



Compliance and enforcement

Prohibiting job advertisements that would breach the Fair Work Act

These amendments form part of an Australian Government commitment to improve compliance with, and enforcement of, the Fair Work Act.

What has changed?

The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* amends the *Fair Work Act 2009* (the Act) to:

- prohibit the advertisement of a job with a pay rate that would breach the Act
- require advertisements that include specific piece rates to specify any periodic rate of pay to which the pieceworker would be entitled – for example, the Horticulture Award contains a minimum wage guarantee. This means that employers who hire under an Instrument that contains both a piece rate and a minimum wage floor and who choose to specify a piece rate in their advertisement, would need to also specify either the periodic rate which would be payable or include a statement to the effect that a periodic rate of pay applies, and
- introduce a new civil remedy provision into the Act which allows Fair Work Inspectors to issue compliance notices requiring an employer to take specified action in relation to non-compliant advertisements, such as take down or revise the advertisement. Fair Work Inspectors and unions are able to commence legal proceedings for breaches of this prohibition.

What do these changes mean?

While it is unlawful under the Act to pay someone incorrectly, it was previously not unlawful to advertise a job with a pay rate that would breach the Act.

These amendments support workers to understand their workplace entitlements and reinforce the expectation that employers consider their workplace obligations before advertising jobs. These provisions are civil remedy provisions, with contraventions punishable by up to 60 penalty units for an individual, and 300 penalty units for a body corporate.

The provisions do not apply to employers with a reasonable justification to their advertisement of pay rates breaching the Act. For example, a reasonable justification might arise if the relevant pay rate changed while the advertisement was live, and the employer did not reasonably have time to review and amend the advertisement.

When will these changes come into effect?

The changes came into effect on 7 December 2022, and apply to jobs being advertised on or after 7 January 2023, whether or not the same job has first been advertised before that date. This provides businesses with one month to review and update advertisements before the law takes effect.

For more information on the *Secure Jobs, Better Pay* package visit:
www.dewr.gov.au/workplace-relations.