Law Compliance Report – May 2025

Welcome to the May 2025 edition of the Law Compliance Report.

In this issue we:

- set out some of the current Bills we are tracking throughout Australia;
- discuss recent legislative changes occurring in each of the States and Territories:
  - Commonwealth
  - Australian Capital Territory
  - New South Wales
  - Queensland
  - South Australia
  - Tasmania
  - Victoria
  - Western Australia; and
- provide Comply Online® tips and details of upcoming training webinars.

Click on the blue links above to go directly to the article.

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May 2025 Edition

Some of the legislative changes being tracked

Western Australia

Associations and Co-operatives Legislation Amendment Bill 2024 (WA)
Climate Change and Greenhouse Gas Emissions Reduction Bill 2021 (WA)
Education and Care Services National Law Application Bill 2024 (WA)
Evidence Bill 2024 (WA)
Mining Amendment (Transfer of Royalty Administration) Bill 2024 (WA)
Retail Trading Hours Amendment Bill 2021 (WA)

Northern Territory

(No bills)

Queensland

Education (General Provisions) Amendment Bill 2025 (Qld)
Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2024 (Qld)
Trusts Bill 2025 (Qld)

New South Wales

Abortion Law Reform Amendment (Health Care Access) Bill 2025 (NSW)
Anti-Discrimination Amendment (Heterosexual Discrimination) Bill 2024 (NSW)
Anti-Discrimination and Crimes Legislation Amendment (Disability) Bill 2024 (NSW)
Automated External Defibrillators (Public Access) Bill 2024 (No 3) (NSW)
Residential Tenancies Amendment (Animals in Residential Premises) Bill 2024 (NSW)
Surveillance Devices Amendment (Public Interest Exemptions) Bill 2023 (NSW)

Commonwealth

Accountability of Grants, Investment Mandates and Use of Public Resources Amendment (End Pork Barrelling) Bill 2024 (Cth)
Aged Care Legislation Amendment Bill 2024 (Cth)
Anti-Money Laundering and Counter-Terrorism Financing Amendment (Making Gambling Businesses Accountable) Bill 2024 (Cth)
Broadcasting Services Amendment (Healthy Kids Advertising) Bill 2023 (Cth)
Building and Construction Industry (Restoring Integrity and Reducing Building Costs) Bill 2024 (No. 2) (Cth)
Childhood Gender Transition Prohibition Bill 2023 (Cth)
Commonwealth Electoral Amendment (Voter Protections in Political Advertising) Bill 2023 (Cth)
Corporations Amendment (Streamlining Advice Process) Bill 2024 (Cth)
Customs Amendment (Banning Goods Produced By Forced Labour) Bill 2022 (Cth)
Customs Amendment (Preventing Child Labour) Bill 2023 (Cth)
Defence Trade Controls Amendment (Genocide, War Crimes and Crimes Against Humanity) Bill 2024 (Cth)
Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024 (Cth)
Electoral Legislation Amendment (Electoral Communications) Bill 2024 (Cth)
Electoral Legislation Amendment (Fair and Transparent Elections) Bill 2024 (No. 2) 2024 (Cth)
Electoral Legislation Amendment (Fairer Contracts and Grants) Bill 2023 (Cth)
Environment Protection and Biodiversity Conservation Amendment (Climate Trigger) Bill 2022 (Cth)
Fair Work Amendment (Prohibiting COVID-19 Vaccine Discrimination) Bill 2023 (Cth)
Fair Work Amendment (Right to Disconnect) Bill [No. 2] 2023 (Cth)
Food and Grocery (Mandatory) Code of Conduct Bill 2024 (Cth)
Genocide Risk Reporting Bill 2024 (Cth)
Great Australian Bight (World Heritage Protection) Bill 2025 (Cth)
Health Legislation Amendment (Improved Medicare Integrity and Other Measures) Bill 2024 (Cth)
Health Legislation Amendment (Modernising My Health Record—Sharing by Default) Bill 2024 (Cth)
Higher Education Support Amendment (End Dirty University Partnerships) Bill 2025 (Cth)
Higher Education Support Amendment (Fair Study and Opportunity) Bill 2024 (Cth)
Housing Legislation Amendment (Fair Share for Regional Housing) Bill 2024 (Cth)
Human Rights (Children Born Alive Protection) Bill 2022 (Cth)
Intelligence Services Legislation Amendment Bill 2023 (Cth)
Keeping Cash Transactions in Australia Bill 2024 (Cth)
Legalising Cannabis Bill 2023 (Cth)
Lobbying (Improving Government Honesty and Trust) Bill 2025 (Cth)
National Organic Standard Bill 2024 (Cth)
Nature Positive (Environment Information Australia) Bill 2024 (Cth)
Nature Positive (Environment Law Amendments and Transitional Provisions) Bill 2024 (Cth)
Nature Positive (Environment Protection Australia) Bill 2024 (Cth)
Reducing Supermarket Dominance Bill 2024 (Cth)
Requiring Energy Infrastructure Providers to Obtain Rehabilitation Bonds Bill 2024 (Cth)
Telecommunications Amendment (Enhancing Consumer Safeguards) Bill 2025 (Cth)
Tertiary Education Legislation Amendment (There For Education, Not Profit) Bill 2025 (Cth)
Transport Security Amendment (Security of Australia's Transport Sector) Bill 2024 (Cth)
Treasury Laws Amendment (Divesting from Illegal Israeli Settlements) Bill 2024 (Cth)
Truth and Justice Commission Bill 2024 (Cth)
Universities Accord (National Higher Education Code to Prevent and Respond to Gender-based Violence) (Consequential Amendments) Bill 2025 (Cth)
Universities Accord (National Higher Education Code to Prevent and Respond to Gender-based Violence) Bill 2025 (Cth)
Wellbeing of Future Generations Bill 2025 (Cth)
Whistleblower Protection Authority Bill 2025 (No. 2) (Cth)
Workplace Gender Equality Amendment (Setting Gender Equality Targets) Bill 2024 (Cth)

