IR UPDATE JULY 2026.

12 MONTHS OF CHANGE & ANALYSIS

focus HR

STRONG BUSINESSES START WITH STRONG PEOPLE PRACTICES

The team at **Focus HR** helps organisations build capable leaders, compliant workplaces and high-performing teams.

We provide practical **HR & IR** solutions that help businesses reduce risk, strengthen culture and align their people strategy with business goals.

From workplace compliance and leadership development to strategic planning and culture transformation, our team works alongside business leaders to **create workplaces that work.**

HR & IR SUPPORT

- General Queries
- Contracts & Policies
- Wage Compliance
- Award Interpretation
- Employee Relations
- Workplace Investigations
- Perfective Management
- Sexual Harassment Prevention Plans

LEADERSHIP DEVELOPMENT

- Lead with Focus Program
- DISC Profiling
- Blanchard Programs
- Coaching & Mentoring
- Leading Teams
- Workshops

BUSINESS STRATEGY

- Bespoke Strategy Programs
- Accountability Sessions
- Quarterly Reviews & Resets

WORKPLACE CULTURE

- Culture Journey Programs
- Employee Engagement Surveys
- Induction & Onboarding Systems
- Employee Handbooks
- Coaching Conversations

PEOPLE-FOCUSED | PRACTICAL | COMPLIANT

07 4765 3456 info@focushr.com.au www.focushr.com.au

FORWARD

If there's one word that captures the current workplace relations landscape, it might be *relentless*.

While legislation changes may have slowed down, the Fair Work Commission (FWC) are signalling a worrying intent to expand its reach beyond their traditional scope of employment relationships and into the realm of corporate governance.

The "claims-culture" that we've observed over recent years isn't just growing … it's accelerating. General Protections applications jumped 75% in a single month, and AI is pouring fuel on the fire. We're now seeing employees feed a prompt as simple as "*it's not fair - my employer said no to a pay rise*" into a chatbot and receive a 30-page grievance complete with legislation references, emotive language, and case law citations, much of it wrong, but all of it convincing enough to escalate what might otherwise have been a straightforward conversation into something far more complex and costly.

At the same time, the national minimum and award wages will rise again from 1 July, and the tension they create cuts both ways. Employees will rightly point out that years of below-CPI-level increases have not fully restored the purchasing power lost during the post-pandemic inflation spike. But the other side of that equation is that wage growth is now outpacing productivity. For businesses, that means the cost of labour keeps climbing while output remains largely unchanged. Neither of those mathematical equations work.

And then there's AI itself. It's not just employees wondering whether their roles will still exist in three years. Entire businesses are facing genuinely existential questions about whether the services they provide today will still be needed tomorrow, or whether AI will simply do it faster, cheaper, and … let's be honest, sometimes better. Some are wondering whether the expertise they have spent decades building could eventually be replicated, or even replaced, by technology.

But throughout this there is optimism.

The businesses we see forging ahead right now, the ones navigating this uncertainty with real confidence, aren't doing it because they've found a magic compliance formula or a clever legal workaround. They're doing it because they've invested in their people. They've built trust. They've focused on culture, connection and engagement, not as soft concepts, but as genuine strategic advantages.

Technology will continue to evolve. Regulation will continue to expand. Economic pressures will continue to challenge employers. But the importance of strong workplace relationships remains remarkably constant.

The future will undoubtedly require businesses to embrace new tools, new ways of working and new approaches to productivity. Yet the organisations most likely to succeed will be those that remember a simple truth: while technology may change how work is performed, people remain at the centre of every successful business.

In an environment this complex, the businesses that will thrive are the ones that choose connection over compliance and relationships over reaction.

We hope this edition of IR Unpacked helps you do exactly that.

Naomi Wilson
Founding Director, People & Leadership

Alistair Green
Director, Business Strategy

NATIONAL MINIMUM WAGE DECISION

When: Applies to the first full pay period after 1 July 2026

On 2 June 2026, the Fair Work Commission (FWC) handed down its Annual Wage Review decision, confirming significant increases to both the National Minimum Wage and minimum award wages from 1 July 2026.

Key Changes

The National Minimum Wage will increase by **5.97%**, rising from $24.95 per hour to **$26.44** per hour, or from $948.00 to **$1,004.90** per week for a full-time employee working a 38-hour week.

For employees covered by modern awards, the Commission has awarded a **4.75% increase** to minimum wage rates.

The FWC's Rationale

A key issue considered by the Commission was the impact of the significant inflation experienced during 2022 and 2023.

In its decision, the FWC noted that many award-reliant employees remain worse off in real wage terms than they were prior to the post-pandemic inflation spike. The Commission found that minimum wage increases in recent years had not fully restored the purchasing power lost during that period.

However, the FWC also acknowledged the challenges facing employers and stated that it would not be responsible, in the current economic environment, to grant increases large enough to fully restore real wages to their July 2021 position.

Instead, the FWC determined that the increase should broadly ensure that modern award-reliant employees are not worse off in real terms than they were on 1 July 2025.

The decision sits below the 6% increase sought by unions but significantly above the outcomes proposed by most employer groups.

Important changes to award classifications

Alongside the wage increase, the FWC announced changes to the lowest-paid classifications in the modern award system.

Following a multi-year review, the FWC has decided to phase out the **C13 classification** as the lowest rate applicable to ongoing employment. Instead, the **C12 classification** will become the minimum wage rate for ongoing employees across the award system.

As a result, the lowest wage rate for ongoing employment under modern awards will now align with the National Minimum Wage of **$1,004.90 per week or $26.44 per hour.**

The Commission has retained the **C14 entry-level classification**, which may apply during an initial period of employment of up to six months. The C14 rate will increase by **6.01%** to **$978.10 per week or $25.74 per hour.**

The Impact

The decision represents one of the largest wage increases delivered by the Fair Work Commission in recent years, second only to the 2023 Annual Wage Review.

The decision will affect millions of Australian workers and employers, particularly those operating in award-reliant industries such as horticulture, hospitality, retail, aged care, childcare, manufacturing and community services.

While only a relatively small proportion of employees are paid the National Minimum Wage, approximately **21% of Australia's workforce** (around **2.8 million employees**) are paid according to minimum award rates.

While the increase will be welcomed by many employees, it will create additional cost pressures for employers at a time when many businesses continue to face rising operating costs, increased insurance premiums, higher energy costs and ongoing (albeit softening) labour shortages.

The decision also continues a trend that many employers have highlighted in recent years: wage growth is increasingly occurring independently of productivity growth. While the Commission's focus remains on maintaining living standards for low-paid workers, concerns about the widening gap between wage increases and productivity outcomes are likely to remain a key issue.

Practical Tips for Employers

1. Check and update where needed:
   - Contracts of Employment
   - Individual Flexibility Arrangements
   - Enterprise Agreement Rates
2. Review salaries and all-inclusive hourly rates to ensure they remain compliant
3. Ensure your payroll system updates to new Award and Superannuation rates
4. Communication! We can't stress this one enough. Don't leave employees wondering or guessing what might be happening to their wages. Even if they are not receiving an increase, communicate the decision.
5. To increase productivity or performance through remuneration incentives, break the link between NMW increases (which are mandatory) and discretionary (performance based) pay increases. Wage increases applied around 1 July will be seen by employees as an entitlement linked to NMW increases, rather than recognition of their performance or value to the organisation.

LEGISLATION CHANGES

PAYDAY SUPERANNUATION

When – 1 July 2026

The Treasury Laws Amendment (Payday Superannuation) Act 2025 and Superannuation Guarantee Charge Amendment Act 2025 were introduced into Parliament on 9 October 2025.

From July 2026 employers will generally be required to make superannuation contributions within seven business days of paying employees' wages and salaries rather than quarterly.

