Australian Government

Australian Government response to the final report of the **Secure Jobs, Better Pay Review**

Contents

Glossary of terms

Australian Building and Construction Commission (ABCC) – the regulator of the commercial building and construction industry - abolished by the *Fair Work Legislation Amendment (Secure Jobs, Better Pay Act) 2022*.

Equal Remuneration Order (ERO) – an order made by the Fair Work Commission that ensures there will be equal remuneration for men and women workers for work of equal or comparable value.

Fair Work (Registered Organisations) Act 2009 – Commonwealth legislation regulating the registration of unions and employer associations.

Fair Work Act 2009 – the key piece of Commonwealth legislation regulating the employee and employer relationship in Australia.

Fair Work Commission – Australia's national workplace relations tribunal and registered organisations regulator.

Fair Work Legislation Amendment (Secure Jobs, Better Pay Act) 2022 – the first tranche of the government's workplace relations reforms, which received Royal Assent on 6 December 2022.

Fair Work Legislation Amendment (Closing Loopholes) 2023 – further amendments to workplace relations laws, which received Royal Assent on 14 December 2023.

Fair Work Ombudsman – Australia's national workplace relations regulator.

Health and Safety Representative – employees who are elected by their colleagues to deal with work health and safety issues in the workplace.

National Construction Industry Forum – a statutory advisory body, comprising representatives of government, employers and employee representatives, which provide advice to government in relation to work in the building and construction industry.

Protected Action Ballot Order – an order made by the Fair Work Commission that approves employees to hold a protected action ballot.

Registered Organisations Commission – the regulator of registered organisations, abolished by the Secure Jobs, Better Pay Act.

Right of entry – the right for union officials who hold an entry permit to lawfully enter a workplace under certain conditions.

Introduction

In its first term, the Australian Government introduced significant reforms to the *Fair Work Act 2009* (Fair Work Act), giving effect to the commitment to improve job security and encourage wage growth for Australians through the workplace relations system.

The first major tranche of reforms to workplace relations laws was the *Fair Work Legislation (Secure Jobs, Better Pay) Act 2022* (Secure Jobs, Better Pay Act), which received Royal Assent on 6 December 2022 and included measures to:

- reinvigorate the bargaining system to drive wage growth and better support vulnerable employees
- support job security to benefit both employees and employers, and improve gender equality, including by reducing the gender pay gap
- introduce more stringent compliance and enforcement rules, particularly in relation to small claims and job advertisements
- ensure conditions, wages and rights at work are protected, and
- abolish the Registered Organisations Commission (ROC) and Australian Building and Construction Commission (ABCC) and transfer responsibility to the Fair Work Ombudsman (FWO) and Fair Work Commission (FWC).

The *Fair Work Legislation (Closing Loopholes) Act 2023 (*Closing Loopholes Act) received Royal Assent on 14 December 2023. Part 16A of Schedule 1 of the Closing Loopholes Act amended the Fair Work Act to allow officials of registered organisations, who do not hold a right of entry permit, to enter workplaces to assist health and safety representatives (HSRs). This change gave effect to Recommendation 8 of the 2018 independent review of the Model Work Health and Safety Laws.

The Secure Jobs, Better Pay Act required the Minister for Employment and Workplace Relations to cause a review to be conducted of the operation of its amendments, to begin within 2 years of receiving Royal Assent. The Closing Loopholes Act required a review of Part 16A of Schedule 1 to start within 9 months of the change coming into effect.

On 10 September 2024, the Minister combined the two reviews and requested a final report be delivered to government by 31 March 2025.

The Minister appointed a review panel to conduct the review in October 2024 in accordance with the Terms of Reference. The Terms of Reference, updated on 1 November 2024, is available on the Department of Employment and Workplace Relations' website.[1] The review panel consisted of:

[1] Department of Employment and Workplace Relations (DEWR), Secure Jobs, Better Pay Review – Terms of Reference, DEWR website, 4 November 2024, accessed 17 October 2025.

- Emeritus Professor Mark Bray: an industrial relations academic who served as the Foundation Chair in Employment Studies at the University of Newcastle from 1997 until early 2021. He is also an honorary professor at both RMIT University and University of Sydney.
- Professor Alison Preston: a Professor of Economics in the Business School at the University of Western Australia, who holds a PhD in labour economics and industrial relations and teaches in the areas of micro-economics and public policy.