ACT

No bills

South Australia

Cannabis Legalisation Bill 2022 (SA)
Children and Young People (Safety and Support) Bill 2024 (SA)
Climate Change and Greenhouse Emissions Reduction (Miscellaneous) Amendment Bill 2024 (SA)
Construction Industry Commissioner Bill 2022 (SA)
Controlled Substances (Nicotine) Amendment Bill 2022 (SA)
Education and Children's Services (Parental Primacy) Amendment Bill 2024 (SA)
Fair Trading (Lifespan of Electrical Products) Amendment Bill 2022 (SA)
Freedom of Information (Miscellaneous) Amendment Bill 2023 (SA)
Government Advertising Bill (SA)
Health Care (Ambulance Response Targets) Amendment Bill 2023 (SA)
Heritage Places (Great Australian Bight) Amendment Bill 2025 (SA)
Independent Commission Against Corruption (ICAC Recommendations) Amendment Bill 2024 (Connie Bonaros MLC) (SA)
Independent Commission Against Corruption (ICAC Recommendations) Amendment Bill 2024 (Robert Simms MLC) (SA)
Independent Commission Against Corruption (ICAC Recommendations) Amendment Bill 2024 (Sarah Game MLC) (SA)
Passenger Transport (Point to Point Transport Services) Amendment Bill 2025 (SA)
Period Products and Facilities (Access) Bill 2025 (SA)
Pet Food (Marketing and Labelling) Bill 2024 (SA)
Planning, Development and Infrastructure (Fast Food Restaurant near Schools) Amendment Bill 2025 (SA)
Residential Tenancies (Minimum Standards) Amendment Bill 2024 (SA)
Residential Tenancies (Rent Freeze) Amendment Bill 2024 (SA)
State Development Coordination and Facilitation Bill 2025 (SA)
Statutes Amendment (Animal Welfare Reforms) Bill 2022 (SA)
Statutes Amendment (Community and Strata Titles) Bill 2024 (SA)
Statutes Amendment (Heritage) Bill 2025 (SA)
Statutes Amendment (Tobacco and E-cigarette Products-Closure Orders and Offences) Bill 2025 (SA)

Tasmania

Charities and Associations Law (Miscellaneous) Amendment Bill 2024 (Tas)
Electoral Disclosure and Funding Amendment Bill 2024 (Tas)
Health Miscellaneous Bill 2024 (Tas)
Residential Tenancy Amendment Bill 2024 (Tas)
Tasmanian Civil and Administrative Tribunal (Additional Jurisdictions) Bill 2024 (Tas)
Work Health and Safety Amendment (Industrial Manslaughter) Bill 2024 (Tas)

Victoria

Aged Care Restrictive Practices Substitute Decision-maker Bill 2024 (Vic)
Children, Youth and Families Amendment (Home Stretch) Bill 2023 (Vic)
Children, Youth and Families Amendment (Raise the Age) Bill 2022 (Vic)
Disability and Social Services Regulation Amendment Bill 2024 (Vic)
Drugs, Poisons and Controlled Substances Amendment (Pill Testing Pilot for Drug Harm Reduction) Bill 2023 (Vic)
Energy and Land Legislation Amendment (Energy Safety) Bill 2025 (Vic)
Planning and Environment Amendment (Soil Protection) (Solar Power Generation Facilities) Bill 2023 (Vic)
Public Health and Wellbeing Amendment (Health Services Performance Transparency and Accountability) Bill 2023 (Vic)
Regulatory Legislation Amendment (Reform) Bill 2025 (Vic)
Public Health and Wellbeing Amendment (Health Services Performance Transparency and Accountability) Bill 2023 (Vic)
Residential Tenancies Amendment (Rent Freeze and Caps) Bill 2023 (Vic)
Retirement Villages Amendment Bill 2024 (Vic)
Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Bill 2025 (Vic)
Transport Legislation Amendment (Vehicle Sharing Scheme Safety and Standards) Bill 2025 (Vic)
Voluntary Assisted Dying Amendment (Equity and Access) Bill 2024 (Vic)

If you would like details of these new Bills please contact our team on **1300 862 667**
or visit our website **www.lawcompliance.com.au**

Commonwealth Update

Fair Work Legislation Amendment (Closing Loopholes) Act 2023 (Cth)

On 1 January 2025, relevant provisions of the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* (Cth) (the **Amending Act**) amended the *Fair Work Act 2009* (Cth) (the **Act**).

What's changed?

From 1 January 2025, it is a criminal offence under the Act for an employer to intentionally underpay an employee.

Further Information

New wage theft offence

From 1 January 2025, under the newly introduced section 327A of the Act, an employer will commit an offence if they are required to pay an amount to an employee (i.e. wages), or on behalf of, or for the benefit of an employee under the Act, a Fair Work instrument (such as a modern award or enterprise agreement), or a transitional instrument.

The penalties for breaching section 327A are significant, with a penalty of up to 10 years imprisonment for an individual. The maximum fine for the new wage theft offence is:

- *if the court can determine the underpayment amount for the offence* – the greater of 3 times the underpayment amount and whichever of the following applies:
  - for an individual – 5,000 penalty units (currently **$1.65 million**);
  - for a body corporate – 25,000 penalty units (currently **$8.25 million**); or
- *otherwise* – the following amount:
  - for an individual – 5,000 penalty units (currently **$1.65 million**);
  - for a body corporate – 25,000 penalty units (currently **$8.25 million**).

It is important for organisations to be aware that the new offence above applies to *intentional* wage theft only. The underpayment of an employee's wages will not be considered a criminal offence if the court can determine that the employer did not intentionally underpay the employee, and the underpayment was instead the result of an honest mistake or honest miscalculation.

Voluntary Small Business Wage Compliance Code (applicable to small business employers)

It is also important to note that the Fair Work Ombudsman cannot refer a small business employer (i.e. broadly an employer with less than 15 employees at a particular time) for possible criminal prosecution if it is satisfied that the small business employer has complied with the *Voluntary Small Business Wage Compliance Code* (**Code**) in relation to the underpayment. The Code is available here.

In short, a small business employer will comply with the Code if they didn't intend to underpay their employees, and this will be assessed by examining a range of factors (including for example whether the employer considered and relied on information about the employee that the employer reasonably believed was accurate (such as the employee's role, duties, classification, relevant qualifications, age, hours of work and location of work) in relation to the payment of applicable amounts to, on behalf of, or for the benefit of, the employee).

We encourage organisations that are small business employers to review the '***A guide to paying employees correctly and the Voluntary Small Business Wage Compliance Code***' which is available for download on the website of the Fair Work Ombudsman here. The purpose of this Guide is to assist small business employers to take steps to pay their employees correctly, and to understand and access the protections of the Code in their organisation.

What you should do

While the new criminal offence introduced to the Act applies to intentional wage theft, organisations are encouraged to take proactive steps to review their organisation's current payroll practices and systems to ensure all employee entitlements are accurate.

Moreover, organisations should also check employment classifications to ensure employees are correctly classified under their appropriate and relevant modern award.

Organisations that are *small business employers* should also takes steps to ensure compliance with the *Voluntary Small Business Wage Compliance Code*.

Lastly, organisations may wish to schedule a regular payroll audit to ensure that any discrepancies are identified, and appropriate steps are taken to promptly address any discrepancies affecting an employee's entitlements.

Upcoming Comply Online® Training Webinars

Law Compliance is running the following Comply Online webinars in May for our subscribers. Join us for a step-by-step tour of Comply Online and have your questions answered along the way.

Introduction to Comply Online Premium

We take you through the features and functionality available with the **Premium** version of Comply Online, including topic delegation, entering compliance information and producing reports (30 minutes).

