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The Australian HR Institute

Submission to the Review of the Fair Work Legislation Amendment
(Closing Loopholes) Acts 2023 and 2024

Workplace Relations Policy Group
Department of Employment and Workplace Relations

February 2026

The Australian HR Institute

The Australian HR Institute (AHRI) is the professional body for Human Resources in Australia, with 18,000 members from Australia and internationally.

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1. Summary

1.1 The Australian HR Institute (AHRI) welcomes the opportunity to contribute to the review of the *Fair Work Legislation Amendment (Closing Loopholes) Acts 2023 and 2024*.

1.2 This submission draws primarily on AHRI's research, most notably our recent *Employment Regulation: What Do Employers Think?*¹ report, which is based on a representative survey of more than 600 employers and six focus groups comprising senior HR professionals across Australia. AHRI's perspective is therefore grounded in the practical experience of those professionals primarily responsible for implementing employment legislation.

1.3 On the basis of this evidence, AHRI makes three overarching observations relevant to the review:

- The Closing Loopholes amendments are broadly appropriate in intent and, in many cases, are contributing to improved workplace practices where they are clearly understood and effectively implemented. In particular, a majority of employers report that reforms such as the right to disconnect and changes to casual employment have increased employee engagement and productivity.
- Significant unintended consequences have nevertheless emerged in the form of increased administrative burden, compliance cost and implementation pressure, arising largely from the cumulative pace of reform. Some HR professionals also pointed to Australia's 'people management deficit' as a compounding challenge.
- AHRI's research does not indicate a strong case for further substantive legislative amendment at this stage. Rather, the priority should be consolidation, clarity and regulatory stability, supported by guidance and realistic implementation timeframes.

¹ [Employment-Regulation-Report-2025_digital.pdf](#)

Positive impacts on workplace practice

2.1 Overall, AHRI's research indicates that employers support the policy intent of the legislation. Many employers report that recent reforms have prompted clearer internal processes, improved workforce governance and strengthened communication with employees about rights and obligations.

2.2 Survey findings show that many legislative changes introduced in recent years are perceived to have had a positive effect on workplace practice. Reforms relating to Respect@Work, flexible working, fixed-term contract limits and casual employment were all reported to have improved organisational outcomes. In particular, the Respect@Work agenda was perceived to have the strongest positive impact, with a net positive rating of +66², followed by flexible working (+47), limits on fixed-term contracts (+37) and casual employment conversion (+35).

2.3 Focus group discussions reinforced these findings, with employers noting improvements in job security, employee wellbeing and job performance. HR professionals consistently reported that legislation had acted as a catalyst for reviewing and strengthening policies, frameworks and practices in areas such as sexual harassment, workforce planning, flexible work and psychosocial risk management.

Right to disconnect

2.4 Many employers reported benefits to productivity and employee engagement following the introduction of the right to disconnect. Overall, 58 per cent reported that the legislation had either significantly or somewhat increased employee engagement and productivity, with particularly strong results reported by public-sector employers.

2.5 Employers also reported improvements in work–life balance and stress levels, and nearly half indicated improved management of urgent or time-sensitive matters outside standard working hours. Focus group participants described clearer expectations, greater awareness among managers, and a cultural shift away from treating all communication as urgent. These comments from senior HR professionals were fairly typical of the focus group discussions:

² These ratings are calculated by taking the percentage of employers who say that policies have positively impacted on their organisation and subtracting the percentage of employers who say that policies have negatively impacted on their organisation. For example, a rating of +100 would mean that all organisations report that policies have positively impacted on their organisation.

“It’s really changed how managers think ... instead of everything being urgent and needing it now, it’s made them reflect: do I need the answer now or can it wait?”

People and Culture Manager, Hospitality Company, Queensland

We actually had a lot of interest sparked from our managers. We have some extensive training sessions ... it’s given us the platform to clear up and just to give clarity on the subject and what is defined, especially for more complicated situations like seasonal peak periods.”

HR manager, Food Manufacturer, South Australia

“It has been positive at an organisational level and also for our employees... it really forced us to take a closer look at our on-call and overtime policies, and support our employees in how they can go about accessing those entitlements.”

