



SADA IR UPDATE



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Friday 23 August 2024

The Federal Government's "**Closing the Loop**" legislation has created some changes from **26 August 2024**.

PASTORAL AWARD CHANGES

[2020 Pastoral Award](#)

WORKPLACE DELEGATES: A new Clause 25A has been inserted into the Pastoral Award effective from the 1 July 2024. This new Clause allows Unions to appoint or elect a Workplace Delegate(s).

What are the Workplace Delegates rights?

A Delegate who is appointed or elected by a Union must provide the employer with written notice of their appointment or election as a Workplace Delegate. The rights of a Delegate appear in Clause 25A.5.

Sub-clause 25A.6 entitles the Delegate to speak with eligible employees. This includes Union members and non-Union members who fall within the scope of membership of that Union.

Sub-clause 25A.7 outlines several workplace facilities including access to a room for private discussions with eligible employees, a whiteboard (including electronic), a filing cabinet, other secured document storage area, and access to such things as the office equipment and facilities including printers, scanners, and photocopiers.

Subclause 25A.7 (b) provides some exemptions. These exemptions will vary between workplaces.

Subclause 25A.8 does not apply to smaller business employers (one which employs fewer than fifteen employees). Larger employers are required to provide up to 5 days of paid time during normal working hours for training purposes at least one day in subsequent year to attend training by the Union.

We strongly recommend you seek advice should an employee or union notify that an employee has been appointed or elected by the Union.

The Fair Work Ombudsman's Workplace Delegates' Rights handout can be accessed [HERE](#)

NEW DEFINITION OF CASUAL EMPLOYMENT

As of 26 August 2024, employees who are casual prior to that date will remain as casual unless they apply to convert to part-time or full-time (sub-clause 11.6).

If an employee is engaged as a casual and receives a casual loading of 25 per cent, but has no firm advanced commitment to ongoing work, then he or she will be deemed to be casual.

A casual employee can be hired on a fixed term agreement or contract, if the contract ends on a set date, or *after a set period or season*.

Employees engaged on a casual basis of employment after 26 August 2024, should not have an expectation of a regular pattern of ongoing employment.

Small employers are generally exempt from unfair dismissal laws during the employee's first 12 months of employment. The exemption for large employers is 6 months. However, the fair dismissal process is outlined in [HERE](#)

RIGHT TO DISCONNECT

Non-small business employers will need to make provisions to give employees a right to disconnect outside of work hours from 26 August 2024. The same provisions will apply to small business employers next year on 26 August 2025.

This provision enables employees to refuse contact outside their normal working hours unless their refusal is unreasonable. Contact includes the employer, contractors, and customers.

Reasonableness will include the employees' availability to be contacted and such needs as family or caring responsibilities. The provisions will become much clearer when the Pastoral Award is amended, and details will be provided in the next update or sooner.

Time will tell what impact this will have in Broadacre, Dairies, Feedlots, and Poultry farming as the Pastoral Award 2020 does not prescribe a span of ordinary hours, except for Piggeries which has a span of 6am to 6pm Mondays to Fridays and up to 8 hours per day. Yet all commodities have animal husbandry obligations.

SOUTH AUSTRALIA'S NEW INDUSTRIAL MANSLAUGHTER LAWS

Effective from 1 July 2024 Industrial manslaughter is now a criminal offence in South Australia.

In summary;

1. Individuals may face maximum penalty of 20 years in prison.
2. Up to \$18 million in fines for companies if it is established that reckless or grossly negligent conduct breached work health and safety duty and resulted in the death of another person.

There is no question that farms are unique workplaces, and the combination of hazards makes primary industries one of the most dangerous sectors in which to work.

In South Australia 4.5% of the total workforce works in agriculture; however, almost 19% of workplace deaths occur on farms.

It is highly recommended that if workplaces do not have Work Health and Safety Policies and Procedures that they take immediate action to introduce.

Employees AND employers can access policies and procedures at [Farmers' guidebook to work health and safety | SafeWork SA](#) The employees should acknowledge in writing that they have read and understood the contents to that document.

It is strongly recommended that employers read details at [Industrial manslaughter | SafeWork SA](#)

If you have any queries, please don't hesitate to contact the SADA Office on 8293 2399 or email sada@sada.asn.au

SADA members are entitled to contact MERS for a free half hour consultation, per member per year.



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