The review panel conducted an extensive two-stage consultation process with stakeholders to inform its final report, including receiving a total of 88 written submissions and holding roundtable discussions with employer groups, unions and academics.[2]

The review panel delivered its final report to government on 31 March 2025 and the report was tabled in Parliament on 14 August 2025.

The final report found the reforms are operating effectively with minimal unintended consequences overall and made 21 recommendations:

- Five recommendations are for minor or technical amendments to the Fair Work Act.
- Nine recommendations are for other government action, mainly in the form of further consultation, consideration and/or monitoring by the relevant department.
- The remaining 7 recommendations are directed to other bodies, including the FWC, FWO, National Construction Industry Forum (NCIF) and other stakeholders.

The primary recommendation of the final report is for the government to undertake a further review of the operation of the Secure Jobs, Better Pay Act in 2 to 3 years' time, so that it is informed by additional data and further evidence. [3] The final report noted that limited time has elapsed since the reforms began and there was a lack of data available to the review panel to assess the impact of the Act.

The government acknowledges the overall finding of the report that the reforms are operating effectively and with minimal unintended consequences. The government supports 13 of the final report's recommendations and supports in principle the remaining 8 recommendations, as outlined below.

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[2] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review,* 446-451.
[3] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 9.

Response to recommendations

Recommendation 1: Further review in 2 to 3 years

> The Australian Government should undertake a further review into the operation of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* in 2 to 3 years. The government should consult with stakeholders to determine the most appropriate timeframe, research and data requirements, and terms of reference for a further review.

The government supports this recommendation.

The review panel acknowledged that the Secure Jobs, Better Pay Act required a review within 2 years of the amendments taking effect. However, it noted that this timeframe limited the availability of data to inform the review.

Despite these limitations, the review panel found the reforms were broadly achieving the government's intent and were operating appropriately, effectively and with minimal unintended consequences.

The reforms introduced many changes to the workplace relations landscape. It may take time for their full impact to emerge – particularly through successive enterprise bargaining cycles and modern award variations and as stakeholders test the new provisions through the FWC and courts.

The government supports the review panel's recommendation for a further review in 2 to 3 years' time.

Recommendation 2: National Construction Industry Forum

The National Construction Industry Forum should continue its work developing and implementing the Building and Construction Industry sector Blueprint to bring cultural change to the industry.

The government supports this recommendation.

The NCIF was established as a key commitment following the 2022 Jobs and Skills Summit, seeking to encourage cooperation and drive long-term cultural change in the building and construction industry.[4]

As a statutory advisory body, the NCIF provides advice to government on a broad range of issues, including safety, skills and training, productivity, culture, diversity and gender equity. It offers industry participants further opportunities to engage with government and have their views heard.

The review panel found that, while the NCIF was still in its 'infancy'[5], its efforts to drive cultural change were encouraging. The review panel also noted that the NCIF's tripartite structure has been central to its success in fostering cooperation, identifying issues and providing informed advice to government.

On 22 September 2025, the NCIF unanimously endorsed the *Blueprint for the Future* (Blueprint) which outlines 44 recommendations to build a construction industry that works for everyone.[6] Implementation has commenced, starting with 9 priority recommendations. NCIF members expect to publish a forward workplan by early 2026, setting out timeframes and key phases for developing advice to government.

Members also agreed to begin meeting in facilitated workshops to shape a Joint Construction Industry Charter. Broader industry engagement and collaboration will be explored as part of that process.

The government will continue to support the NCIF in its role as an advisory body.

To strengthen its work and support implementation of the Blueprint, the government has committed an additional $2.1 million over 4 years from 2025-26 and $0.6 million per year ongoing. The Department of Employment and Workplace Relations has also established a new team that will work across government and industry to support these outcomes.

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[4] DEWR, Terms of Reference for the National Construction Industry Forum, DEWR website, n.d., accessed 17 October 2025.

[5] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 51.

[6] DEWR, National Construction Industry Forum Meeting Communiqué – 22 September 2025, DEWR website, n.d., accessed 17 October 2025.

Recommendation 3: National Construction Industry Forum – model tripartite forum

The Australian Government should consider utilising the National Construction Industry Forum as a model tripartite forum to advise the Australian Government on other industries.

The government supports this recommendation.