The reforms introduce a new concept called "qualifying earnings" (QE), which will be used to calculate both superannuation guarantee contributions and superannuation guarantee charge calculations.

Qualifying earnings consist of:
- ordinary time earnings;
- amounts of ordinary time earnings sacrificed under salary sacrifice arrangements; and
- certain payments captured within the extended meaning of employee under the Superannuation Guarantee legislation.

The Australian Taxation Office has also published a draft compliance guidance regarding its intended approach during the first year of Payday Super.

Practical Implications for Employers

Employers should review:
- payroll systems and automation capability
- payroll reconciliation processes
- salary sacrifice arrangements
- payroll timing and cashflow forecasting and
- superannuation reporting systems

Observation

The reforms reinforce the broader movement toward real-time payroll compliance and increase administrative and payroll compliance obligations for employers.

PROTECTING PENALTY & OVERTIME RATES ACT 2025

When – 30 August 2025

The Fair Work Amendment (Protecting Penalty and Overtime Rates) Act 2025 received Royal Assent on 29 August 2025 and commenced on 30 August 2025.

The legislation restricts the Fair Work Commission's ability to reduce or roll up overtime and penalty rate entitlements into annualised salary arrangements.

The reforms require the Commission to ensure:
- specific penalty and overtime rates in modern Awards cannot be reduced; and
- modern awards cannot include rolled-up salary arrangements which do not fairly compensate award-reliant employees for the penalty rates and overtime they would have otherwise received.

Practical Implications for Employers

Employers should:
- review annualised salary arrangements to ensure employees remain no worse off than if they were paid in accordance with Award terms
- reassess salary absorption or offset clauses
- ensure overtime and penalty entitlements are reconciled accurately (this includes appropriate record keeping) and
- review payroll compliance processes

Observation

The legislation reflects increasing political and regulatory concern regarding annualised salary arrangements and payroll compliance transparency.

It does not stop employers and employees from entering into annualised salary or individual flexibility arrangements under the Award, but it does add a layer of protection to prevent terms that would leave employees worse off.

BABY PRIYA'S ACT 2025

When – 7 November 2025

The Fair Work Amendment (Baby Priya's) Act 2025 introduced new protections for employees who experience the stillbirth or death of a child and are entitled to employer-funded paid parental leave.

The reforms were introduced following a widely publicised campaign that highlighted a gap in the Fair Work Act where employees could retain access to unpaid parental leave and government-funded parental leave, but could lose access to employer-funded paid parental leave following the death of a child.

The legislation is named after Baby Priya, who tragically died at 42 days old. Following her death, her mother's employer-funded paid parental leave was cancelled, prompting calls for legislative reform to ensure grieving parents did not face uncertainty regarding their leave entitlements during an already traumatic period.

The reforms insert a new workplace protection into the Fair Work Act preventing employers from refusing or cancelling employer-funded paid parental leave because an employee's child is stillborn or dies, where the employee would otherwise have been entitled to that leave under their terms and conditions of employment.

The protections apply to employer-funded paid parental leave associated with:
- the birth of an employee's child;
- the birth of a child of an employee's spouse or de facto partner; or
- the placement of a child with an employee for adoption.

Importantly, the legislation does not create a new entitlement to employer-funded paid parental leave. Rather, it preserves existing entitlements that arise under employment contracts, enterprise agreements, workplace policies or other employment arrangements.

The reforms also recognise that employers and employees may have existing arrangements dealing with stillbirth or the death of a child. Certain exceptions apply where employment terms expressly provide for different arrangements. However, employers cannot unilaterally amend employment terms after commencement of the legislation in order to avoid the operation of the new protections.

The protections commenced on 7 November 2025 and apply where the stillbirth or death of a child occurs on or after that date.

Practical Implications for Employers

Employers should consider:
- reviewing company-paid parental leave entitlements in policies, employment contracts or enterprise agreements with the lens that these now cannot be removed in the case of stillbirth or death of a child
- ensuring managers understand the new protections
- reviewing workplace processes for handling parental leave following stillbirth or infant death; and
- ensuring any decisions regarding parental leave entitlements are consistent with the amended Fair Work Act.

Observation

The reforms reflect an increasing focus on aligning workplace laws with community expectations regarding compassion, psychological wellbeing and employee support during significant life events.

Baby Priya's Act also demonstrates the growing willingness of Parliament to intervene where gaps emerge between statutory leave protections and employer-funded workplace entitlements.

SUPERANNUATION CLAUSE REVIEW

When – 23 January 2026

Following its review of superannuation clauses in modern awards, the Fair Work Commission issued determinations varying 125 modern awards in order to standardise superannuation provisions and modernise references to default superannuation funds.

The review forms part of the Commission's broader "making awards easier to use" and award simplification agenda aimed at improving consistency, readability and usability across the modern award system.

The review followed earlier provisional views expressed by the Commission regarding inconsistencies that had developed across modern award superannuation clauses over time.

These inconsistencies included differences in drafting style, terminology, contribution obligations and references to default superannuation funds that no longer reflected current industry or legislative arrangements.

The changes take effect from the first full pay period on or after 23 January 2026.

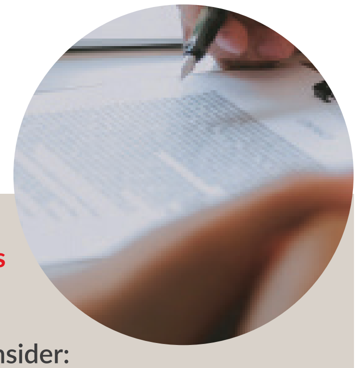
The variations do not fundamentally alter employers' core statutory superannuation obligations under the Superannuation Guarantee system.

Rather, the changes are primarily directed toward improving consistency and clarity within modern awards by:
- standardising superannuation clause wording across awards
- updating and modernising default fund references
- consolidating and simplifying drafting approaches and
- improving alignment between award clauses and broader legislative superannuation obligations

Observation

For employers operating across several industries or multiple award-covered workforces, the standardisation process is likely to reduce some administrative complexity and assist with improving payroll and compliance consistency.

However, employers will still need to carefully review the amended clauses applicable to their workforce to ensure payroll systems, default fund arrangements and employment documentation remain compliant.



Practical Implications for Employers

Employers should consider:
- reviewing applicable modern awards and amended superannuation clauses
- ensuring payroll systems align with updated award wording
- confirming default fund references remain accurate
- reviewing onboarding documentation and superannuation nomination processes and
- assessing any enterprise agreements or employment contracts that reference superseded award provisions

CHILDREN'S SERVICES AWARD CHANGES

When – 1 March 2026

The Fair Work Commission made a final decision regarding the Children's Services Award 2020 [MA000120] as part of its gender-based undervaluation review.

Employees covered by the Award received wage increases from the first pay period on or after 1 March 2026, with further increases phased in through to 2028 and 2029 depending on classification level.

The Commission also introduced:
- a simplified classification structure
- a translation schedule for classification movement
- updated provisions regarding cooks working "on the floor" and
- amended allowance calculations for broken shift and first aid allowances.

Observation

The decision represents one of the most significant wage and structural changes within the early childhood sector in recent years.

JUNIOR RATES REVIEW

When – 1 December 2026

The Fair Work Commission published a significant decision regarding the Shop, Distributive and Allied Employees' Association's (SDA) application to vary junior wage provisions contained within the General Retail Industry Award 2020 [MA000004], Fast Food Industry Award 2020 [MA000003] and Pharmacy Industry Award 2020 [MA000012]. The proceedings form part of the Commission's broader focus on modern award fairness, workforce equity and whether junior rates remain appropriate for 18 to 20 year olds performing substantially the same work as adult employees.

The SDA sought to remove junior rates for employees aged 18 years and over and argued that the existing structure no longer reflected contemporary workplace realities, particularly where junior employees were undertaking the same duties and responsibilities as adult workers while receiving significantly lower rates of pay.