Head of People Services and Advisory, Telecommunications, Victoria

2.6 While some organisations experienced initial concern or resistance, especially among line managers, these issues generally diminished over time as clearer policies, training and frameworks were established.

Fixed-term contracts

2.7 The new rules relating to fixed-term contracts were also well received by many employers. Seventy-one per cent reported that the changes had a positive impact on their organisation, while 78 per cent reported positive impacts for employees.

2.8 Employers reported that the reforms have both prompted better workforce planning and reduced reliance on rolling fixed-term arrangements. In some cases, organisations have converted roles to permanent positions, improving job stability, retention and knowledge continuity.

As some senior HR professionals commented:

“It forced us to have harder conversations with leaders about whether a role is genuinely ongoing.”

Head of People Operations, Telecommunications, Victoria

“The limitations on fixed-term contracts stand out the most. It’s been challenging when staff reach the end of two years, but in one case we converted them to permanent, which has been positive overall.”

HR Advisor, Utility Provider, South Australia



“We previously relied heavily on labour hire as a stopgap. Now, with the reforms, we’re focusing on reducing that reliance and creating more ongoing roles, which supports knowledge retention and stability ... And it’s a cost saving measure.”

People and Culture Manager, Hospitality Company, Queensland

Casual employment

2.9 Survey data suggests that employee engagement and productivity have also increased following changes to casual employment. Sixty-four per cent of employers attributed higher engagement to the new rules, while 62 per cent reported productivity improvements. In addition, more than two-thirds reported that the changes were viewed positively by casual employees.

2.10 Some employers also observed that the revised casual employment framework has, in certain respects, reduced the administrative burden by placing the onus on employees to initiate conversion requests. Participants reported that this shift has improved clarity and fairness, while also streamlining internal processes. These views are reflected in the following comments:

“Our HR team was happy with the casual employee changes, because it was less work for them as now the onus is now back on to the casuals [to request permanent status].”

Head of HR, Community Services Provider, Victoria

“The changes give casuals that are being treated as a permanent workforce, but are not being given that permanent job security, the chance to request permanency. It’s brought clarity for both sides... The legislation has actually made things easier to manage. It’s now up to the employee to request conversion, which reduces our administrative burden while still giving people choice.”

HR Advisor, Utility Company, South Australia

3. Unintended consequences and practical challenges

Administrative burden and compliance cost

3.1 Notwithstanding these positive impacts, AHRI’s research highlights increased administrative burden and compliance cost as the most significant unintended consequence of recent employment legislation.

3.2 HR professionals reported substantial workload associated with interpreting legislative changes, updating policies and contracts, modifying payroll and HR systems, training managers, and educating employees, often within compressed timeframes.

3.3 These impacts extend beyond direct financial cost, creating opportunity costs that divert HR capacity away from strategic workforce planning, workforce development and other productivity-enhancing initiatives.

Implementation challenges and line management capability

3.4 Understanding and applying the latest legislative changes also emerged as a critical implementation challenge. In particular, HR leaders expressed concern about whether managers and employees fully understood their practical implications, especially given the pace and cumulative nature of the recent legislative change. As one senior HR professional explained:

“What keeps me awake at night is whether we’ve educated our staff enough.”

Executive Manager, Healthcare Provider, ACT

3.5 Survey findings reinforce this theme. When asked about their understanding of the new casual employment laws, 48 per cent of respondents indicated that they completely understood the laws, while 41 per cent said they partially understood them.

3.6 Linked to this is the issue of line management capability. Employers consistently identified manager capability as a key pressure point in the focus groups discussions. Many reported that managers lacked the confidence or experience to apply complex legislative requirements consistently and fairly, particularly in areas such as flexible working and casual conversion. This has, in some cases, led to an over-reliance on HR professionals, increased escalation of routine matters, and heightened compliance risk.

3.7 Participants stressed that successful implementation depends not only on awareness of legislative requirements, but on equipping line managers with the skills and judgment to apply them appropriately and consistently. Some focus group participants noted that investment in management capability is essential to ensure reforms translate into workplace practice, especially in relation to flexible working requests.