The Review identified the tripartite approach of the NCIF as central to fostering cooperation, understanding key issues and providing advice to government on the construction sector. The membership of the NCIF provides for equal representation by employee and employer/contractor representatives.

From its first meeting in October 2023, the NCIF has demonstrated the value of tripartism – bringing together key representatives of government, employers and workers to collaborate productively on the challenges and priorities facing the building and construction industry.[7]

The government recognises the value of tripartism in developing robust policy and fostering consensus. Good faith dialogue in workplace relations reform remains a key government priority.

The government will consider opportunities to apply NCIF-like forums in other industries or settings where appropriate.

[7] DEWR, National Construction Industry Forum Meeting Communiqué – 20 October 2023, DEWR website, n.d., accessed 17 October 2025.

Recommendation 4: New registered organisations enforcement options

> The Australian Government should consult, including with the General Manager of the Fair Work Commission, to consider whether penalty amounts payable under infringement notices are proportionate to the contraventions that are subject to an infringement notice under the *Fair Work (Registered Organisations) Act 2009*.

The government supports this recommendation.

The Secure Jobs, Better Pay Act abolished the ROC, transferring its functions and powers to the General Manager of the FWC. This reform streamlined regulation by establishing the FWC as a single body responsible for registered organisations.

The amendments introduced two new enforcement options under the *Fair Work (Registered Organisations) Act 2009* – infringement notices and enforceable undertakings. These powers expanded the General Manager's capacity to respond to non-compliance by registered organisations and are similar to powers available to other regulators.

The review panel found that the General Manager's power to issue enforceable undertakings was operating as intended. However, it noted the infringement notice power was not being used effectively.[8] The review panel identified the scale of penalties was a likely barrier, noting the penalty amount for many contraventions occurring after 7 November 2024 is $19,800 per contravention.

The government acknowledges the review panel's concerns about the penalty amounts and the limited use of infringement notices. The government will consult stakeholders about the appropriateness of the penalty amounts and consider options to implement this recommendation.

[8] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 69.

Recommendation 5: Employee representatives' requests to initiate bargaining

> The Fair Work Commission should publish guidance and education materials to assist employers and bargaining representatives of employees to understand their obligations in relation to a request to bargain under s 173(2A) of the *Fair Work Act 2009 (Cth)*.

The government supports in principle this recommendation.

The Secure Jobs, Better Pay Act reinvigorated the enterprise bargaining framework, enabling more employers and employees to access the benefits of bargaining. A key amendment allows employee bargaining representatives to initiate bargaining for a proposed single-enterprise agreement if it replaces an agreement that nominally expired within the past 5 years and will have substantially similar coverage. This change removed the requirement to obtain a majority support determination in such cases.

The review panel found that the amendments were operating as intended, noting that the initiating bargaining provisions had been used in a small number of agreements at that time.[9] However, it recommended that further guidance and education material is published to help employers and employee bargaining representatives to understand their obligations.

The Secure Jobs, Better Pay reforms included a commitment of $7.9 million over four years to support the FWC in assisting employers and employees to participate in enterprise bargaining and agreement-making.[10] Since the reforms were introduced, the FWC has allocated additional resources and launched significant initiatives to achieve this.[11]

The government supports in principle this recommendation, acknowledging the independence of the FWC in its implementation.

[9] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 103-104.
[10] DEWR, Secure Jobs, Better Pay: Small business factsheet, DEWR website, n.d., accessed 17 October 2025.
[11] Fair Work Commission (FWC), President's statement on implementing government reforms and our performance, FWC website, 2 August 2023, accessed 17 October 2025.

Recommendation 6: Variation of multi-employer agreements

> The Fair Work Act should be amended to rectify the technical issue with undertakings identified by the Fair Work Commission in *Application by Nest Employee Services Pty Ltd T/A Nido Early School* [2025] FWCA 282.

The government supports this recommendation.

The Secure Jobs, Better Pay Act introduced the supported bargaining stream to replace the low-paid bargaining stream. This reform sought to reduce barriers for employers and employees who need support to access bargaining and replace it with a more flexible and accessible system, with assistance from the FWC throughout the process.

The first multi-enterprise agreement made under the supported bargaining stream was approved on 10 December 2024.[12] At approval, it covered 60 employers and 12,000 employees in the early childhood education and care sector. Since then, the FWC has approved variations to add new employers and employees to the agreement. As of 30 January 2026, the agreement covers around 523 employers and more than 45,800 employees.