The Fair Work Commission ultimately determined that employees aged 18 years and over who have more than six months' service with their employer should receive adult rates of pay under the three awards. However, the Commission stopped short of removing all junior rates entirely. Employees aged between 18 and 20 years with less than six months' service with their employer will continue to receive junior percentages, and employees under 18 years of age remain subject to the existing junior rate structure.

Importantly, the Commission recognised that while age and experience may continue to justify some differentiation in wage rates for younger employees, there comes a point where continued payment of junior rates is no longer appropriate where the employee is performing work equivalent to adult employees and has gained sufficient workplace experience.
The implementation is a phased approach from 1 December 2026 with a gradual increase in the percentage rates for employees aged 18 to 20 over a two and a half year period.

Practical Implications for Employers

Employers operating within the affected industries should consider:
- reviewing workforce demographics and identifying employees who may transition to adult rates
- modelling future labour cost impacts associated with implementation
- reviewing rostering and workforce planning practices and
- ensuring payroll systems can accommodate future transitional arrangements

Observation

This decision is significant because it reshapes workforce cost structures within industries heavily reliant on junior labour, particularly retail, hospitality-adjacent fast food operations and pharmacy sectors. Employers operating within these industries may experience substantial increases in labour costs associated with younger adult workers who historically remained on junior rates for extended periods.

The decision signals continuing Fair Work Commission scrutiny regarding junior wage structures, workforce equity and whether age-based wage differentiation remains justified where junior employees are undertaking substantially the same work as adult employees. It also reflects a broader regulatory and societal focus on fairness and modernisation within the award system.

FIRST PAY PERIOD AFTER	GENERAL RETAIL, FAST FOOD & PHARMACY - INDUSTRY AWARDS		
Age	18 (and employed by the employer for more than 6 months)	19 (and employed by the employer for more than 6 months)	20 (and employed by the employer for more than 6 months)
Present Percentages	70	80	90
1-Dec-26	75	85	95
1-July-27	80	90	**Full adult rate**
1-Dec-27	85	95	
1-July-28	90	**Full adult rate**	
1-Dec-28	95		
1-July-29	**Full adult rate**		

FAIRER FUEL REFORMS & ROAD TRANSPORT CONTRACTUAL CHAIN ORDERS

When – 1 April 2026

The Fair Work Amendment (Fairer Fuel) Act 2026 introduced significant changes to the Fair Work Act aimed at fast-tracking road transport contractual chain orders (RTCCOs) and responding more quickly to sudden disruptions affecting the road transport industry, particularly sharp increases in fuel costs. The reforms represent one of the most significant developments in the regulation of road transport contracting arrangements since the introduction of the Closing Loopholes legislation.

RTCCOs are legally enforceable orders made by the FWC that can establish minimum standards across road transport contractual chains. These orders can apply to regulated road transport contractors, employee-like workers, road transport businesses and other parties involved within transport supply chains. RTCCOs may contain provisions dealing with matters including fuel levies, cost recovery, rate reviews, payment times and termination arrangements.

The Fairer Fuel reforms were introduced in response to growing concerns regarding the impact of significant fuel price increases on transport operators and owner-drivers. The amendments were designed to enable the FWC to intervene more quickly where sudden events or circumstances create substantial negative impacts across the road transport industry.

A key feature of the reforms is the introduction of an "emergency application" process. The Minister for Employment and Workplace Relations can now determine that an application to make, vary or revoke an RTCCO is an emergency application where an event or circumstance is having, or is likely to have, a significant national negative impact on the road transport industry and it is in the public interest to intervene. Once classified as an emergency application, the FWC is able to significantly shorten consultation and commencement timeframes that would otherwise apply.

The reforms were quickly utilised following significant fuel price increases during early 2026. In April 2026, the FWC issued the first ever RTCCO – Fuel Cost Recovery 2026 after receiving a joint application from the Transport Workers' Union and the Australian Road Transport Industrial Organisation. The order was designed to ensure that increased fuel costs could be passed through transport contractual chains rather than being absorbed solely by transport operators and drivers.

The Fuel Cost Recovery Order requires certain parties within road transport contractual chains to adjust transport rates in order to account for increased fuel costs. Importantly, the order extends beyond transport businesses themselves and may affect parties throughout broader contractual supply chains that engage transport services.

The reforms represent a significant shift in how industrial regulation may operate within the road transport sector. Rather than focusing solely on traditional employment relationships, the framework regulates broader commercial arrangements and contractual supply chains where transport work is ultimately performed.

Practical Implications for Employers

Businesses operating within or connected to the road transport industry should consider:
- reviewing whether they form part of a road transport contractual chain
- assessing existing fuel recovery and rate adjustment mechanisms in contracts
- monitoring active RTCCO applications before the Fair Work Commission
- assessing compliance obligations arising from Fuel Cost Recovery Orders and
- reviewing broader supply chain arrangements that may be captured by future RTCCOs.

Businesses should also be aware that RTCCOs are legally enforceable and may impose obligations regardless of whether existing contracts currently contain fuel adjustment or cost recovery provisions.

Observation

The Fairer Fuel reforms represent a major expansion of industrial regulation beyond traditional employment relationships and into broader contractual supply chains. The reforms demonstrate an increasing willingness by Parliament and the FWC to intervene in commercial contracting arrangements where economic pressures are considered capable of undermining minimum standards within critical industries.

The first Fuel Cost Recovery Order also signals how rapidly the new framework can now operate. What would previously have required lengthy consultation and implementation periods can now be introduced on an expedited basis where significant industry-wide events occur.

SCHADS AWARD – CHANGES TO SLEEPOVERS

When – 1 June 2026

The Fair Work Commission announced changes to sleepovers in the Social, Community, Home Care and Disability Services Award (SCHADS Award) [MA000100].

Under the SCHADS Award, a sleepover is when an employee is required to stay overnight at the same location as the client.

The Commission's decision changed how rostering and pay works for shifts that include a sleepover, in particular:
- ordinary hours of work
- rest breaks between rostered work
- shift allowances and penalty rates.

Ordinary hours of work

Employees and employers can now agree to extend ordinary hours of work to up to 12 hours per shift, if part of the shift is immediately before and after a sleepover period, with a maximum of 8 ordinary hours in either period of work. On those shifts, overtime is payable for any extra time worked over 12 hours. Employees and employers can already agree to extend ordinary hours to 10 hours per shift under the SCHADS Award. Otherwise, shifts are 8 hours long.

Full-time employees

The changes clarify that overtime is calculated either per day or per shift, including where a shift spans across two calendar days.

Overtime is now payable to full-time employees for all work performed in addition to their rostered ordinary hours on any day or shift.

Part-time or casual employees

Where part of a shift is performed immediately before and immediately after a sleepover, overtime rates for part-time and casual employees will apply after:
- 12 hours if there's agreement between the employee and employer that the employee will work a 12 hour shift with a sleepover period
- 10 hours if there's no agreement.

Rest breaks between rostered work

The SCHADS Award has rules about employees needing a break of not less than 10 hours between the end of one shift and the start of another.

The Award is changing to provide that a sleepover period isn't a break between rostered work. Work performed immediately before and after a sleepover period will be treated as part of the same shift.

Shift allowances and penalty rates

The way shift allowances are calculated for shifts on both sides of a sleepover have also changed.
Where an employee is rostered to work immediately before and after a sleepover period, the portion of work before and after the sleepover period will be considered separately for the purposes of determining the shift allowances. This means the shift may have different shift allowances that apply for the two periods of work.

Practical Implications for Employers

Employers operating under the SCHADS Award should consider:
- reviewing payroll systems and sleepover payment practices;
- reviewing rostering arrangements involving sleepovers;
- ensuring sleepovers and surrounding work periods are correctly classified.

