



Job security and gender equality

Prohibiting pay secrecy clauses

These amendments form part of an Australian Government commitment to improve job security and put gender equity at the centre of the workplace relations system.

What has changed?

The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* amends the *Fair Work Act 2009* (the Act) to prohibit pay secrecy clauses in employment contracts, improve transparency and protect employees from adverse action if they exercise their right to disclose (or not disclose) their remuneration.

The amendments, which provide employees with a positive right to disclose, or not disclose, their remuneration, apply to new employment contracts or other written agreements entered into (and contracts or agreements that are revised or amended) after the provision comes into effect on 7 December 2022. Pay secrecy terms in current contracts of employment and written agreements will continue to operate, until they are varied or a new contract is entered into, in which case they will no longer have effect. Current agreements and contracts of employment which do not have pay secrecy terms are not affected, with the right coming into effect immediately.

What do these changes mean?

Pay secrecy clauses can stop employees talking about or revealing their pay and conditions, which prevents wage comparisons with others undertaking work of equal or comparable value. Providing the opportunity for employees to understand and gather more information about their remuneration aims to reduce discrimination and narrow the gender pay gap.

Under these amendments, employees are free to choose whether or not to discuss and reveal their pay to others and are protected from adverse action if they exercise the right to disclose (or not disclose) their remuneration. Employers are not expected to disclose employee remuneration.

After a six month transitional period, employers who continue to include pay secrecy terms in new written agreements and contracts of employment will have breached the prohibition. Under the amendments, they could be liable to a penalty and any pay secrecy term in the contract will be void.

When will these changes come into effect?

The reforms to the Act operate from 7 December 2022.

New contracts

Pay secrecy clauses included in new employment contracts from 7 December 2022 will have no effect, and from 7 June 2023 will attract penalties. This will provide a six-month grace period for employers to ensure their standard employment contracts comply with the prohibition.

Existing contracts

Pay secrecy clauses in current employment contracts will continue to operate, until those contracts are varied, in which case the clause will no longer have effect. Current agreements and contracts of employment which do not have pay secrecy clauses in them will not be impacted by these amendments.

For more information on the Secure Jobs, Better pay package visit:

www.dewr.gov.au/workplace-relations.