Option 1: Tuesday 20th May 2025 – 2.00pm (AEST) register me

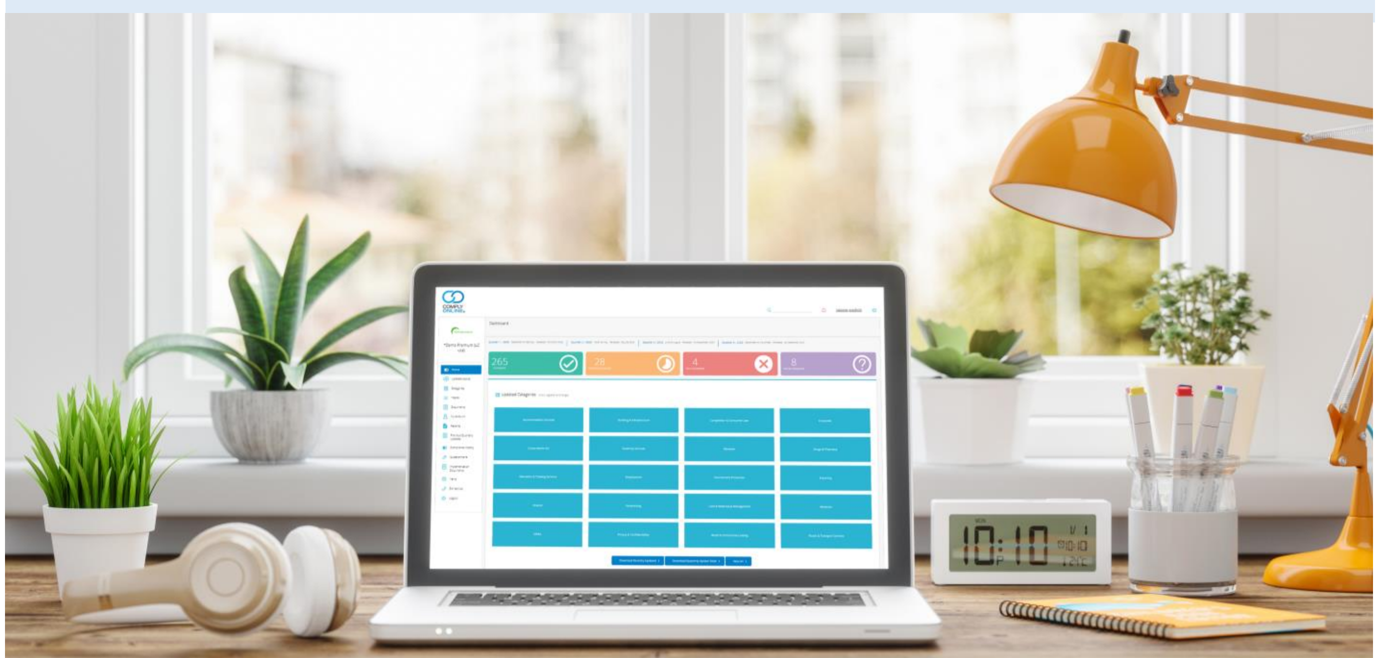
Option 2: Thursday 22nd May 2025 – 10.00am (AEST) register me

Law Compliance Products

Overview of the Law Compliance product range. We demonstrate our various products, the benefits of each and how to use them to create an effective legislative compliance program for your organisation (30 minutes).

Next webinar: Thursday 29th May 2025 – 12.00pm (AEST) register me

If you would like more information, please visit us at https://lawcompliance.com.au/comply-online/webinars/



Variation in Sex Characteristics (Restricted Medical Treatment) Act 2023 (ACT)

On 23 December 2024, section 10 and part 4 of the *Variation in Sex Characteristics (Restricted Medical Treatment) Act 2023* (ACT) (the **Act**) commenced. In addition, on 12 December 2024, the *Variation in Sex Characteristics (Restricted Medical Treatment) Amendment Act 2024* (ACT) (the **Amending Act**) commenced and amended the Act.

What's new?

The Act has introduced offences on organisations who undertake restricted medical treatment without approval or who arrange or authorise unapproved restricted medical treatment. The Amending Act introduced transitional provisions relating to the commencement of these offences.

Further Information

Offence to undertake restricted medical treatment without approval and to arrange or authorise unapproved restricted medical treatment

Section 10 of the Act provides that a person may only undertake **restricted medical treatment** on a prescribed person in accordance with an approved treatment plan and any condition applying to the plan. A person will commit an offence, against section 27 of the Act, if the person undertakes a restricted medical treatment on a person that is not undertaken in accordance with an approved treatment plan or any condition applying to the plan. The maximum penalty for this offence is 200 penalty units (currently, **$32,000** for an individual or **$162,000** for a body corporate), imprisonment for 2 years or both.

Further, a person will also commit an offence, against section 28 of the Act, if the person takes a prescribed person outside the ACT for the purpose of having restricted medical treatment undertaken on the prescribed person or otherwise arranges for restricted medical treatment to be undertaken on the prescribed person, while knowing that if the treatment were undertaken on the prescribed person in the ACT it would be an offence against section 27. The maximum penalty for this offence is 100 penalty units (currently, **$16,000** for an individual or **$81,000** for a body corporate), imprisonment for 2 year or both.

Relevantly, for both offences, it does not matter if a **decision-maker** for the prescribed person consents to the restricted medical treatment or if for a prescribed person who is an adult – the ACT Civil and Administrative Tribunal consents to the restricted medical treatment under section 70 of the *Guardianship and Management of Property Act 1991* (ACT).

Notably, section 10 and the offences in sections 27 and 28 do not apply to **urgent restricted medical treatment**.

Key definitions

Restricted medical treatment, in relation to a person who has a variation in sex characteristics, means the following:

- a surgical or medical procedure or treatment (including the prescription or administration of a drug) that permanently changes the person's sex characteristics, or which makes changes to the person's sex characteristics that are only reversible with a further medical procedure or treatment; or
- a prescribed surgical or medical procedure or treatment (including the prescription or administration of a drug) that temporarily changes the person's sex characteristics.

Urgent restricted medical treatment means restricted medical treatment required to be undertaken urgently to:

- save a prescribed person's life;

- prevent serious damage to the person's health; or
- prevent the person from suffering or continuing to suffer significant pain.

Decision-maker, for a prescribed person, means:

- for a child—a person who has parental responsibility for the child under the *Children and Young People Act 2008* (ACT), division 1.3.2; and
- for an adult subject to a guardianship order—the guardian.

Transitional commencement

Section 50 of the Act provides that section 10 and part 4 of the Act (being sections 27 and 28) do not apply in relation to the undertaking of restricted medical treatment on the prescribed person for 12 months after the commencement day (being 23 December 2024) if, before the commencement day, a prescribed person has received medical treatment in relation to their variation in sex characteristics. For the purposes section 50, **medical treatment** includes a surgical or medical procedure or treatment (including the prescription or administration of a drug) and need not be restricted medical treatment.

What you should do

Organisations should familiarise themselves with the offences under the Act and implement or update systems and controls to ensure the organisation does not commit these offences. All relevant staff should be made aware of the offences and provided with appropriate training.

For more information please contact our team on **1300 862 667**
or visit our website **www.lawcompliance.com.au**

Policy Service

In our experience, understanding where a legislative obligation fits within a policy framework can be difficult, and organisations often don't have sufficient resources to keep their policies legally up to date.