SCHADS AWARD REVIEW AND REFORM (2026)

When: 1 October 2027

The Fair Work Commission conducted a review of the SCHADS Award to address gender-based undervaluation and to improve clarity, fairness, and compliance in classification and wage structures. A decision has been published with 2 draft determinations relating to the classification structure.

Key Changes

Single Integrated Classification Structure:

- Replaces Schedules B, C, E, and F with a unified structure covering all relevant sectors: Social and Community Services, Crisis Assistance and Supported Housing, and Home Care.
- Simplifies and clarifies classification levels, making compliance more straightforward and reducing misclassification.

Recognition of Qualifications and Experience:

- The new structure recognises both formal qualifications and equivalent experience (including 'lived experience').

Removal of Annual Pay Increments:

- Pay progression is now based on demonstrated competency and satisfactory performance. The review is triggered by 12 months of service, however it is not automatic annual increments.

Entry Levels:

- Disability Support Workers: Entry at Level 2.2 in the new classification structure ($1248.50/week) for those with less than 12 months' experience; progress to Level 3.1 after 12 months.
- Social and Community Services workers: Entry at Level 3 ($1314.30/week) (currently Level B.2 in the Award).

Counsellors and Caseworkers:

- Counselling work is included under the definition of Caseworker/Practitioner, with entry at Level 5 for diploma-qualified roles.

Progression for Part-Time/Casual Employees:

- No requirement for full-time equivalent service. Progression is based on competency and performance, triggered by a qualifying period of continuous service
- Where progression is dependent upon industry experience with a different employer, progression is subject to the employee providing reasonable evidence of such experience on employer request.

Pay Rates at Higher Levels:

- Specific pay rates set for Levels 3.3, 4.1, 6.2, 6.3, and 6.5, balancing the need to avoid employees going backwards and limiting employer cost increases.

What is not changing

Allowances:

- Allowances tied to a percentage of the 'standard rate' are adjusted to maintain their current monetary value, avoiding unintended increases.
- Clerical Employees & Family Day Care:
- No change to coverage for clerical employees in this review; future applications may address this.
- Family Day Care is still included in this Award despite suggestions it should move to the Children's Services Award.

Implementation and Transition

Operative Date:

- For employees under Schedule E (Home Care Disability), a 15% pay increase applies from 1 October 2026 (this is a provisional view).
- The remainder of the new structure will commence on 1 October 2027 with no phasing arrangement.

Practical Tips for Employers

1. Review the new Integrated Wages Structure and start mapping current roles/employees to the new structure to understand budget impacts.
2. Identify potential individual employee changes and consider approach to communication.
3. Be ready to update HR infrastructure such as payroll, contract templates, increase letters, performance appraisals etc) ready for structural change from 1 October 2027.
4. Check wage rate updates on 1 October 2026.

SIGNIFICANT CASE LAW

ALI V DMG BUILDING & ELECTRICAL SERVICES PTY LTD [2025] FWC 1244

The Fair Work Commission found that a director's aggressive and confrontational swearing forced an employee to resign, despite the employer arguing that such communication formed part of the workplace culture.

What Happened

An electrician claimed that the DMG Building & Electrical Services Pty Ltd's director's "abusive and bullying behaviour" made him "fear for his safety" and forced him to quit.

After he resigned, he filed an adverse action claim, to which DMG objected, claiming that the electrician had resigned voluntarily. The electrician claimed that the director swore during a number of their conversations including when an issue arose when the worker visited a mosque to pray during work time, and a car reversed into his company van.

In a subsequent email, the director told the electrician that even though they had never discussed or agreed to him undertaking prayer during working hours, he would be willing to accommodate it, provided the electrician made up the time. The director also raised issues with the electrician's "below average" productivity.

The electrician approached the director on November 25 to discuss the issues he raised in the email, and he covertly recorded their conversation. During the conversation, they discussed the electrician's "work levels" and potential arrangements for him to take time off work to pray.

The director told the electrician he appeared "self-absorbed" and it seemed "deceitful" for him to fail to disclose that he had been praying during work time. "[T]here's two things I can't f**ing tolerate its people who steal and people who lie," he said. "I don't want any negative nancies running around my company f**ing becoming toxic to other blokes. It festers. What we do with those people, we f**ing weed them out."

The electrician resigned the following day and submitted a claim for a mental injury, which WorkCover later rejected.

The director told the Commission that the audio recording showed that "at no stage was I disrespectful, unprofessional or aggressive" and "he addressed the situation in a normal manner that he would with any of his other employees".

The Decision

Commissioner Allison concluded that the director's "aggressive, confrontational" conduct towards the electrician, particularly during their November 25 conversation, forced him to resign.

The commissioner noted that the director appeared to care about his employees, demonstrated by his willingness to establish a flexible work arrangement that enabled the electrician to pray during the working day, and he likely did not intend for the electrician to resign.

Commissioner Allison observed that the director runs a business in a blue-collar industry and "relies on close, direct relationships with his staff, speaking openly and frankly," where "swearing is likely to be part of the everyday work culture".

But she found that the director's language and behaviour during the November 25 meeting inappropriate and unacceptable "in any workplace", pointing out that "An employer is in a position of power and [the director] needs to be aware that behaviour that might be acceptable with a friend or in another context, is not acceptable or appropriate with an employee."

She found the "probable result" of the director's conduct in communicating feedback to the electrician and managing him, left him with "no effective or real choice but to resign", and she dismissed the jurisdictional objection, allowing the adverse action claim to continue to conciliation.

Why This Matters

The case reinforces the growing focus on:

- psychological safety
- respectful communication
- constructive dismissal principles
- workplace culture arguments and
- management behaviour during performance discussions.

The decision highlights increasing scrutiny of management communication styles and demonstrates that "workplace culture" will not excuse aggressive conduct by managers or directors.

CROPPER V ENERGY ACTION (AUSTRALIA) PTY LTD (NO 2) [2025] FCA 663

For years, the distinction between an employee and an independent contractor has remained one of the most heavily litigated issues in Australian employment law. While many disputes focus on the wording of contracts, Cropper v Energy Action (Australia) Pty Ltd (No 2) demonstrates that the practical reality of a working relationship can ultimately outweigh the label attached to it.

What began as a relatively straightforward contractor arrangement evolved over almost 15 years into a relationship that looked, operated and functioned like employment.

What Happened

The dispute involved an IT specialist who first commenced working with Energy Action (Australia) Pty Ltd. Initially, the arrangement appeared relatively conventional. The worker operated as a sole trader and was engaged to assist with the development and management of the company's database systems. He invoiced the business for his services and was paid an agreed hourly rate. At that stage, the relationship largely resembled an independent contracting arrangement.

As the business grew, however, the nature of the relationship began to change. The IT specialist approached the company seeking to be placed on payroll, primarily to avoid the need to register for GST. Following that request, a number of administrative changes occurred that would later become highly significant in the proceedings. In 2006, the company started issuing the worker with pay slips, withholding tax from payments and making superannuation contributions on his behalf.

By 2007 he was working exclusively for Energy Action. In 2008 he was provided with company business cards identifying him as the company's Data Management and IT Manager. He later participated in annual performance reviews, assisted in recruiting and supervising other staff and became deeply embedded within the company's day-to-day operations.

Despite these developments, uncertainty regarding his status remained. Evidence before the Court revealed that company representatives continued to refer to him as an independent contractor. The issue came to a head in 2017 when the worker questioned why he had been excluded from an employee share plan despite previously being treated in various respects as though he were an employee. When he raised concerns, he was directed to seek advice from the FWC and the ATO.

The matter remained unresolved until February 2020 when the company terminated the relationship. The company provided the worker with a transaction report setting out the amounts the company was proposing to pay him including what was described as an employment termination payment (ETP).

