the Report sets out the process by which the Commission will engage in intensive consultation with affected businesses, workers and organisations. The key aspect of this is the establishment of a Regulated Worker User Group. Correspondence has been sent to stakeholders seeking expressions of interest in participating. The group's views will be sought on how we are proposing to implement the new jurisdictions and on how we can best ensure our information and education materials are useful for affected individuals and businesses. Expressions of interest are still being accepted and can be sent to consultation@fwc.gov.au.

[12] The Report also explains the informational resources which will be developed by the Commission and placed on its website, and the case management processes which will be established to manage the new jurisdictions including:

- the arrangements that have been made in relation to practice areas and National Practice Leads (discussed further below),
- process workflows and performance standards within the Commission,
- a new results framework for the Commission’s case management system,
- the development of plain language forms which will be designed to minimise complexity and the regulatory burden, and
- changes to be made to the *Fair Work Commission Rules 2024*, including in relation to service requirements for the new matter types.

National Practice Leads for minimum standards for regulated workers

[13] As indicated in my [27 February 2024 Statement](#), Vice President Asbury will oversee the implementation of changes in this jurisdiction. As such, the Vice President has been appointed National Practice Lead for minimum standards for regulated workers. She will be supported in this role by Commissioner Connolly as Deputy National Practice Lead for road transport and Commissioner Tran as Deputy National Practice Lead for the gig economy.

[14] Deputy President Masson, who is the current National Practice Lead for enterprise agreements, will oversee matters relating to collective agreements for regulated workers and regulated businesses.

Consultation and engagement

[15] The Commission is committed to implementing these new jurisdictions transparently and in consultation with stakeholders. Interested persons and organisations are invited to comment on the plans for engagement and any other matter contained in the Implementation Report. Feedback regarding these issues should be sent to consultation@fwc.gov.au by **4:00 pm (AEST) on Friday, 26 April 2024**.

[16] General information regarding the [implementation of the Closing Loopholes No. 2 Act](#) can be found on the Commission’s website.

PRESIDENT