Our Policy service aims to assist organisations to overcome these issues by providing subscribers with quarterly updates that include:

- guidance about the types of policies that may be affected by a legislative change;
- suggested wording for relevant policies to allow subscribers to modify their own policies, and
- completely new policies if Acts in new areas of law are introduced (or existing Acts are substantially re-written).

Recent Policies written for our subscribers include Fair Work policies, Disability Services and Inclusion policies, Environment Protection policies, Aged Care policies and Information Sharing policies.

For more information please contact our team on **1300 862 667**
or visit our website **www.lawcompliance.com.au**

New South Wales Update

Public Health (Tobacco) Amendment Act 2024 (NSW)

On 2 December 2024, the *Public Health (Tobacco) Amendment Act 2024* (NSW) (the **Amending Act**) commenced and amended the *Poisons and Therapeutic Goods Act 1966* (NSW) (the **Act**).

What's changed?

From 2 December 2024, the supply and possession of vaping goods in New South Wales are prohibited unless authorised. These changes will bring New South Wales in line with the Commonwealth laws surrounding the dealing of vaping goods. The changes are detailed below.

Further Information

The new Part 3A of the Act introduced strict regulations on vaping goods. The Act permits the supply and possession of vaping goods only if:

- the vaping goods are included in the Australian Register of Therapeutic Goods (**ARTG**), or otherwise authorised to be supplied under the *Therapeutic Goods Act 1989* (Cth) (the **TGA**) or the *Poisons and Therapeutic Goods Act 1966* (NSW) (the **PTGA**); and
- the organisation is authorised to supply or possess the vaping goods.

Prohibition on supplying vaping goods

Section 20(1) prohibits the supply of vaping goods and imposes severe penalties of up to 7 years imprisonment or 14,000 penalty units (currently, $1,540,000), or both. However, section 20 also outlines exceptions for the supply of vaping goods if the organisation:

- is an authorised importer or manufacturer of vaping goods;
- employs pharmacists, medical practitioners or nurse practitioners who supply vaping goods in final dosage form for the purposes of smoking cessation, management of nicotine dependence or another indication determined under the TGA; or
- is otherwise authorised to supply the vaping goods under the TGA.

A vaping substance is in **final dosage form** if the vaping substance is in a form that can be administered to a person without any change or modification other than vaporisation.

Prohibition of possessing at least the commercial quantities of vaping goods

Section 21 establishes a tiered system of offences for possessing commercial quantities of vaping goods, classifying the offences into three categories based on the quantity of vaping goods held:

- possessing between at least the commercial quantity but less than 100 times the commercial quantity carries a maximum penalty of 2 years imprisonment or 2,800 penalty units, (currently, **$308,000**) or both;
- possessing at least 100 times but less than 1,000 times the commercial quantity carries a maximum penalty of 4 years imprisonment or 8,800 penalty units, (currently, **$968,000**) or both;
- possessing at least 1,000 times the commercial quantity carries a maximum penalty of 7 years imprisonment or 14,400 penalty units, (currently, **$1,584,000**) or both.

Commercial quantity, of a kind of vaping goods has the same meaning as in the TGA, being the quantity prescribed under regulation 10N of the *Therapeutic Goods Regulations 1990* (Cth).

The exemptions for possessing commercial quantities of vaping goods largely mirror those for supply and apply to:

- authorised manufacturer or importer of vaping goods;
- pharmacists, medical practitioners or nurse practitioners who are authorised to supply the vaping goods; or

- organisations who are otherwise authorised to possess the vaping goods under the TGA.

Prohibition of possessing less than commercial quantities of vaping goods

Section 22 prohibits the possession of vaping goods in relation to quantities that are less than commercial quantities at retail premises, with the maximum penalty being 12 months imprisonment or 1,400 penalty units (currently, **$154,000**), or both. Similarly, retail possession is permitted to:

- pharmacists, medical practitioners or nurse practitioners who are authorised to possess the vaping goods; or

- organisations who are otherwise authorised to possess the vaping goods under the TGA.

What you should do

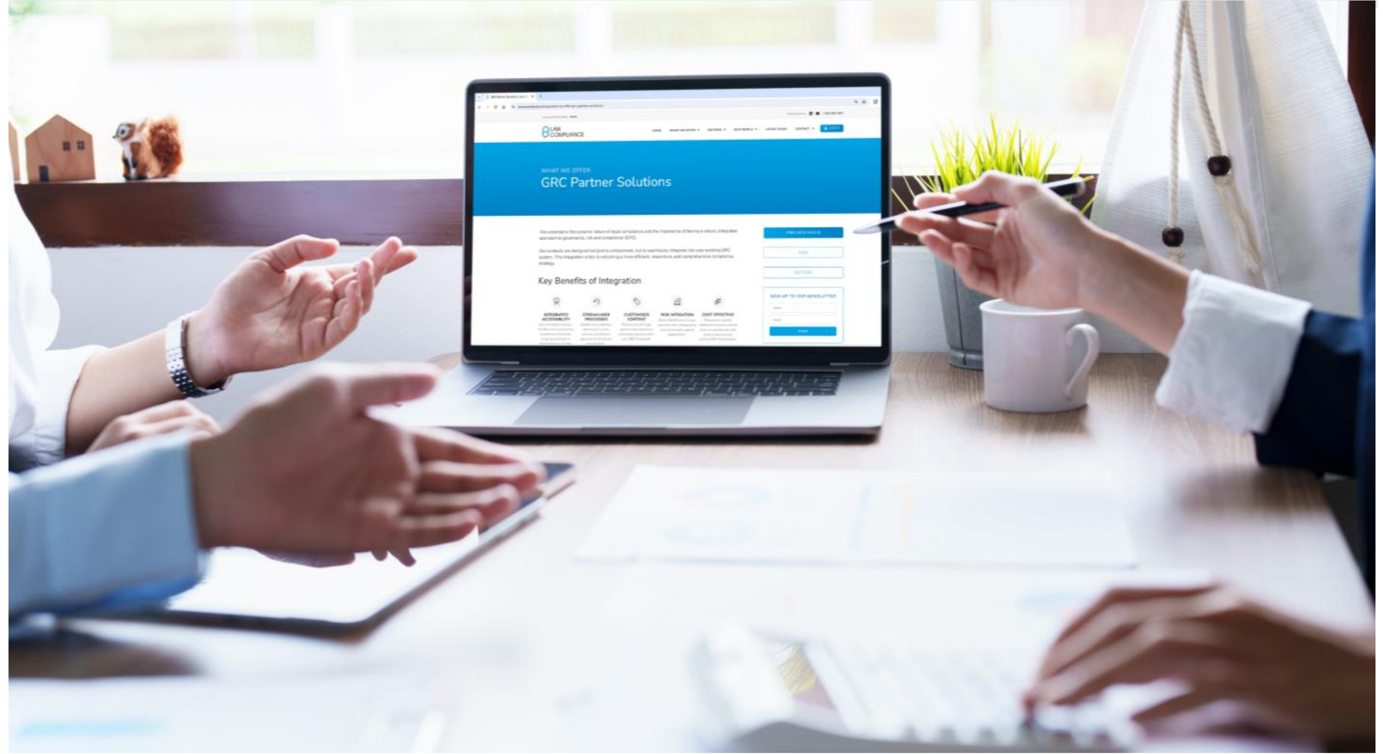
Organisations dealing with vaping goods should ensure they only handle vaping goods that are authorised, understand the exemption criteria for supplying or possessing vaping goods and are aware of the substantial penalties for non-compliance. For healthcare professionals, compliance means ensuring that any vaping goods supplied are dispensed solely for therapeutic purposes.