When the worker refused to accept the proposed termination arrangement, the company issued a letter in which EAAPL's chief executive explained "we will be terminating your engagement as a contractor" and that "as a gesture of good faith for your years of dedication as a contractor to the company, we will pay you the same amounts that we would pay to our permanent employees in this position, despite you being a contractor and therefore not having these entitlements".

The Decision

After reviewing the evidence in detail, Justice Snaden concluded that the IT specialist had been an employee rather than an independent contractor from January 2006 onwards.

The Court considered a range of factors that pointed towards employment, including

- the worker's exclusive service to the company,
- the withholding of tax,
- the payment of superannuation contributions,
- his participation in performance reviews,
- the managerial responsibilities he had assumed and
- the extent to which he had become integrated into the business.

The Court then considered the worker's entitlement claims. Additional claims relating to annual leave, public holidays and personal leave resulted in an order to pay unpaid entitlements exceeding $100,000.

Why This Matters

The decision highlights the significant risks associated with long-term contractor arrangements that gradually evolve into something much closer to employment.

The case reinforces that contractual labels alone will not determine a worker's status.

Businesses should regularly review contractor arrangements, particularly where those relationships have existed for many years or where the worker has become deeply embedded within the organisation.

FWO V WOOLWORTHS & COLES [2025] FCA 1092

Few employment law decisions in recent years have sent a stronger message to Australian employers than the Federal Court's decision involving Woolworths and Coles.

What began as large-scale underpayment proceedings involving thousands of salaried retail managers ultimately evolved into one of the most significant payroll compliance cases Australia has seen. The decision examined the way employers use annualised salaries, contractual set-off clauses and payroll reconciliation processes, and has potentially reshaped how award-covered salaried employees must be paid moving forward.

What Happened

The proceedings arose from legal action commenced by the Fair Work Ombudsman (FWO) together with related employee class actions concerning salaried managers employed by Woolworths and Coles.

The claims centered on allegations that thousands of award-covered managers had been underpaid despite receiving annual salaries above the minimum award rates. The underpayments largely arose because the salaries paid were insufficient to cover the overtime, penalty rates, allowances and other award entitlements that accrued due to the actual hours worked by employees.

Both employers relied heavily on contractual set-off clauses contained within employment contracts.

Those clauses were designed to allow above-award salary payments to satisfy award obligations. The employers argued that where employees received salaries above minimum award requirements, those additional payments could be used to offset overtime, penalties and other award entitlements that became payable over extended periods. Woolworths operated a six-month reconciliation model, while Coles relied on arrangements extending over an annual period.

A major issue before the Court was whether those arrangements could lawfully operate across multiple pay periods. The FWO argued that employees must receive all award entitlements in full during each applicable pay cycle and that employers could not retrospectively use salary overpayments from one period to compensate for award shortfalls arising in another.

The FWO also alleged that the employers had failed to maintain records in the manner required by the Fair Work Act and Fair Work Regulations.

The Decision

The Federal Court ultimately delivered a landmark decision regarding the operation of set-off clauses and payroll compliance obligations.

Justice Perram found that contractual set-off clauses could only operate effectively **within a single pay period.** Employers could not rely on salary overpayments made during one pay cycle to offset award underpayments arising in later pay cycles. The Court held that employees must be paid their award entitlements in full within the relevant pay period in accordance with section 323 of the Fair Work Act and the applicable award provisions.

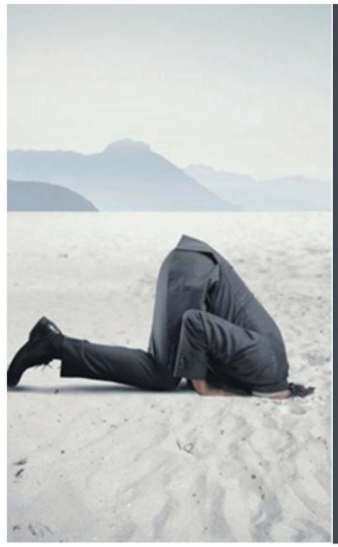
In practical terms, this meant that where an employee worked overtime or became entitled to penalties or allowances during a particular pay period, those entitlements needed to be satisfied during that same period.

The Court also rejected arguments that annual salaries removed the need to maintain detailed records of overtime and award-related entitlements. The Court found employers must continue keeping detailed and accessible records showing overtime worked, entitlement calculations and other information necessary to demonstrate compliance with award obligations.

Why This Matters

The Woolworths and Coles decision is one of the most significant payroll compliance developments in recent years. It places annualised salary arrangements and contractual set-off clauses under increased scrutiny, prompting many employers to reassess how they pay, monitor and reconcile salaried award-covered employees.

The Fair Work Ombudsman has consistently emphasised that employers cannot take a "set and forget" approach to annual salaries and must actively ensure employees receive all entitlements under applicable workplace instruments.



MCNAUGHTANS PTY LTD V TERRANCE PAVITT [2025] FWC 1448

The Fair Work Commission reduced a long-serving employee's redundancy entitlement after finding he unreasonably rejected suitable alternative employment involving relocation and additional allowances.

What Happened

The employee, a Warehouse Manager, working at the employer's warehouse operations for approximately 18 years. When the employer decided to relocate operations, it offered the employee ongoing employment at a different site together with:

- a 10% salary increase;
- a $1,000 monthly car allowance; and
- an additional petrol allowance.

The change would have required the employee to drive an additional 30km a day.

The employee rejected the proposal, describing the new location as a "sh-thole" and objecting to the increased commuting distance. The employer reconsidered the relocation because without the warehouse manager, it did not have a suitable employee to manage the facility and ultimately relocated elsewhere. They did not offer the employee a relocation to the new facility.

Mcnaughtans then applied under s120 of the Fair Work Act to reduce the warehouse manager's redundancy pay to zero, which the warehouse manager opposed.

He told the Commission he believed the relocated role had been "a fake offer made to deny him his redundancy", and had not been "real" because Mcnaughtans did not ultimately relocate to that location, and did not offer to relocate him to the new warehouse.

He also said that Mcnaughtans failed to advise him that his redundancy payment would be at risk if he rejected the relocation offer, and he had relied on the managing director's assurances that "he would be looked after".

The employee argued the original relocation offer was not genuine and believed he had effectively been promised a redundancy payment.

The Decision

The Commission concluded the employer had genuinely attempted to retain the employee through the proposed relocation arrangement. Importantly, the Commission found the additional commuting distance was not unreasonable when considered together with the financial incentives offered.

Commissioner Connolly noted the warehouse manager had not provided the Commission any independent evidence to demonstrate why his age, health or other factors contributed to his objections, "apart from the inconvenience", and on that basis he found the warehouse manager's objections unreasonable.

However, the Commission declined to reduce the redundancy entitlement to zero because:

- the employee had lengthy service
- the employee was not told that refusing the transfer would put his redundancy payment at risk, instead he was told he would be "looked after" and
- the employee had not been consulted regarding later relocation alternatives

The redundancy payment was ultimately reduced by 50%, with a final amount payable of $10,032.

Why This Matters

The decision demonstrates:

- the importance of genuine redeployment efforts
- objective assessment of alternative employment
- the significance of procedural fairness during restructures and
- the risks associated with inconsistent managerial communications

DONATO V QUEENSLAND VENUE CO PTY LTD [2026] FWC 362

Few unfair dismissal decisions this year attracted as much attention as Donato v Queensland Venue Co Pty Ltd. What began as a workplace prank involving a collection of rubber ducks ultimately ended with two employees losing their jobs, a Fair Work Commission hearing and a decision that serves as an important reminder about workplace investigations, proportionality and common sense.

What Happened

Serena Donato and Emma Donato were employed by Queensland Venue Co and worked in a venue where workplace banter, practical jokes and light-hearted interactions between employees were not uncommon.

