



Australian Government

Australian Government response to the Education and
Employment Legislation Committee report:

Fair Work Amendment Bill 2024

JULY 2024

Overview

The Australian Government introduced the Fair Work Amendment Bill 2024 (the Bill) to the Parliament on 15 February 2024. The Bill will amend section 675 of the *Fair Work Act 2009* (the Act) to ensure that a person does not commit an offence if that person contravenes a Fair Work Commission order made under the right to disconnect provisions introduced to the Act by the *Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024*.

The Bill will amend the Act to exempt contraventions of Fair Work Commission orders about the right to disconnect from being an offence under subsection 675(1) of the Act. The amendment in the Bill will commence at the same time as the right to disconnect provisions in the Act, being 26 August 2024. The right to disconnect provisions will commence for small business employers and their employees after a further 12 months, being 26 August 2025.

The Bill passed both Houses on 16 May 2024 and received the Royal Assent on 31 May 2024.

Recommendation 1

The committee recommends that the Senate pass the bill.

The Government notes this recommendation.

Coalition Senators additional comments

Recommendation 1

Coalition Senators will support the removal of potential criminal penalties for employers who contact their employees outside of work hours.

The Government notes this recommendation.

Recommendation 2

Coalition Senators recommend repealing the 'right to disconnect' provisions which recently passed the Parliament, which were not subject to any scrutiny, will create significant confusion and uncertainty for workplaces across the country, and will reduce the ability for workplaces to have flexible working arrangements.

The Government does not support this recommendation.

The right to disconnect will provide employees with a high-level right to refuse to monitor, read or respond to contact, or attempted contact, outside of the employee's working hours, unless the refusal is unreasonable. The right to disconnect provisions will provide workplaces with the flexibility to engage in discussions with their employees about expectations around contact outside of work hours. Modern awards will also include right to disconnect terms that can be tailored to align with specific industry standards and expectations.

Recommendation 3

If the Senate does not agree to repeal the right to disconnect provisions that were legislated as part of the Fair Work Legislation Amendment (Closing Loopholes No.2) Bill 2023, that the Senate pass the amendments circulated by the Coalition on sheets 2416 and 2417, which respectively will remove all civil penalties from the right to disconnect provisions, and would exempt businesses with less than 20 employees from the right to disconnect entirely.

The Government does not support this recommendation.

The right to disconnect provisions, which will commence on 26 August 2024, will not commence for small business employers and their employees for a further 12 months, that is until 26 August 2025. A 'small business employer' is defined in the Act as having fewer than 15 employees. This will give small business additional time to make arrangements that reflect the needs of their workplace.

Additionally, before 26 August 2024, the Fair Work Commission will issue guidelines on the right to disconnect. These will provide employers and employees with guidance to support them to understand the right and what it may mean for employers and employees across different workplaces.

Australian Greens Senators additional comments

The Government notes these additional comments.