We can now integrate with your GRC Provider

With an increasing number of our clients investing in integrated risk management platforms, we are expanding our capability and now providing our content for integration into a range of leading Governance, Risk and Compliance (GRC) systems.

Whether you're looking to further streamline compliance processes or enhance your existing systems, the ability to integrate our content will provide significant versality and choice.

If you would like to understand more about integrating our content within your GRC environment, please don't hesitate to reach out to your Law Compliance Client Relationship Manager. We're more than happy to discuss your needs and how we can support your goals.



Work Health and Safety (Sexual Harassment) Amendment Regulation 2024 (Qld)

On 1 March 2025, the *Work Health and Safety (Sexual Harassment) Amendment Regulation 2024* (Qld) (the **Amending Regulations**) commenced and amended the *Work Health and Safety Regulation 2011* (Qld) (the **Regulations**).

What's new?

The key change made by the Amending Regulations is a requirement for employers who conduct a business or undertaking to prepare a plan (a **prevention plan**) to manage identified risks to the health and safety of employees and other persons from sexual harassment or sex or gender-based harassment at work.

Further Information

The Amending Regulations insert regulation 55H into the Regulations, which sets out this new duty.

Who it applies to

The new regulation 55H applies to '**persons conducting a business or undertaking**', which is defined at section 5 of the *Work Health and Safety Act 2011* (Qld) as a person who conducts a business or undertaking:

- whether the person conducts the business or undertaking alone or with others; and
- whether or not the business or undertaking is conducted for profit or gain,

and includes a business or undertaking conducted by a partnership or an unincorporated association.

Key requirements

The organisation or person conducting the business or undertaking must:

- meet the requirements set out in the new regulation 55H(2) when preparing the plan, and most relevantly, ensure it is:
  - in writing; and
  - states each identified risk; and
  - identifies the control measures implemented, or to be implemented, to manage each identified risk; and
  - sets out the procedure for dealing with reports of sexual harassment or sex or gender-based harassment at work, including:
    - how a person may make a report; and
    - how the report will be investigated; and
    - that the person who made the report may be represented by a representative; and
    - how the person who made the report and other parties will be informed of the results of the investigation; and
    - that the person who made the report may also use the issue resolution procedures and the dispute resolution process in Part 5, divisions 5 and 7A of the Act; and
- implement the prevention plan; and
- take reasonable steps to ensure workers are made aware of the prevention plan and know how to access it; and
- review the plan:
  - if a report of sexual harassment or sex or gender-based harassment at work is made—as soon as practicable after the report is made; or
  - if a health and safety committee for the workplace or a worker's health and safety representative requests a review of the plan—as soon as practicable after the request is made; or
  - otherwise—every 3 years.

Failure to comply with this regulation carries a maximum penalty of **60 penalty units** (currently **$9,678**).

What you should do

Organisations should review their current processes in relation to dealing with sexual harassment and sex or gender-based harassment at work, and ensure that the organisation has implemented a prevention plan which enables the organisation to respond to reports of such harassment in accordance with the new regulations.

Law Compliance is on LinkedIn.
Follow us for current news and updates.

Base Line Review Service

To complement our legislative compliance products, Law Compliance also provides a comprehensive base line review service.

The purpose of the review is to examine an organisation's compliance with those Acts and Regulations which are relevant to its operations and to determine whether it has sufficient systems in place to meet those obligations. The review involves interviews and discussions with the organisation's staff and covers all Commonwealth and State Acts and Regulations relevant to the organisation.

The benefits of having our team conduct a base line review include:

- providing a cost-effective means of conducting a comprehensive compliance review without the need to commit significant staff resources;
- implementing an effective compliance program from the start and removing the overwhelming task of your team going through the obligations on their own; and
- the results of the review are entered into your Comply Online profile so that you are immediately on top of all of your current obligations (and only need to deal with future amendments).

Clients success story:

"In terms of the Baseline Review process, upon reflection I am really pleased we went down the path of having your team assist in this process.

It has given us a much greater level of confidence that:

1. *we are across all of the legislation Baptist Care SA is required to comply with;*
2. *we know what actions we need to undertake to ensure compliance with all of our legislative obligations – and there were no significant gaps!*
3. *We have a process in place to ensure we remain compliant with all of our legislative obligations."*

Craig Telford, Manager, Corporate Governance & Risk, Baptist Care SA

Follow up reviews

Clients who have previously undergone a base line compliance review can also undertake a follow up review where our compliance solicitors work through the quarterly updates with your team, identifying any gaps and keeping you up to date.

If you would like more information about our base line review service, please don't hesitate to reach out to your client relationship manager.

Return to Work (Employment and Progressive Injuries) Amendment Act 2024 (SA)

On 1 December 2024, certain sections of the *Return to Work (Employment and Progressive Injuries) Amendment Act 2024* (SA) (the **Amending Act**) commenced and amended the *Return to Work Act 2014* (SA) (the **Act**).

What's changed?

The key changes made by the Amending Act are:

- prohibiting a worker's employer and the Return to Work Corporation of South Australia (**Corporation**) from being present during an examination or treatment of a worker;
- new notification requirements for pre-injury employers; and
- the requirement for self-insured employers to provide a copy of the recovery/return to work plan for certain individuals.

Further Information

Employer and Corporation not to be present at examination or treatment of workers

The Amending Act inserts section 17A into the Act prohibiting a worker's employer or the Corporation to be present while a worker is:

- being physically or clinically examined, or treated by a health practitioner; or
- undergoing any diagnostic examination or test required for the purpose of the worker's treatment by a health practitioner;

unless the worker gives a written agreement to their employer or the Corporation allowing them to be present or in circumstances prescribed by the *Return to Work Regulations 2015* (SA) (**Regulations**). Currently, no such circumstances are prescribed.

In addition, nothing under section 17A prevents the worker's employer or the Corporation from being present during a consultation involving a worker and a health practitioner for the purpose of discussing the worker's recovery and return to work.

Employer's duty to provide work

The Amending Act amends section 18 of the Act, requiring an employee to give a notice (a **subsection (3) notice**) to their pre-injury employer that:

- confirms that they are ready, willing and able to return to work with the pre-injury employer; and
- provides information about the type of employment that the worker considers they are capable of performing; and
- if the worker was a labour hire worker at the time of the work injury, contains a statement that the injury arose from the employment while the worker was supplied to a host employer, and the worker seeks the host employer's cooperation with the pre-injury employer in the provision of suitable employment to the worker; and
- complies with any other requirements prescribed by the Regulations – currently, no such requirements are prescribed.

