

What Labor's IR bill means for accountants

BUSINESS

The aim of "Secure Jobs, Better Pay" is to increase wages but it will also strengthen the hand of unions, says specialist lawyer.

By [Josh Needs](#) • 23 November 2022 • 6 minute read

The government's industrial relations bill ushers in widespread workplace reforms that will recast enterprise agreements, the role of unions, and fixed-term contracts, according to a prominent industrial relations lawyer.

"I don't think we've seen changes to this extent probably since the *Fair Work Act* was introduced back in 2009," said Maddocks law firm partner Michael Nicolazzo, speaking on CPA Australia's With Interest podcast.

Proposed changes to the enterprise agreement and bargaining framework was what garnered the bulk of the attention and could impact businesses the most, said Mr Nicolazzo.

"What they're trying to do is reinvigorate bargaining, make enterprise agreements apply to more employees on that basis, and by having more employees being able to bargain and making it easier, the government is saying that's one way we can drive up wages," he said.

"So looking at it simply, their rationale is that if more employees are negotiating collectively, there's a greater likelihood that greater wage increases will follow, and that really counts for a belief that the bargaining framework has become too difficult to navigate and employers have been walking away from bargaining."

While he did not believe bargaining would become mandatory, he said the bill would make it easier to force employers to bargain.

"What the bill is really looking at introducing in terms of its changes, and there's been a lot of commentary around this, is multi-employer bargaining," said Mr Nicolazzo. "So employees agreeing across different businesses and banding together to bargain for an agreement that will apply to different entities."

"When the bill was first introduced it was possible for an employer to be roped into a multi-employer agreement."

“One of the changes they got through the House of Representatives last week was that there now needs to be majority support at each employer to become part of a multi-employer agreement.”

Mr Nicolazzo said the bill delivered a much greater role to unions, particularly with the proposed sufficient interest test and common interest test.

The sufficient interest test aimed to ensure employers could not bargain with a small number of employees and then apply that agreement to a larger group.

The common interest test was to allow different employers to bargain together if there was a common interest such as geographical location, or the nature of the work.

“There’s been a general decline in union density over the years, and I think the bill could reverse that,” he said.

“It’ll encourage more employees to become members of the union, if the union goes out and says ‘look, we can get you a better deal, we can bargain together with entity A and entity B and we can drive up your wages.’”

The ability for employees to request flexible work arrangements would also be strengthened in the bill.

Workers would be provided the facility to seek a review of their employer’s decision if their request for remote work arrangements were rejected.

“What the changes in respect of these arrangements do is that it now gives the Fair Work Commission the ability to arbitrate issues about whether a refusal is valid, and if the commission determines that it wasn’t valid, then it can actually order that the change in work arrangements be implemented,” said Mr Nicolazzo.

“So employees can now go off and have any refusal challenged and historically reasons that have been given have been so subjective under the cloak of being reasonable, now the commission has the power to determine these disputes.”

Another proposed change to industrial relations included in the bill was the change to fixed-term contracts.

“What has been proposed is that fixed-term contracts for the same role will be now limited to two consecutive contracts, or for a maximum duration of two years,” said Mr Nicolazzo.

“This has the potential to be quite a huge change, so for example say you’ve got an employer who employs someone on rolling six-month contracts, in the past that would have

been arguable whether that was an ongoing arrangement, but the bill makes it much clearer that those sorts of arrangements are now prohibited."

"So those fixed-term contracts can't be renewed more than twice, and they can't extend for any longer than two years."

He said the government had proposed the changes as it found that fixed-term contracts lead to insecure work, it was trying to rectify.

"I think these changes can be quite far reaching," said Mr Nicolazzo.

"I know quite a few industries use fixed-term contracts largely for convenience and a bit of a safety net to end the contract with less of a risk of a claim down the track."

"There'll be implications for professional services, education, the public sector uses quite a few fixed-term contracts, construction, the impact could be quite wide."

The bill is expected to pass next week with only minor changes in the Senate, and Mr Nicolazzo warned businesses that they should begin to understand what implementing the proposed changes to their firm would involve.