In its first decision to vary the agreement, the FWC noted it could not accept an undertaking from an employer as part of the variation process under the current supported bargaining provisions.[13] The review panel identified this as a minor technical issue and an unintended consequence of the amendments.[14]

The government supports resolving this issue to ensure undertakings can be accepted by the FWC when adding employers and employees to a supported bargaining agreement. The government will consider options to rectify the issue.

[12] Application by United Workers' Union [2024] FWCFB 455.
[13] Application by Nest Employee Services Pty Ltd T/A Nido Early School [2025] FWCA 282 at 48
[14] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 121.

Recommendation 7: Industrial action

> The mandatory conference in s 448A of the Fair Work Act should be amended to provide the Fair Work Commission with the discretion not to conduct a conference if there is agreement of relevant bargaining representatives.

The government supports this recommendation.

The Secure Jobs, Better Pay Act introduced a mandatory step in the FWC's process for protected action ballot orders (PABOs). When issuing a PABO for a proposed enterprise agreement, the FWC must also order the bargaining representatives to attend a conference for mediation or conciliation.

Further amendments made by the Closing Loopholes Act clarified that this requirement applies only to the bargaining representatives who applied for the PABO, and to an employer and their bargaining representatives that seek to take subsequent protected employer response action. If the applicant fails to attend a conference, in breach of a FWC order, they cannot meet the requirements for protected industrial action.

This amendment aimed to improve the efficiency of PABO applications and help 'de-escalate' bargaining disputes before industrial action occurs.

The review panel considered that while there is merit in the mandatory conference requirement, the conference may have limited value in some cases – particularly where parties are in agreement that there is no utility in convening a conference.[15]

The government supports providing the FWC with discretion not to conduct a conference in such circumstances. This recommendation aligns with the government's policy to improve the bargaining process and promote cooperation between bargaining parties. The government will consider options to implement this recommendation.

[15] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 155.

Recommendation 8: Statement of Principles on Genuine Agreement

The Australian Government should amend the Fair Work Act to ensure the Statement of Principles on Genuine Agreement is a more complete statement of the procedural matters the Fair Work Commission must consider in relation to whether a proposed enterprise agreement has been genuinely agreed.

The government supports in principle this recommendation.

The Secure Jobs, Better Pay Act simplified the enterprise agreement approval process while maintaining appropriate employee protections, including by replacing overly prescriptive and complex pre-approval steps in the Fair Work Act with one broad requirement that an enterprise agreement has been genuinely agreed to by employees.

These amendments also included a requirement that the FWC publish a 'statement of principles', which provides guidance to employers about how they can ensure employees have genuinely agreed to an agreement and is considered by the FWC when determining whether to approve an enterprise agreement.

The statement of principles, published on 12 May 2023, deals with some of the pre-approval steps that were previously contained in the Fair Work Act. [16] However, the requirement that employers must take all reasonable steps to explain the terms of a proposed enterprise agreement to employees ('explanation requirement') was retained in the Fair Work Act. The review panel noted this created complexity for stakeholders, which it recommended is addressed.[17]

The first reading of the Secure Jobs, Better Pay Act in the House of Representatives on 27 October 2022 included transferring the explanation requirement to the statement of principles, along with the other pre-approval steps. However, following consultation, the government amended the bill so that the Fair Work Act still requires employers to clearly explain enterprise agreements to all employees, including those who are young, from culturally and linguistically diverse backgrounds, and those without a bargaining representative.[18]

The government agrees with the goal of simplicity and clarity the recommendation is seeking and supports it in principle. Any changes require stakeholder consultation to ensure that the aim of simplification while maintaining appropriate protections is met. A future review of the reforms may provide an opportunity to consider this issue further.

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[16] FWC, *Making of the Statement of principles on genuine agreement*, FWC website, n.d., accessed on 17 October 2025.
[17] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 163.
[18] Senate Education and Employment Legislation Committee, Parliament of Australia, Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022 [Provisions] (Report, November 2022), 54.

Recommendation 9: Statement of Principles on Genuine Agreement – stakeholder engagement

The Fair Work Commission should regularly engage with its Enterprise Agreements and Bargaining Advisory Group to consider and advise on the operation of the Statement of Principles on Genuine Agreement to ensure it is operating appropriately and effectively.