Over a period of time, small rubber ducks began appearing around the workplace. The ducks were placed in different locations and became something of an ongoing workplace joke. However, concerns arose when some of the ducks were arranged in the shape of a pentagram. A manager complained that the display was disturbing and inappropriate, describing it as a satanic image associated with the devil. The manager claimed the displays made her feel uncomfortable and intimidated and alleged that the conduct amounted to workplace bullying.

The matter escalated rapidly.

Rather than being treated as a workplace conduct issue capable of informal resolution, the allegations were investigated as potential serious misconduct. The employer formed the view that the employees had deliberately engaged in behaviour designed to intimidate and upset the manager.

Both employees were terminated without notice.

The employees subsequently lodged unfair dismissal applications in the FWC, arguing there was no valid reason for dismissal and that the employer had dramatically overstated the seriousness of the conduct.

During the hearing, evidence revealed that approximately one month after the dismissals occurred, the manager who had complained about the satanic symbolism obtained a tattoo of a pentagram. The Commission observed that a person genuinely terrified by the symbolism of a pentagram would be unlikely to voluntarily have the same symbol permanently tattooed on their body. The evidence significantly undermined the seriousness of the concerns that had formed the basis of the dismissals.

The Decision

The FWC ultimately concluded there was no valid reason for dismissal. After reviewing the evidence, the Commission found the conduct did not constitute workplace bullying and did not amount to serious misconduct.

The Commission was not satisfied that the employees had engaged in conduct intended to intimidate, threaten or psychologically harm the manager. Instead, the Commission considered the employer had incorrectly elevated what was, at worst, immature workplace behaviour into allegations of serious misconduct and that the employer's conclusions were not supported by the evidence available at the time the dismissals were made.

The Commission found both dismissals were harsh, unjust and unreasonable and declined to order reinstatement but awarded compensation to both employees.

Emma Donato was awarded compensation of $8,405.76.

Serena Donato was awarded compensation of $7,050.00.

Why This Matters

Although the facts of the case are unusual, the principles applied by the Commission are highly relevant to all employers.

The decision reinforces several important workplace management principles:

- allegations of bullying must be supported by evidence and assessed objectively;
- workplace investigations must focus on facts rather than assumptions;
- disciplinary outcomes must be proportionate to the conduct established; and
- employers should avoid allowing emotional reactions to drive disciplinary decisions.

FUTURE PREDICTIONS & EMERGING TRENDS

AI WILL RESHAPE THE FAIR WORK SYSTEM

Artificial intelligence is expected to fundamentally alter workplace litigation, increase application volumes and drive significant procedural reform within the Fair Work Commission.

AI tools are already enabling employees to draft claims, submissions and witness statements rapidly, while simultaneously creating concerns regarding fabricated facts, unrealistic (and incorrect) legal advice and low-merit claims.

The increasing use of AI is likely to continue driving both accessibility and procedural strain within the Fair Work system.

REGULATION WILL CONTINUE EXPANDING BEYOND TRADITIONAL EMPLOYMENT

Industrial relations regulation is increasingly extending beyond traditional employment relationships into contractor arrangements, labour platforms and broader workforce ecosystems.

Future industrial relations reform is likely to continue targeting labour supply chains and employee-like forms of work.

NATIONAL EMPLOYMENT STANDARDS REVIEW

When – Review commenced from November 2025

A parliamentary inquiry was launched late 2025 to review whether the National Employment Standards (NES) remain fit for purpose for employers, employees and the modern Australian economy.

The review represents one of the most significant reconsiderations of Australia's statutory minimum employment standards framework in recent years and reflects growing debate regarding whether the NES adequately addresses modern workforce expectations, evolving employment models and changing social and economic conditions.

The inquiry attracted substantial submissions from unions, employer groups, professional associations and employee advocacy organisations, with many submissions focusing on whether the current NES framework sufficiently protects workers engaged in insecure, casual and non-traditional forms of work.

Annual Leave

A significant focus of the review involved annual leave entitlements. The Australian Council of Trade Unions and several employee advocacy groups argued that the current four weeks of annual leave under the NES no longer reflects contemporary work pressures and mental health considerations. Submissions advocated increasing annual leave entitlements from 20 days to 25 days per year. Employer groups, including the Australian Chamber of Commerce and Industry, opposed the proposal, raising concerns regarding labour costs, operational burden and productivity impacts.

The review also examined whether leave entitlements should accrue based on actual hours worked rather than notional hours, particularly for employees engaged in variable or irregular work patterns. Several submissions argued the current accrual framework disadvantages certain cohorts of workers, particularly those working irregular hours or in insecure employment arrangements.

Carer Protections

Carer protections also featured prominently throughout the inquiry. Various submissions advocated:

- creation of a standalone paid carer's leave entitlement
- extension of paid carer's leave to casual employees and
- expansion of the definition of "family" to include broader culturally significant relationships.

Casual Entitlements

The review additionally examined concerns regarding casual and insecure work.

Multiple submissions highlighted that casual employees remain excluded from several NES entitlements, including paid annual leave and paid personal/carer's leave, despite the growing proportion of the workforce engaged in casual employment.

Long Service Leave

The inquiry also considered longstanding concerns regarding Australia's fragmented state-based long service leave system.

A number of submissions advocated for the introduction of a single national long service leave standard through the NES framework in order to reduce compliance complexity for employers operating across multiple jurisdictions.

Reproductive Health-related Leave

The review also considered growing calls for the introduction of reproductive health-related leave entitlements, including leave associated with menstruation, endometriosis, menopause and fertility treatment.

Submissions argued that the existing NES framework does not adequately address these issues despite their substantial impact on workforce participation and productivity.

Protections for Women and Working Parents

Protections for women and working parents formed another major focus of the inquiry.

Numerous submissions argued that the current requirement for employees to complete 12 months of continuous service before accessing unpaid parental leave creates significant barriers, particularly for workers with interrupted or non-linear career pathways.

Several submissions proposed reducing or removing the eligibility threshold entirely.

Employer-focused submissions consistently emphasised concerns regarding increasing regulatory complexity and compliance burdens, particularly for small and regional businesses.

Several employer groups argued that significant expansion of minimum employment entitlements could disproportionately impact smaller businesses operating within tighter labour markets and narrower operating margins.

PROPOSED CHANGES TO PART TIME EMPLOYMENT

The Fair Work Commission (FWC) has commenced a significant review of part-time employment provisions across modern awards, signaling the potential for some of the most substantial changes to part-time work regulation in recent years.

The review is being conducted by an Expert Panel led by Fair Work Commission President Justice Adam Hatcher and follows recommendations arising from the Commission's 2023–24 Modern Award Review.

The review is the sixth and final priority matter identified by the Commission in its Modern Award Review Final Report and forms part of the Commission's broader objective of making modern awards simpler, more consistent and easier to use.

During the review process, the Commission identified significant inconsistency across modern award provisions dealing with part-time employment, with different industries adopting vastly different approaches to agreed hours, rostering arrangements, overtime triggers and flexibility provisions.

Employer organisations generally advocated for greater flexibility in establishing and varying part-time hours, while unions argued for stronger protections around predictability, certainty of hours and employee control over working arrangements.

As part of the review, the Expert Panel has indicated a provisional view that it will consider whether a standard model for part-time employment should be introduced across modern awards.

