

Secure Jobs, Better Pay Review

FED

Jordon Carlisle & Georgia Holmes

29 November 2024



MASTER
ELECTRICIANS
AUSTRALIA

Master Electricians Australia (MEA) is the industry association representing electrical contractors recognised by industry, government and the community as the electrical industry's leading business partner, knowledge source and advocate. You can visit our website at www.masterelectricians.com.au

As the representative of predominantly small and medium-sized (SME) electrical contractors, MEA seeks to address areas of recent employment legislation that may cause confusion or impose unnecessary administrative burdens on SMEs. We encourage the government to provide practical resources and support to assist SMEs in meeting their obligations under the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* and the amendments introduced by Part 16A of Schedule 1 of the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023*.

MEA also calls for a review of amendments affecting the role of unions in light of recent revelations regarding illegal misconduct by the CFMEU. Specifically, we urge the government to reconsider whether the 2023 abolishment of the Australian Building and Construction Commission (ABCC) remains a prudent decision and propose the governing body be reinstated to protect the construction industry.

MEA has identified gaps in the *Secure Job, Same Pay* framework regarding cost recovery from principal contractors. The current legislative gap regarding responsibility for covering increased labour costs ultimately places the financial burden on the direct employer. MEA advocates for legislative clarification to ensure principal contractors cover the increased costs, preventing confusion and power imbalances in cost recovery negotiations.

Closing Loopholes

Employees' Right to Request Flexible Work Arrangements

The legislative changes appear to have brought attention on smaller employers engaging in Flexible Work Arrangements (FWAs) given the capacity of the FWC to hear these disputes. Smaller employers have adopted a more pragmatic approach towards adopting FWAs that better align with their operational needs.

From the Government's perspective, this suggests the changes may be achieving their intended effect. However, the broader impact on workplace relations remains difficult to fully gauge, as some outcomes may not be immediately visible or measurable. Particularly whether it impacts on the engagement of workers who may require FWAs being excluded from consideration.

Small Claims Limit Rises from \$20,000 to \$100,000

While the practical impact of this change is yet to be observed, MEA is supportive of the legislative threshold increase, recognising its potential to provide greater assistance with judicial matters.

Abolishment of Australian Building Construction Commission

Given the CFMEU's history of conduct and the recent high-profile revelations, MEA urges the Government to reconsider whether abolishing the Australian Building and Construction Commission (ABCC) was the most effective decision.

The CFMEU's actions have had a broad impact on the wider construction industry. Meaningful change within the CFMEU's culture now depends solely on its administrator, leaving the industry vulnerable to limited resources in addressing the issue. MEA believes that reinstating

the ABCC would be a constructive step, likely to foster a shift in behaviour and improve the way individuals operate within the industry.

Given the history of establishment and abolition of the ABCC and the associated negative perceptions of the body, it could perhaps be renamed as a Construction Integrity Commission with a positive focus on ensuring integrity in the industry.

Enterprise Bargaining

Exclusion Order to Unions Held to Have Breached the FWA in the Preceding 18 Months

Provisions were implemented to allow for the exclusion of bargaining participants if they fail to engage in appropriate conduct. Notably, several agreements have since been scrutinised regarding how they have come about, and it raises the question: why is the FWC not utilising its powers to exclude parties where necessary? Given this problem creates flow-on effects impacting the broader construction industry, it is crucial to improve the conduct of all parties, especially with regard to employees, such as those represented by the CFMEU.

Multi-Enterprise Agreement Making

MEA members have not yet observed significant practical implications of this amendment. Major construction sites are typically subject to the use of pattern agreements. These agreements effectively establish the 'industry standard' that multi-enterprise agreement making aims to achieve.

Initially, MEA had concerns that small and medium enterprises (SMEs) might be drawn into these pattern agreements. However, the threshold set by the amendment has so far prevented this from occurring, indicating that the change is functioning as intended. While the amendment has not impacted MEA members widely to date, the association remains open to evaluating its long-term outcomes as they unfold.

Single Interest Stream

Bargaining under single interest has become more administrative and less streamlined since the enactment of the Statements of Principle (SOPs) when determining 'genuine agreement'.

Unilateral Application to Terminate Agreements

MEA notes this change has been effective, highlighting that the process for our members has been smoother compared to the previous framework.

Casual Employees

Casual employment is not prevalent in the electrical industry, and is typically chosen by workers who prefer this form of employment. The legislative changes have therefore had minimal impact on MEA members overall.

In cases where these changes do apply, the employee-driven nature of the conversion framework reduces the onus, uncertainty, and risk for employers. This shift is viewed positively by MEA members.

Secure Job Same Pay

MEA expects this issue to become more prevalent over time. The primary concern for MEA's members is ensuring that higher pay rates and conditions are fully cost-recovered from clients or primary contractors, so employers (typically smaller contractors) are not left to bear these additional costs.

Although the legislation enables the Fair Work Commission (FWC) to issue orders for Secure Jobs Same Pay requirements, there is no mechanism to ensure that contractual arrangements between employers and clients/primary contractors are adjusted to align with the new payment regime. This gap could create financial pressures on labour-hire businesses, highlighting a need for further legislative consideration.

Conclusion

As the representative of SME electrical contractors, MEA is committed to addressing key areas of recent employment legislation that imposes unnecessary administrative burden employers or is prone to misunderstanding. We urge the government to provide practical resources and support to assist SMEs in navigating their obligations under the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* and the amendments introduced by the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023*.

MEA also calls for a review of the amendments affecting union roles, particularly in light of recent revelations regarding illegal misconduct by the CFMEU. Specifically, we urge the government to reconsider the 2023 abolishment of the ABCC and propose its reinstatement to protect the construction industry.

Additionally, we have identified gaps in the *Secure Job, Same Pay* framework that leave the financial burden of increased labour costs on direct employers. MEA advocates for legislative clarification to ensure principal contractors / clients are responsible for covering these increased costs, preventing confusion and power imbalances during cost recovery negotiations.

Overall, while we applaud the intended effects of several legislative changes, including those regarding flexible work arrangements, small claims limits, and enterprise bargaining, there remain areas of concern that need further consideration. MEA is dedicated to ensuring that the interests of SMEs are safeguarded, and that future legislation supports a fair and balanced working environment across the industry.