The government supports in principle this recommendation.

In May 2023, the FWC established the Enterprise Agreements and Bargaining Advisory Group to provide feedback and advice on the Secure Jobs, Better Pay enterprise bargaining reforms.[19] The group includes representatives from peak bodies and other stakeholders affected by the reforms and has become one of the FWC's primary consultative forums on enterprise bargaining and agreements.[20]

The review panel recommended that the FWC further engage with this group to investigate and advise on the issues related to the Statement of Principles on Genuine Agreement ('Statement').[21] It noted that such engagement should focus on identifying key issues, should the FWC undertake a review of the Statement.

The government supports this recommendation in principle, recognising the value of stakeholder engagement in ensuring the workplace relations system operates effectively. However, the government acknowledges the FWC's independence in determining how to respond to the recommendation.

[19] FWC, Implementing the new bargaining provisions, accessed 17 October 2025.
[20] FWC, Fair Work Commission response to the Bargaining Discovery Research Report, FWC website, 9 August 2024, accessed 17 October 2025.
[21] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 163.

Recommendation 10: Work value and equal remuneration cases

> The review panel encourages the Fair Work Commission to continue its program of work to advance gender equality, particularly by addressing the low pay in other female-dominated sectors (beyond care work), and to set out broader principles for identifying and addressing work value and gender undervaluation.

The government supports in principle this recommendation.

The Secure Jobs, Better Pay Act placed gender equality at the centre of the Australian workplace relations system to reduce the gender pay gap and improve job security and wages for all employees. This significantly enhanced the FWC's capacity to advance gender equality in the exercise of its powers under the Fair Work Act.

The amendments support the FWC to order wage increases to address unequal pay and undervalued work. They do this by clarifying that a male comparator is not required, the FWC's consideration of work value must be free of gender-based assumptions, and the FWC must consider whether work has been historically undervalued due to gender-based assumptions.

The review panel found that the work value amendments are, so far, having their intended effect to advance gender equality. While the FWC has already made important work value determinations in the aged care industry, the review panel noted that its ability to make EROs under the new provisions had not yet been substantially tested.[22]

The review panel also observed that, although FWC's current gender-based undervaluation – priority awards review focusses on the care sector, its gender pay equity research suggests future work will extend beyond care-related occupations.

The government is supportive of the FWC continuing this important function to address gender undervaluation and reduce the gender pay gap across all industries and sectors. The government notes the FWC has commenced the degree-qualified professional classifications review to remedy potential undervaluation across a wide range of industries, including those outside the care-sector, on work value grounds.

The government supports in principle this recommendation, while acknowledging the FWC's independence in determining how to respond to it.

[22] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 228.

Recommendation 11: Support for work value proceedings

> The Fair Work Commission should continue to support parties and facilitate proceedings to address gender undervaluation, including through undertaking research and gathering evidence to support future work value proceedings.

The government supports in principle this recommendation.

The review panel recognised the public value of major work value cases in addressing gender undervaluation and reducing the gender pay gap. It considered that this warrants broader support for parties who participate in these cases.[23]

As the review panel noted, work value cases may require the FWC to identify evidence gaps, gather and analyse relevant information and establish principles to guide future proceedings, which places a significant burden on participating parties. The review panel recommended that the FWC continue to undertake the bulk of research and evidence collection to reduce this burden.

To support the implementation of the Secure Jobs, Better Pay Act, the government committed $20.2 million over the forward estimates in the October 2022-23 Budget to establish 2 new Expert Panels within the FWC.[24] These panels were set up to hear wage-related matters and address low pay and poor conditions in the care and community sectors. This includes a dedicated research unit to support FWC members with the evidence needed to hear complex wage matters.

The government acknowledges the FWC's recent efforts, including gender pay equity research that has informed ongoing gender-based undervaluation – priority awards review proceedings. The government is supportive of the FWC continuing this important work.

The government supports in principle this recommendation, while acknowledging the FWC's independence in determining how to respond to it and the FWC's powers to manage proceedings and inform itself.

[23] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 229.
[24] DEWR, Establishing two new expert panels in the Fair Work Commission, DEWR website, n.d., accessed 17 October 2025.

Recommendation 12: Government funding positions

> The Australian Government should take steps to advise the Fair Work Commission and stakeholders of its position on funding for the outcomes of Fair Work Commission reviews to address gender undervaluation at the earliest opportunities.