In response to the subsection (3) notice, the pre-injury employer is required to respond within 1 month from the notice about:

- whether they will provide suitable employment of the type that the worker considers that they can perform; or
- whether there is other suitable employment for the worker that the pre-injury employer is willing to provide.

If the pre-injury employer refuses to provide suitable employment for the worker, they must set out the grounds as to why the refusal was made. If the pre-injury employer decides to provide another type of suitable work, then they must set out in a notice as to why:

- the employment that the worker stated in their subsection (3) notice is not of a kind being provided; and
- the employment that is being offered instead by the employer is suitable to the pre-injury employer.

A new section 18(16a) has been inserted into the Act which requires a host employer to co-operate with a labour hire employer in respect of action taken by the labour hire employer to comply with its obligation under section 18 to provide suitable employment to a pre-injury worker. This is to be done through:

- communication with the labour hire employer about co-operation in the provision of any suitable employment requested by the worker through a subsection (3) notice; and
- participation in discussion with the employer and the worker about returning to work planning, including in relation to the establishment of a recovery/return to work plan; and
- providing the labour hire employer, the worker and other parties involved in the return to work process with access to the workplace, including for the performance of duties by the worker in their employment with the labour hire employer; and
- complying with any other requirement prescribed by the Regulations – currently none exist.

Recovery/Return to work plan

Employers that are self-insured are now required under the amended section 25(7) of the Act to give a copy of the recovery/return to work plan to (in addition to the worker and the employer) host employers (if relevant) and any health practitioner who is treating the worker for an injury.

What you should do

Organisations should ensure that they have systems in place to address the requirements of any subsection (3) notice that they may receive from an employee who has been injured during their employment with the organisation, and have methods in place to ensure that suitable employment can be found for such workers. Staff should also be made aware that they cannot be present during a worker's physical examination unless there is a written agreement with the worker allowing them to do so.

For more information please contact our team on **1300 862 667**
or visit our website **www.lawcompliance.com.au**

Compliance Alerts

The Alert Service allows our clients to prepare for new legislation that will have a significant operational impact before it has commenced.

The Alert Service gives subscribers advanced warning of the commencement of new significant Acts and Regulations as soon as they have been passed by Parliament.

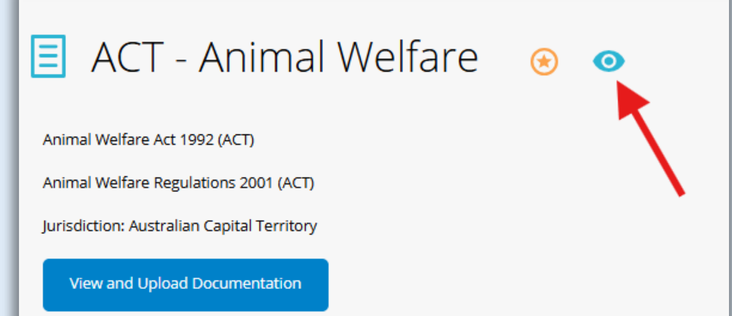
As part of this service, we provide a one to two page summary of the key changes, the likely implications for our subscribers and a link to the relevant legislation.

We provide this summary to our clients via email within 3 business days of the legislation passing.

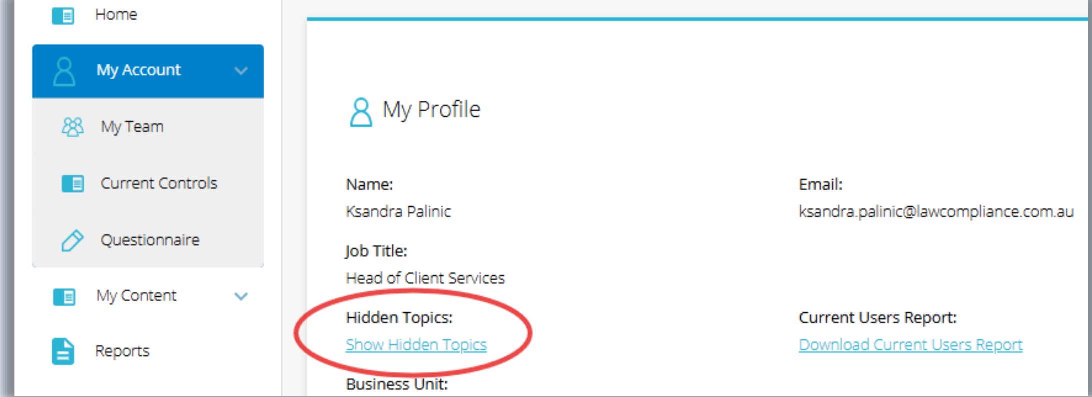
Comply Online® Tip—How to Hide Topics

Comply Online users have the option of "hiding" topics, if necessary. This removes the topic's visibility from all dashboards, topic lists and reports.

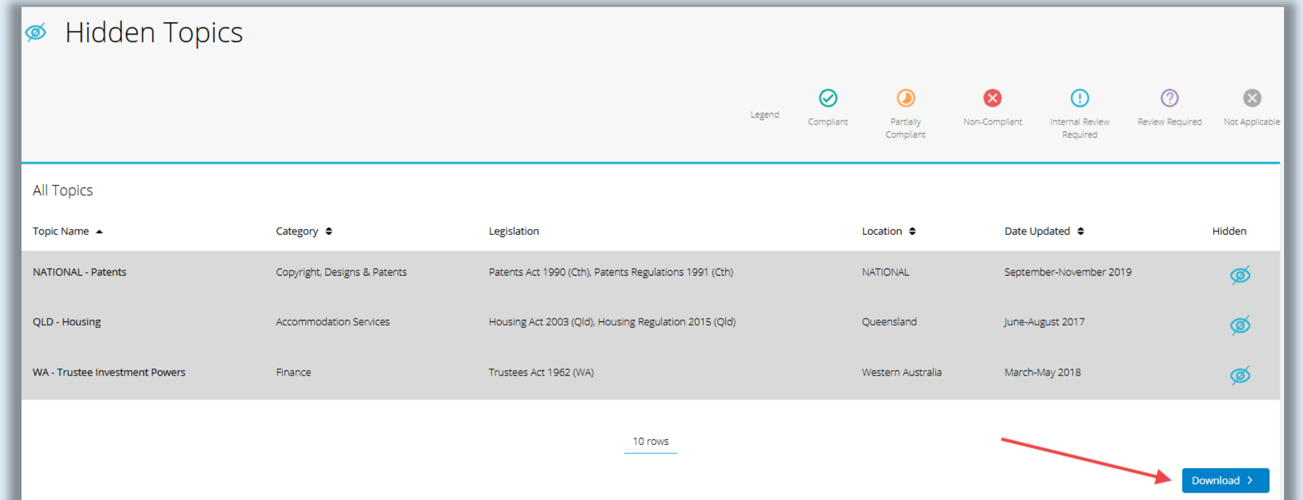
To do this, click the eye icon next to the topic name on each topic page. Only Primary users can hide topics.