The review will consider a number of fundamental questions regarding the future regulation of part-time work, including:

- how part-time employment should be defined within modern awards;
- how part-time employment should be distinguished from casual employment;
- how employers and employees should establish agreed hours of work;
- how agreed hours may be varied;
- whether minimum and maximum daily or weekly hours should apply;
- when part-time employees should be able to work additional hours;
- how additional hours should be authorised and recorded; and
- when overtime penalties should become payable

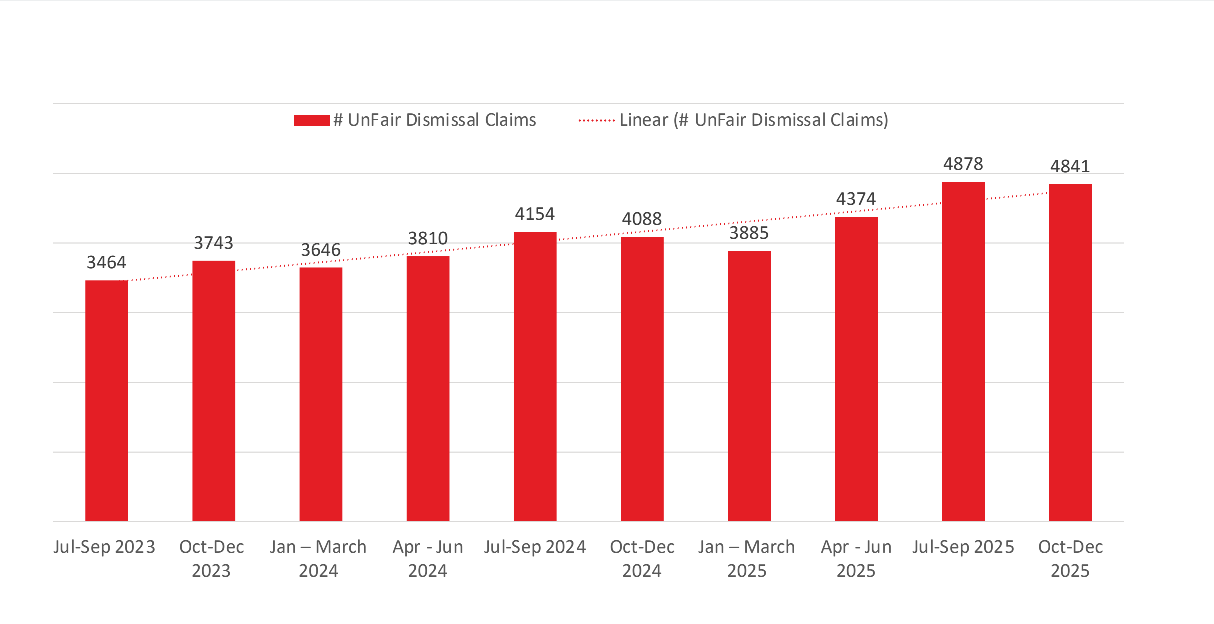
The review will initially focus on 11 modern awards selected by the Commission to provide a representative cross-section of industries with varying levels of part-time employment.

These awards include:

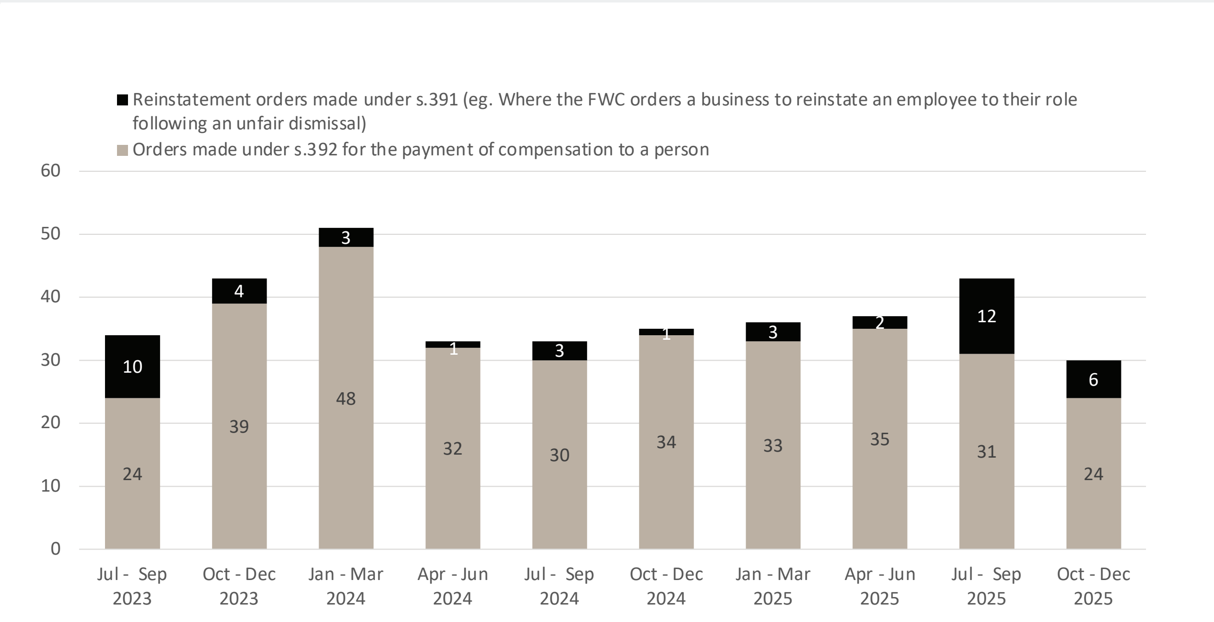
- Clerks – Private Sector Award 2020 [MA000002];
- Fast Food Industry Award 2020 [MA000003];
- General Retail Industry Award 2020 [MA000004];
- Hospitality Industry (General) Award 2020 [MA000009];
- Manufacturing and Associated Industries and Occupations Award [MA000010];
- Pharmacy Industry Award 2020 [MA000012];
- Building and Construction General On-site Award 2020 [MA000020];
- Registered and Licensed Clubs Award 2020 [MA000058];
- Social, Community, Home Care and Disability Services Industry Award 2020 [MA000100];
- Restaurant Industry Award 2020 [MA000119]; and
- Children's Services Award 2020 [MA000120].