The government supports this recommendation.

The review panel noted that the government's position on funding wage increases may influence the FWC's consideration of when and how to address gender undervaluation.[25]

The government supports this recommendation and will continue considering funding decisions arising from FWC reviews on a case-by-case basis. The government acknowledges it is an important stakeholder in FWC proceedings, including because of its role in funding key sectors. The government is also mindful of the importance of action to address the gender pay gap and budget discipline.

The government maintains a strong track record of constructive engagement with the FWC and has committed to work positively with the FWC to address its findings of gender undervaluation in key female-dominated awards through the gender undervaluation – priority awards review. The government participated in the proceedings, noting the complexity of assessing direct and indirect impacts across a broad range of government programs and services. The government's submissions have highlighted the importance of wage increases being implemented in a measured and responsible manner that manages workforce, fiscal and macro-economic risks.

[25] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 229.

Recommendation 13: Wage-setting practices

> The Australian Government should actively monitor wage-setting practices, especially in enterprise agreements, to ensure that modern award outcomes lead to sustained improvements in gender pay equity.

The government supports this recommendation.

The government's reforms put gender equality at the centre of the workplace relations system in order to reduce the gender pay gap, including through reinvigorating the bargaining framework. Addressing gender undervaluation in modern awards plays an important role in correcting the wage-setting environment and establishing a new ‘floor’ from which employers and employees can bargain.

The review panel acknowledged that these changes will influence other wage-setting practices, such as future rounds of enterprise bargaining.[26] However, it raised concerns that higher base rates in modern awards could inadvertently lead to poorer bargaining outcomes in historically low-paid sectors – particularly if the new award rate meets or exceeds the previously bargained above-award base rate in an enterprise agreement to become the minimum pay rate and future bargaining does not deliver comparable above-award increases.

The government supports this recommendation. The Department of Employment and Workplace Relations actively monitors and advises on the operation of the workplace relations system. The department will continue to monitor wage-setting practices, particularly in enterprise agreements, to ensure modern award outcomes are leading to sustained improvements in gender pay equity.

[26] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 229.

Recommendation 14: Annual Wage Review Expert Panel

> The Australian Government should amend the Fair Work Act at s 620(1)(b) to include gender pay equity as an additional area of expertise when appointing Expert Panel Members to the Annual Wage Review Expert Panel.

The government supports in principle this recommendation.

The Secure Jobs, Better Pay Act strengthened the FWC's ability to advance gender equality. This included establishing 2 new Expert Panels—one for Pay Equity and one for the Care and Community Sector—as part of the government's commitment to place gender equality at the centre of the workplace relations system.

The review panel found that amendments relating to the Expert Panels are generally operating as intended. However, it recommended including 'gender pay equity' as an additional area of expertise when appointing members to the Annual Wage Review Expert Panel.[27] Under the Fair Work Act, an Expert Panel must include 3 Expert Panel Members with knowledge or experience in one or more areas of expertise including workplace relations, economics, social policy and/or business, industry or commerce. The review panel considered that adding 'gender pay equity' would be an appropriate step to ensure the reforms continue to advance gender equality.

The government supports the aim of this recommendation to ensure gender equity is accounted for in Annual Wage Review decisions and supports the recommendation in principle. Expanding the criteria for membership of the Expert Panel would require further consultation and consideration before being agreed to.

[27] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 236.

Recommendation 15: Care and Community Sector Expert Panel

The Fair Work Act should be amended to provide the Fair Work Commission President with greater discretion in determining when a Care and Community Sector Expert Panel is required.

The government supports in principle this recommendation.

The care and community sector plays a vital role in supporting vulnerable Australians and is a significant female-dominated sector in the Australian labour market. In recognition of this, the Secure Jobs, Better Pay Act included amendments to establish the Pay Equity and Care and Community Sector (CCS) Expert Panels in the FWC to hear wage related matters and help address low wages and challenging workplace conditions faced in the care and community sector.

Under the arrangements, the President of the FWC must convene a CCS Expert Panel for any matters that may relate to the sector. The review panel found this requirement unnecessarily burdensome and an unintended consequence of the Secure Jobs, Better Pay reforms.[28]

The government supports this recommendation in principle, recognising the importance of enabling the FWC to operate efficiently. The government will consult stakeholders on whether the President should be conferred greater discretion to determine when a CCS Expert Panel is needed and consider implementation options as appropriate.