To review the list of hidden topics, or unhide any topics you would like visible, click on the "My Account" tab and then the "Show Hidden Topics" link.



This list can also now easily be exported by clicking the download button in the bottom right corner.



Topic Name	Category	Legislation	Location	Date Updated	Hidden
NATIONAL - Patents	Copyright, Designs & Patents	Patents Act 1990 (Cth), Patents Regulations 1991 (Cth)	NATIONAL	September-November 2019	
QLD - Housing	Accommodation Services	Housing Act 2003 (Qld), Housing Regulation 2015 (Qld)	Queensland	June-August 2017	
WA - Trustee Investment Powers	Finance	Trustees Act 1962 (WA)	Western Australia	March-May 2018	

It's important to review this list periodically to ensure these topics should remain hidden.

If there are any topics on your profile where you are unsure whether or not they apply to your organisation, please contact your Client Relationship Manager who will be able to assist.

Tasmania Update

Work Health and Safety Amendment (Safer Workplaces) Act 2024 (Tas)

On 2 October 2024, the *Work Health and Safety Amendment (Safer Workplaces) Act 2024* (Tas) (the **Amending Act**) commenced and amended the *Work Health and Safety Act 2012* (Tas) (the **Act**).

What's changed?

The Amending Act introduced section 29C into the Act which contains the new offence of industrial manslaughter.

Industrial manslaughter

Under the new section 29C, the offence of industrial manslaughter applies to a person conducting a business or undertaking (**PCBU**) or an officer of a PCBU (**officer**). The offence of industrial manslaughter is committed if:

- an individual to whom a PCBU or an officer owes a health and safety duty, dies or is injured and later dies as a result of the conduct of the PCBU or the officer; and
- the PCBU or the officer is negligent in causing the death of the individual by the conduct, or is reckless as to the risk to the individual of death or serious injury or illness.

Conduct causes the death of an individual if the conduct substantially contributes to the death.

The penalty for industrial manslaughter is imprisonment for a term of up to 21 years in the case of an individual, or a fine not exceeding **$18,000,000** in the case of a body corporate.

What you should do

The Amending Act has introduced the offence of industrial manslaughter which carries severe penalties. Organisations should review and update their policies, processes and systems to include the offence and make relevant employees aware of the offence and the associated penalties.

Staff News

Law Compliance is growing!

We are delighted to welcome **Anna Pantazis** to our team as a Law Clerk.

Comply Online Premium Trial

If you have been considering upgrading your organisation's subscription to the Premium version of Comply Online, (which allows you to allocate topics to users and produce compliance Board reports), take a look at the Key Features fact sheet and Premium tour video.

To commence a free 14 day trial of Comply Online Premium, please click here.

Victoria Update

Assisted Reproductive Treatment Amendment Regulations 2024 (Vic)

The *Assisted Reproductive Treatment Amendment Regulations 2024* (Vic) (the **Amending Regulations**) commenced on 1 January 2025 making amendments to the *Assisted Reproductive Treatment Regulations 2019* (Vic) (**Regulations**).

What's changed?

The key changes made by the Amending Regulations are:

- new provisions relating to consent or withdrawal of consent for donations of gametes and embryos made outside Victoria; and
- new prescribed matters and forms under the *Assisted Reproductive Treatment Act 2008* (Vic) (the **Act**) for transferring donated gametes and embryos into and out of Victoria; and
- new power allowing the Secretary of the Department of Health to declare countries or geographic locations as prohibited locations for the purposes of importing donor gametes or embryos.

Further Information

Consent and Withdrawal

For donations of gametes and embryos made outside Victoria, regulation 8AA requires that consent from the donor under section 16 of the Act must be given to the person responsible for issuing a certificate under section 36(3) of the Act, namely the person bringing in the gametes or embryos into Victoria. Similarly, regulation 8AB requires that any withdrawal of consent must be provided in the same manner.

Certification of Prescribed Matters

Section 36 of the Act prohibits a person from bringing or taking donor gametes, or an embryo produced from donor gametes (**embryo**), into and from Victoria unless they comply with the Act and the Regulations, in particular section 36(3) or section 36(4) of the Act (as the case requires). Regulations 9A to 9D have been introduced to the Regulations to prescribe matters for the purpose of these subsections of the Act.

Section 36(3) of the Act sets out the matters that must be certified by the person who brings donor gametes or an embryo into Victoria.

Regulation 9A prescribes matters for the purposes of section 36(3)(d) of the Act, which requires a person who brings donor gametes or an embryo into Victoria (the **transferring party**) to certify that the donor or each person who donated the gametes used to produce the embryo (the **donor**) has received counselling in relation to prescribed matters from a counsellor who meets the prescribed requirements for counselling or, if an exemption has been granted in relation to section 18 of the Act, any conditions to which the exemption is subject have been complied with. Prescribed matters in relation to counselling include discussing the following matters with the donor:

- disclosure of information relating to the donor and the person born as a result of the donor treatment procedure;
- how the donor may obtain identifying information about a person born as a result of a donor treatment procedure; and
- any issue or concern relating to the donation that is raised by the donor.

For the purposes of section 36(3)(e), regulation 9B prescribes the type of information that the donor must give and which must be certified by the transferring party before donor gametes or an embryo are brought into Victoria. Such information includes:

- basic identifying information about the donor;
- the date and place at which the donor produced the gametes;

- any known genetic abnormality of the donor;
- information as to the number of women who have given birth to children conceived using the donor's gametes or an embryo produced from the donor's gametes, including any current or former partner of the donor; and
- whether the donor has donated, or intends to donate, gametes or an embryo produced from the donor's gametes to any other registered assisted reproductive treatment provider or to a doctor.

Further, regulation 9C prescribes additional matters to be certified before bringing donated gametes or an embryo into Victoria, including that the person transferring the donor gametes or embryo into Victoria has sighted the donor's passport, driver licence or any other identification document displaying the donor's photograph and signature, or a certified copy of the donor's passport, driver licence or any other identification document displaying the donor's photograph and signature.

Section 36(4) of the Act sets out the matters that must be certified by the person who takes donor gametes or an embryo from Victoria. Regulation 9D prescribes the additional matters to be certified in these circumstances. They include that:

- the person has provided the receiving party with a copy of the donor's consent;
- the person has sighted the donor's identity documents or a certified copy of the documents; and
- the person has provided the receiving party with information about the donor including the donor's unique donor identifier, contact details, donor's blood group and any known genetic abnormalities of the donor.

Regulation 9E prescribes the forms which must be used for certifying the matters under section 36(3) or (4) of the Act, namely the forms found in Schedule 7 and 8 of the Act (as the case requires).