FAIR WORK COMMISSION STATISTICS

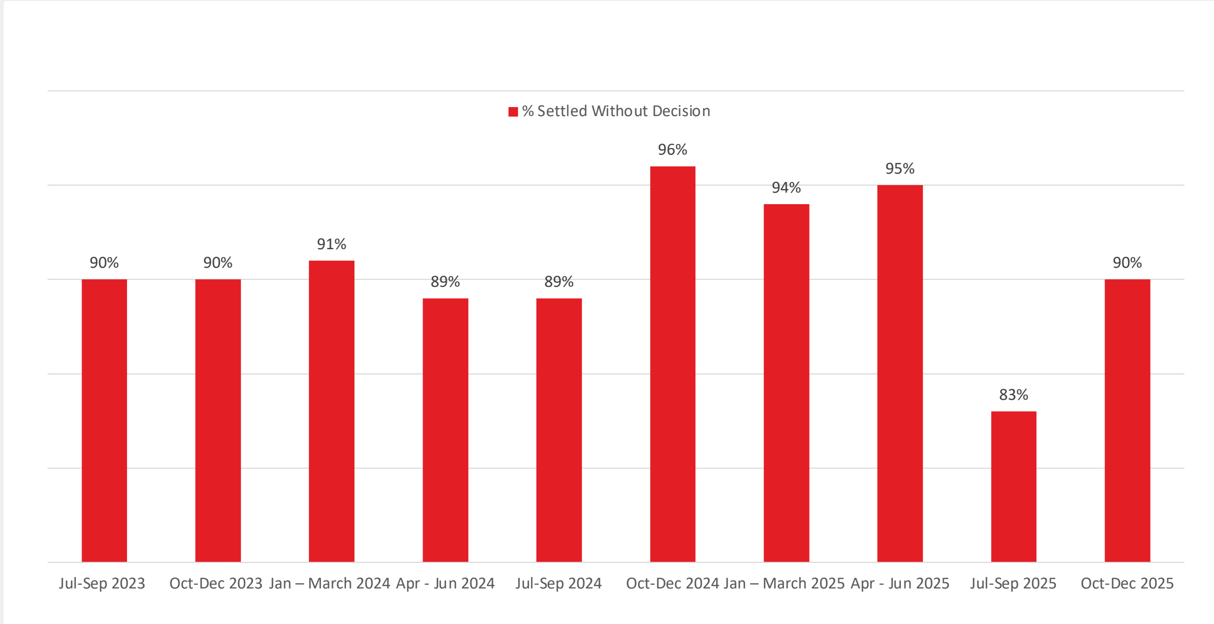
UNFAIR DISMISSALs - # OF CLAIMS



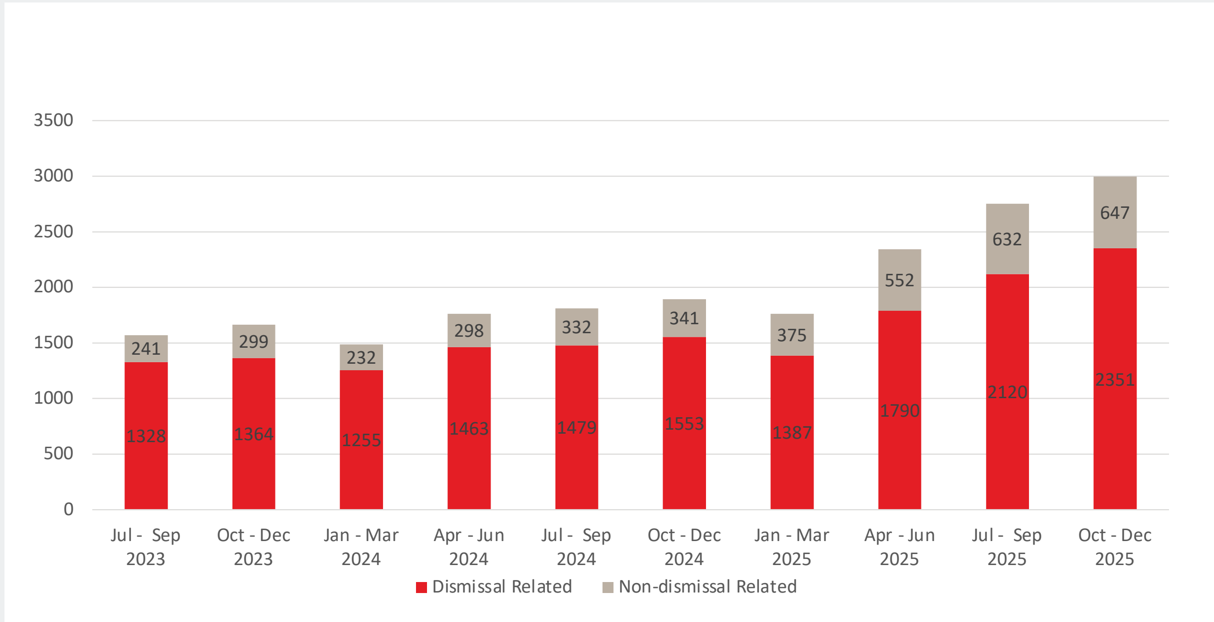
UNFAIR DISMISSAL ORDERS



UNFAIR DISMISSAL SETTLEMENT

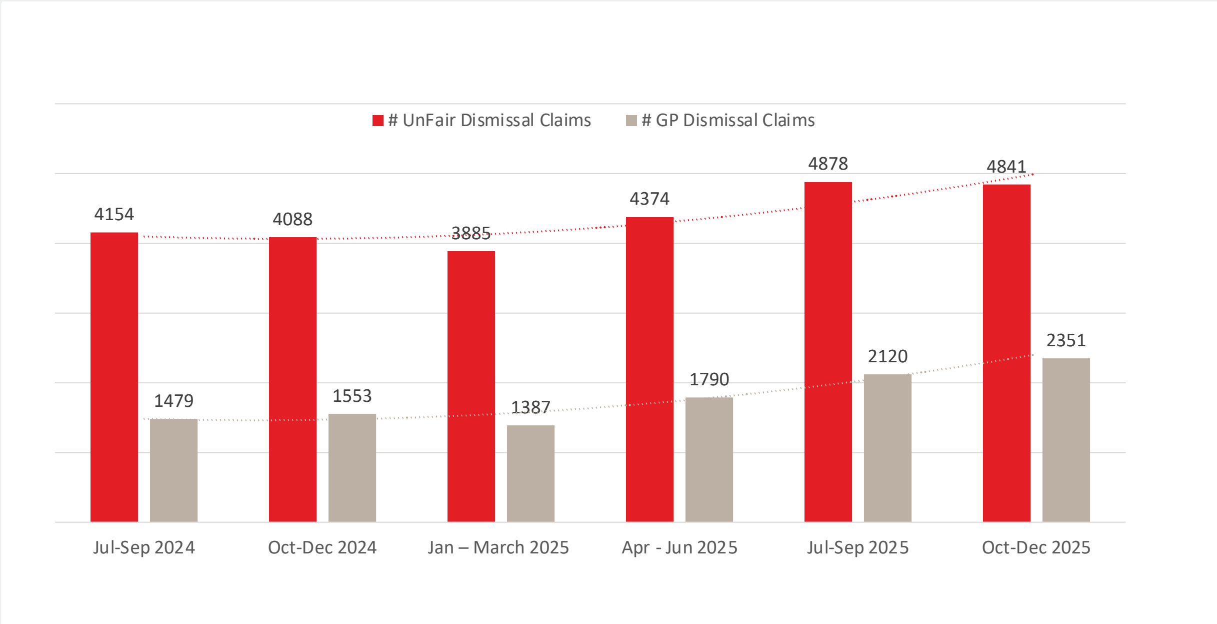


GENERAL PROTECTIONS APPLICATIONS MADE



FOCUS HR | IR July Update 2026

UNFAIR DISMISSALS - # OF CLAIMS



IS YOUR HR SETTING YOUR BUSINESS UP FOR SUCCESS?

AN EFFECTIVE WORKFORCE DOESN'T HAPPEN BY CHANCE.

Here's how it works:

- Scan the QR code to register your details
- We'll send you a short assessment to complete, designed to evaluate the health of HR in your business.
- Once submitted, our team will carefully review your responses.
- You'll receive a personalised report highlighting where you're strong, where there are gaps, and tailored recommendations to guide improvement.

NOTES

OUR YEAR IN NUMBERS 2025-2026 AT A GLANCE

WORKPLACE CULTURE

149 INDIVIDUAL DiSC JOURNEY'S

32 BULLYING & SEXUAL HARASSMENT WORKSHOPS

7 INDUCTION & ONBOARDING PROGRAMS BUILT

776 PARTICIPATED IN A PEOPLE PERCEPTION SURVEY

"I am more confident in myself so when I communicate and delegate, the response I get is so different!"

Leadership Program Participant

LEADERSHIP DEVELOPMENT

22 LEAD WITH FOCUS PROGRAM PARTICIPANTS

36 LEADING TEAMS WORKSHOPS

4 BESPOKE LEADERSHIP PROGRAMS

18 LEADERSHIP COACHING PROGRAM SESSIONS

BUSINESS STRATEGY

9 BUSINESSES

∞ 'AH HA' MOMENTS

58,889 WORKING LIVES POSITIVELY IMPACTED

NPS 85%

82 SESSIONS DELIVERED

656 PARTICIPANTS

HR/IR SUPPORT

1651 HR/ IR ENQUIRIES

36 BUSINESS WAGE CHECKS

45 POLICIES WRITTEN

199 CONTRACTS WRITTEN