[28] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 236.

Recommendation 16: Protected attributes in the *Fair Work Act 2009*

> The Australian Government should undertake further research and consider whether it is appropriate to extend the protected attributes in the Fair Work Act to explicitly cover perimenopause and menopause.

The government supports in principle this recommendation.

The review panel found that the strengthened anti-discrimination protections and special measure amendments to the Fair Work Act were working as intended.

The review panel also highlighted emerging evidence of women's negative workplace experiences during perimenopause and menopause. In this context, further research was recommended.

The government supports this recommendation in principle. The Department of Employment and Workplace Relations has an ongoing role maintaining a database of approved enterprise agreements and monitoring how they deal with menopause, including clauses like reproductive leave. These issues are also being considered by the House of Representative Standing Committee on Employment Workplace Relations, Skills and Training's inquiry into the National Employment Standards, which is currently ongoing.

The department will also continue to monitor and review relevant menopause and perimenopause related research as it arises and engaging with key stakeholders in this area.

Recommendation 17: Fixed term contracts – variations to modern awards

> Stakeholders should seek variations to modern awards to tailor the limitation on the use of fixed term contracts to their industry or occupation.

The government supports this recommendation.

The Secure Jobs, Better Pay Act amended the Fair Work Act to limit on the use of fixed term contracts to improve job security. The limits mean that contracts for the same role cannot exceed 2 years (including renewals) or 2 consecutive contracts, whichever is shorter.

If these limits are breached, the contract remains valid except for the clause specifying its expiry date, meaning the employee becomes a permanent or casual employee depending on the nature of their engagement. The provisions aim to prevent misuse of fixed term contacts, enhance job security, reduce precarious employment and support fair working conditions.

Exceptions to the limitation are set out under the Fair Work Act. Temporary targeted exceptions are also provided by the *Fair Work Regulations 2009* (Regulations).

The review panel noted limited evidence to assess the impacts of the reforms but found that stakeholder concerns about the complexity of exceptions and extensions to the temporary exceptions in the Regulations may be undermining their effectiveness.[29]

The review panel recommended that stakeholders collaborate to resolve issues with the broader framework.[30] Where agreement cannot be reached, stakeholders should seek resolution through FWC, including by varying modern awards. The review panel cited the FWC's recent review of fixed term contract provisions in higher education awards, commenced on its own initiative, as an example of how existing mechanisms can be used effectively.[31]

The government supports this recommendation, consistent with its view that the modern awards exception is intended to recognise sector-specific arrangements and allow stakeholders to use the modern awards framework to address issues before the independent FWC. The government notes implementation is a matter for stakeholders to pursue through award variation processes before the FWC.

[29] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 267.
[30] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 268.
[31] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 267.

Recommendation 18: Fixed term contracts – further consultation

> The Australian Government should undertake a short, final period of consultation to identify targeted improvements to the limitation on fixed term contracts to address issues which cannot currently be resolved through modern awards and make the limitation more readily applicable in practice.

The government supports this recommendation.

The review panel acknowledged that further work is needed to resolve outstanding issues with the fixed term contract framework but urged parties to 'draw a line in the sand' and move towards a final resolution.[32]

The review panel considered that further consultation may be warranted, particularly where variations to modern awards do not address concerns about the limitation on fixed term contracts. However, the review panel recommended that any additional consultation is brief and conclusive, noting the extensive engagement already undertaken by the Department of Employment and Workplace Relations.

The government supports this recommendation and agrees there is value in further targeted consultation. The Department of Employment and Workplace Relations is consulting stakeholders and will advise government on the need for targeted improvements to the fixed term contract framework to support implementation.

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[32] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 267.

Recommendation 19: Small claims procedure

Consistent with recommendations 9 and 10 of the Department of Employment and Workplace Relations' *Review of the Fair Work Act Small Claims Procedure*:

9. The Government should undertake further work to consider whether additional funding is required for legal assistance in small claims matters, to enable:

    a. the establishment of duty lawyer services
    b. the provision of targeted community legal education initiatives, and
    c. legal assistance providers to assist and represent more workers.

10. Once data on the effects of the increased monetary cap becomes available, the Department of Employment and Workplace Relations should consider whether any additional changes to the small claims procedure under the *Fair Work Act 2009* are necessary.