3.8 AHRI notes that broader reform proposals—such as the Productivity Commission’s recommendation to expand dedicated advisory services for small and medium-sized businesses to strengthen management capability—may be particularly relevant in this context. The Commission has observed that management practices in Australia compare unfavourably with those in several OECD counterparts, particularly among smaller firms. Targeted advisory support could therefore assist organisations with limited internal capability to navigate legislative requirements, build line management capacity and embed workplace reforms more effectively.

Legal risks and evolving employee expectations

3.9 AHRI's research indicates that some employers perceive an increase in legal complexity arising from the recent reforms. A small number of participants observed that the amendments have expanded the range of potential avenues for challenge and increased the complexity of case management. As one employment lawyer explained:

"Employees now have increasingly more avenues for perhaps the same complaint ... that creates an increasing level of legal risk, particularly in the case management space."

Employment lawyer, NSW

While this view was not universal, it reflects a broader theme that navigating overlapping rights and obligations requires careful interpretation and consistent application at organisational level.

3.10 Employers also reported that employee awareness of rights and entitlements has increased significantly in recent years. While greater awareness and transparency are positive developments, some participants noted that rising expectations can create tension where operational requirements, funding constraints or service delivery obligations limit an employer's capacity to accommodate requests. As one senior HR leader observed:

"Employee expectations of what an employer will do for them have shifted significantly ... at the same time, productivity is at an all-time low in Australia."

Director of HR Projects, Education Provider, Victoria

3.11 Additionally, while fixed-term and casual employment reforms improved clarity and fairness for many, some employers reported reduced flexibility and hidden costs, particularly in sectors reliant on variable funding or project-based work.

4. Whether further amendments are necessary

4.1 AHRI's evidence does not suggest that further amendments are necessary at this stage.

4.2 There is strong consensus that any additional changes should be delayed to allow recent reforms to embed and to provide HR professionals and employers with much-needed respite.

4.3 At the same time employers and HR professionals remain open to targeted reform, particularly in relation to extending the right to request flexible working to all employees.

4.4 According to the survey data, almost half (48 per cent) of employers say they would like to see the right to request flexible working extended to all employees now. In addition, just under a third (30 per cent) support the policy, but not before 2027.

4.5 This was reinforced by the focus-group discussions, which revealed broad support for extending the right beyond the currently eligible groups, noting that many organisations already apply flexible working arrangements across their workforce in practice. Several participants described such a reform as fairer, simpler to understand and would help support attraction and retention.

As one HR Manager observed:

“We already have support in place for flexible working for all employees ... it’s part of how we retain and support staff.”

HR Manager, South Australia

Similarly, a Director of HR Projects noted:

“I think most modern employers are approaching flexible work as open to all employees post-COVID. There’s an expectation now that this is part of modern work life ... It would be simpler to standardise policies across the workforce rather than checking if someone fits a certain category. That’s really a management and leadership challenge.”

Director of HR Projects, Education Provider, Victoria

5. Conclusion

5.1 Over the past three years, Australian workplaces have experienced what many HR professionals describe as one of the busiest periods of workplace legislative change in memory. AHRI’s research shows that this ambitious and fast-moving reform program has, in many cases, driven improved practice across areas such as flexible working, psychosocial risk management and workforce planning. This in turn has led to improvements in employee engagement and productivity in key policy areas such as the right to disconnect.

5.2 At the same time, the cumulative pace of reform has significantly increased administrative burden and implementation pressure, particularly for HR professionals and line managers responsible for embedding change. The evidence suggests that the full benefits of legislative reform can only be realised when change is supported by realistic implementation timelines, and more investment in management capability.



5.3 As a result, AHRI does not consider further amendments necessary at this stage. While employers remain open to targeted reform, especially extending the right to request flexible working to all employees, which many organisations already apply in practice, any additional changes should be carefully sequenced to allow recent reforms to embed and to provide employers with much-needed stability. A measured, evidence-based approach will ensure that employment regulation delivers sustainable benefits for workplaces, employees and the broader Australian economy.

Prepared by:

Australian HR Institute

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