

Last night, the House of Representatives passed a [heavily modified version](#) of the *Fair Work Amendment Bill 2014* (the Bill). This legislation has been the subject of prolonged debate, and ultimately only a very small number of changes were passed by the Senate.

What has changed?

There have been changes to four areas of the Act. A brief summary of each is set out below.

Returning to work under after unpaid parental leave

Under the National Employment Standards (NES), an employee who has taken a period of unpaid parental leave has [right to request](#) an extension of the leave, subject to various conditions. An employer may only refuse a valid request on “reasonable business grounds”. Once a request is made, the employer must follow a specified procedure, including providing written reasons for any refusal. The amendment adds an additional step that requires the employer to discuss the matters with the employee before finalising its decision. [Failing to comply](#) with this (or any other) requirement under the NES exposes an employer to a penalty of up to \$51,000.

Greenfields bargaining

Major projects in Australia have been hampered by unions holding out on agreeing to terms for the project. The Bill extends [good faith bargaining](#) obligations to greenfields agreement negotiations. The Bill also provides that if negotiations have not concluded within 6 months after a formal negotiation period has commenced, the employer may apply to seek to have the agreement approved. The Commission must be satisfied that the terms and conditions are consistent with the prevailing pay and conditions for equivalent work in the industry.

Abolition of “strike first, bargain later”

The legislation also clears up a considerable loophole in the legislation, which permitted unions to [take strike action before bargaining commenced](#).

Interest on unclaimed monies

The Bill also provides for interest to be added to monies which have been paid to the Fair Work Ombudsman because the employee who was entitled to them [could not be found](#).

Operative date

The amendments will come into effect on a date yet to be set, although it is expected to be soon. The amendments are ‘prospective’ meaning that they only apply to conduct that occurs on or after the commencement date.

Need more information

If you would like further information about how the changes to the *Fair Work Act 2009* affect your business, please contact the team at Fair Work Lawyers.

The information contained in this publication is general in nature and does not constitute legal advice. Businesses should seek legal advice in relation to their own specific circumstances.

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