The government supports in principle this recommendation.

The government has committed $3.9 billion over 5 years under the *National Access to Justice Partnership 2025-2030* (NAJP), which commenced on 1 July 2025. The NAJP supports front-line service delivery across the legal assistance sector. Legal assistance providers are to prioritise services in line with Commonwealth priorities under the NAJP. Clause 16(c) identifies that employment matters are a Commonwealth priority in 'alleviating cost of living pressures'.[33] Importantly, the government has committed ongoing funding beyond the 5-year term of the NAJP, providing much-needed funding certainty to the sector.

Part 24 of Schedule 1 to the Secure Jobs, Better Pay Act amended the Fair Work Act small claims procedure to assist workers in recovering their unpaid work entitlements and reduce the cost of proceedings. The amendments:

- increased the cap on the amount that can be awarded through small claims court proceedings from $20,000 to $100,000. This was intended to make the small claims procedure available to a greater number of workers
- clarified the courts' ability to award filing fees as costs to successful small claims applicants. This was intended to reduce the deterrent effect of filing fees on the making of claims.

[33] Federal Financial Relations, National Access to Justice Partnership Agreement, 6.

These reforms support the government's commitment to improve compliance with, and enforcement of, the Fair Work Act. The review panel found the provisions were working as intended, while acknowledging data limitations.

The Department of Employment and Workplace Relations will consider whether further changes to the Fair Work Act's small claims procedure are required as more data becomes available on the impact of these amendments to assist workers in recovering their unpaid work entitlements and reduce the cost of proceedings.

Recommendation 20: Job advertisements

> The Fair Work Ombudsman should engage with job advertising platforms and other technology stakeholders to ensure that all job advertisements include accurate and lawful information, supported by the Fair Work Ombudsman's public education initiatives and materials.

The government supports in principle this recommendation.

The Secure Jobs, Better Pay Act amended the Fair Work Act to make it unlawful to advertise a job with a pay rate below the legal minimum. While underpayment is already prohibited, these changes seek to further reduce exploitation and prevent unintentional underpayments.

The review panel found early evidence that the amendments are achieving their intended effect. However, it emphasised the need for consistent and effective application, particularly in light of evolving technologies and communication platforms.[34] Stakeholders raised concerns about job advertisements posted on private forums such as WhatsApp groups, closed social media pages and restricted job boards. The review panel highlighted the importance of providing support to job advertising platforms to ensure pay ranges comply with legal requirements.

The government supports in principle this recommendation, acknowledging the independence of the FWO.

The government understands that the FWO continues to work with stakeholders to prevent and address unlawful job advertisements. This includes engagement with advertising platforms, responding to reports via its Infoline and anonymous tip-offs, and working with tripartite stakeholder groups. The FWO is also exploring digital tools to streamline the identification and assessment of non-compliant advertisements and enhance its surveillance and detection capabilities. These efforts complement its education resources enforcement activities, including issuing of fines to employers who breach the law.

[34] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 296.

Recommendation 21: Entry to assist Health and Safety Representatives

> The Australian Government should monitor Health and Safety Representative assistants accessing workplaces without right of entry permits and take immediate action to address any indications of misuse, particularly in the building and construction industry.

The government supports this recommendation.

The Closing Loopholes Act amended the Fair Work Act to allow union officials without a right of entry permit to enter workplaces to assist HSRs. This amendment responded to a recommendation of the 2018 independent Review of the Model Work Health and Safety Laws and means that union officials are treated the same as any other person entering a workplace to provide assistance to an HSR.[35]

The review panel noted that the changes only commenced on 15 December 2023.[36] The review panel also observed that recent issues involving the Construction, Forestry and Maritime Employees Union have affected stakeholder trust in the workplace relations system, particularly in relation to this amendment.

The review panel recommended that the government closely monitor and respond to any indications that union officials, particularly those in the building and construction industry, are misusing the provisions.

The government supports this recommendation, recognising the critical role of HSRs in maintaining safe workplaces. The department will continue to monitor workplace access for this purpose, with a focus on the building and construction industry, and provide advice to government as needed.

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[35] M Boland, *Review of the model Work Health and Safety laws: Final Report*, report to Safe Work Australia, 2020.

[36] Bray and Preston, *Final report of the Secure Jobs, Better Pay Review*, 308.