

IR changes won't shift nation's pathetic productivity levels

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[Published in *The Australian*, 26 August, 2024](#)

Doing business in Australia is hard. From today it gets even harder with a new wave of confidence-sapping industrial laws rolling out across our workplaces, making employing people more difficult and achieving productivity growth even more elusive.

Some of the difficulties for industry are already apparent to business, but many will only reveal themselves in the months and years ahead as unions weaponise them.

Business is already struggling to understand the requirements of three tranches of complex changes to workplace legislation in the past two years, let alone the cumulative impact and burden of fully implementing them.

Any view that employers have been able to keep up with the incredible regulatory change, which was brutally pushed through Parliament and hurriedly implemented, is frankly delusional.

From today, the definition of employment changes.

There are also new rules around when a casual can demand to be converted to permanent employment and a new way for employees or unions to get the Fair Work Commission to force an employer to convert an employee if they don't agree.

It's a hellishly complex minefield. The simple reality is this will make it harder to engage people on a casual basis.

The first job for most Australians as they make their way as a young person into the labour market is a casual job working a few regular shifts a week. Offering just that now becomes much harder.

Also from today, Australia's one million independent contractors will face the prospect that they are now employees rather than contractors because of a new definition of who is an employee. This new definition, which overrides

recent High Court decisions that had provided a sensible and settled approach to this issue, is a recipe for uncertainty.

The consequences will take time to crystallise, but it is clearly a regulatory time bomb and will make it harder to utilise independent contracting arrangements. Unions will be able to use this to challenge the validity of long-standing arrangements across the economy.

Major changes from today will impact road transport, owner drivers, and Australians working in the gig economy.

Complex processes will set new minimum standards, create new scope for disputes and litigation, and threaten to increase costs to consumers and delay access to goods and services.

The “right to disconnect” laws also start today, with little guidance on how they will actually work.

This will create immediate confusion and disruption over what is a “reasonable” refusal to ‘read, monitor or respond’ to contact outside of someone’s working hours.

Expect workplace disputes over these provisions.

The Fair Work Commission on Friday inserted a clause in modern awards that prohibits employers from, directly or indirectly, preventing employees exercising the new right.

Employers, who previously were able to work this out at a workplace level, fear that even calling a worker to offer an extra shift will be weaponised against them.

From today, the Fair Work Commission has new powers to hear disputes over these new rights, so for employers that could mean costly and time-consuming litigation.

It is notable that the newly elected United Kingdom Government has rejected union demands to legislate for a right to disconnect and has instead adopted a more modest move towards a code of conduct – only for larger employers.

The impact of much of the Government’s workplace relations changes will continue to be a slow burn.

Anyone with a skerrick of knowledge of workplace law knows that the impact of complex changes takes time to flow through. It is only now, almost two years on from the introduction of forced multi-party bargaining, that we are seeing companies across child care, aged care, manufacturing and mining being entangled by unions in wage claims they never sought or would struggle to pay.

Delayed impact should not be mistaken for no impact. The changes affect every Australian enterprise, won't create a single job or make employment more secure and will only make our businesses less productive.

With an additional 757 pages of the Fair Work Act to comply with since December 2022, many businesses – especially our small and medium sized businesses – will clearly struggle to cope.

Of course, the biggest loser will be the everyday Australian struggling to pay their bills and put food on the table.

Today represents the latest chapter in a radical rewrite of what it means to be an employer in Australia, adding significant further restrictions on how a business can be run.

Nowhere in this mass of legislative change is a word on how our pathetic productivity performance will be improved. In fact, all of this is anti-productivity.

Without turning our productivity outcomes around, we condemn ourselves to falling living standards and risk perpetuating high inflation and an elevated cost of living. Low productivity means high pain.

We all want to see Australia prosper. We all want to make sure we attract significant investment, reduce inflation, provide for sustainable wage increases and create the jobs of the future.

None of what starts today in our workplaces contributes to that ambition – it sadly makes it all even further away.