Under section 37B(2) of the Act, the person who brings donor gametes or an embryo into Victoria, or takes donor gametes or an embryo from Victoria, must keep a written record of the prescribed matters relating to certification made by the person under section 36(3) or (4) of the Act for a period of 25 years after the date of certification. Failure to do so may result in a fine of 60 penalty units (currently **$11,855.40**) for a natural person or 300 penalty units for a body corporate (currently **$59,277**). The new regulation 9G describes the records which must be kept, for example, a copy of the certification, a copy of the donor's consent and details of the donor gametes and embryo, including the number of straws, vials or containers of donor sperm.

Prohibited Locations

Section 37E of the Act makes it an offence to contravene prohibitions or requirements related to the importing or exporting of donor gametes and embryos into and out of Victoria prescribed for the purposes of this section. For the purposes of section 37E, new regulation 9H(1) provides that a person must not bring donor gametes or an embryo into Victoria from a prohibited location. Regulation 9H(2) authorises the Secretary of the Department of Health to declare certain countries or regions as prohibited locations by publishing a notice in the Government Gazette. This power is intended to apply in cases of ongoing armed conflict or where compliance with consent and record-keeping requirements under the Act is unlikely. Currently, Ukraine is listed as a prohibited location. Contravention of section 37E of the Act may result in a fine of 240 penalty units (currently **$47,421.6**) or 2 years imprisonment, or both.

What you should do

Organisations should inform and train relevant staff on the new and amended obligations under the Act and the Regulations and also update relevant systems and procedures to ensure compliance with these obligations.

Western Australia Update

Industrial Relations Legislation Amendment Act 2024 (WA)

On 31 January 2025, the *Industrial Relations Legislation Amendment Act 2024* (WA) (the **Amending Act**) commenced and amended the *Industrial Relations Act 1979* (WA) (the **IR Act**) and the *Minimum Conditions of Employment Act 1993* (WA) (the **MCE Act**).

What's changed?

The key changes made by the Amending Act are:

- the inclusion of an objective test to determine whether an individual is an employee or casual employee;
- the express prohibition of sexual harassment in connection with work and inclusion of bullying provisions;
- the increase of casual loading for statutory minimum rates from 20% to 25% for non-national system employees;
- the inclusion of a right for non-national system employees to refuse to work on a public holiday; and
- the inclusion of a new non-national system employee right to request a flexible working arrangement.

Further Information

Changes to the Industrial Relations Act

Under the new sections 7A and 7B, the IR Act now sets out an objective test to determine whether an individual is an employee or a casual employee of a person, or whether a person is an employer of an individual. The objective test involves ascertaining the real substance, practical reality and true nature of the relationship between the individual and the person. When ascertaining those aspects, non-national system employers must consider the totality of the relationship, including any terms of the contract governing the relationship, and other factors relevant to the relationship, including how a contract is performed in practice.

In line with the current *Fair Work Act 2009* (Cth), the Amending Act has inserted into the IR Act an express prohibition on sexual harassment. Under section 51BQ of the IR Act, a person (the first person) **sexually harasses** another person (the second person) where, in connection with work, the first person makes an unwelcome sexual advance, or engages in other unwelcome conduct of a sexual nature towards the second person in circumstances where a reasonable person would anticipate the possibility that the second person would be offended, humiliated or intimidated by that conduct. The new section 51BR of the IR Act provides that **in connection with work** means in connection with the second person being a worker or seeking to become a worker in a particular business or undertaking. Under section 51BS of the IR Act, a **principal**, being a person who employs an employee or engages another person as an agent, will be vicariously liable for the acts of their employees or agents unless they take all reasonable steps to prevent a contravention of the prohibition.

The new sections 51BJ and 51BT of the IR Act provide that non-national system workers now have the right to apply to the Western Australian Industrial Relations Commission (the **Commission**) for a stop bullying order or a stop sexual harassment order if (as the case requires) they experience **bullying** (meaning, under the new section 51BI, unreasonable behaviour towards a worker or group of workers which creates a risk to the health or safety of the worker) or sexual harassment in connection with work.

Importantly, the maximum penalty amounts in the IR Act have increased from $65,000 to $93,000 for a body corporate ($650,000 to $930,000 for a serious contravention) and $13,000 to $18,000 for an individual ($130,000 to $180,000 for a serious contravention).

Changes to the MCE Act

Under the amended section 30 of the MCE Act, a non-national system employee will now be entitled to be absent from their work on a public holiday, and to be paid as if they had worked their ordinary hours on that day. A non-national system employer can reasonably request that an employee work on a public holiday, however the employee is further entitled to refuse that request if the request is not reasonable or if the refusal is reasonable.

Examples of factors which must be taken into account when determining whether the request is not reasonable or the refusal is reasonable are the nature and conduct of the employer's business or operations, the nature of the employee's work or the type of employment of the employee (with further considerations being set out in section 30(4) of the MCE Act).

A non-national system employee (who has completed at least 12 months service with their employer) is now entitled under the new section 39F of the MCE Act to request flexible working arrangements. **Flexible working arrangements** includes an employee's request to change their hours of work, pattern of work or location of work, and can only occur in the specific circumstances set out in section 39F(2) of the MCE Act (for example, when the employee is returning from parental leave, has a disability or is experiencing family violence).

What you should do

Non-national system employers should ensure that relevant staff are made aware of these new changes, in particular, the new rights to which non-national system employees are now entitled, for example, the right to make claims to the Commission where an employee believes they were bullied or sexually harassed at work, the right to request flexible working arrangements, and to be absent from work on a public holiday. Non-national system employers should update their policies and procedures to reflect these changes accordingly.

Cybersecurity and IT Management

Law Compliance is aware that everyone is constantly aiming to have the highest possible cybersecurity in place from spam and hackers, as we are too. Sometimes, unfortunately firewalls and spam filters are also preventing us from sending emails to our subscribers.

To ensure you receive all future communications promptly and avoid difficulties with our Law Compliance updates / alerts emails reaching you and/or your team (because of these varied spam filtering services falsely classifying emails as spam or going into junk folders), we ask that you please let your IT team know to whitelist the following Law Compliance addresses:

- **info@mailgun.lawcompliance.com.au**;
- **lawcompliance.com.au**;
- our account system **accountright@apps.myob.com**

Should you or your IT team have further questions regarding this, please feel free to contact us / your CRM.

Contact us

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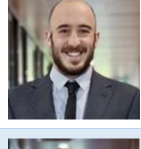

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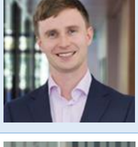

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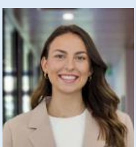

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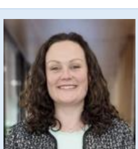

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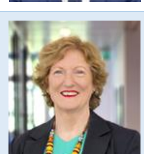

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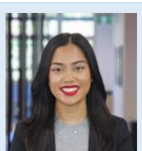

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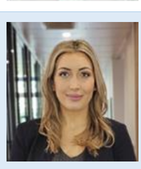

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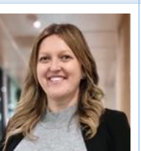

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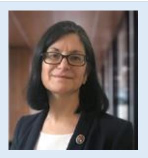

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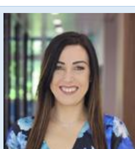

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