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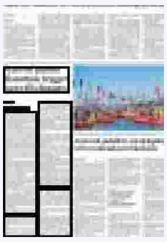

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Fears of payout distortion trigger more IR changes

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Fears of payout distortion trigger more IR changes

Exclusive

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Workplace correspondent

The Albanese government will limit termination payments under its proposed "same job, same pay" rules following business concerns the laws would lead to hidden backpay liabilities that could drastically distort listed companies' market value.

Workplace Relations Minister Tony Burke will introduce amendments to the Closing Loopholes Bill tomorrow to stop labour-hire workers getting paid out accrued leave at a host company's higher rates on termination if they have worked at a number of hosts.

Employers have been warning that the bill's requirement for labour hire workers to get paid at least the host company's rates would instantly increase accrued leave liabilities in financial reports, distorting profits and threatening jobs for ASX-listed labour hire firms.

The amendments follow discussions with the Australian Resources and Energy Employers Association and will accompany previously announced changes to exempt service contractors, allow firms to engage regular casuals and limit gig worker laws.

Mr Burke said AREEA had raised concerns firms could end up with "fairly complex" leave entitlements because of workers paid different rates at different hosts over time.

"This amendment is a common-sense way of cutting red tape for business," he said. "It simplifies leave entitlements whilst still preserving the policy intention of the government."

AREEA chief executive Steve Knott said, "this is a complex issue that, left unaddressed, would create administrative and cost headaches for labour hire companies".

"We welcome the government consulting on AREEA's concerns and committing to look closely at the issue," he said. "We would need to see the details and confer with key members. Confirmation the minister is seeking to address employer concerns on this technical problem, is very encouraging."

AREEA had been seeking amendments so labour hire workers were paid annual leave at their employer's rate of pay – rather than the host company's higher rate – at all times. However, the government's amendments will still mean labour hire workers can claim higher leave rates on termination if they work for the same host during all their employment.

It is only if they worked for more than one host company that their termination payments will be calculated at the employer's rate, except for payments in lieu of notice.

Labour hire companies will still have to pay leave at the higher rate if workers take leave while employed at a host site.

Hamish Griffith, chief executive of ASX-listed labour hire firm WorkPac, told a Senate inquiry last month such hidden liabilities would threaten profits and jobs.

"Should a regulated pay order be applied which imposes higher pay rates, the value of these accrued historical entitlements increases instantly and substantially," he told a hearing in Rockhampton last month.

"For WorkPac's permanent workforce, this could represent a financial impairment equivalent to a year's trading profit, jeopardising the jobs of thousands of our workers.

"I would question whether the significant hidden back-pay liability would be considered fair and reasonable."

In AREEA's submission on the bill, it warned "such a change in market value could be drastic" given labour hire firms had thousands of employees and carry millions of dollars in leave liabilities.

"If that firm was publicly listed (of which many are), the government's policy in relation to labour hire pay orders could have the unintended impact of distorting public markets," he said. Given labour hire firms cannot recover unexpected costs from host companies, "this could send some firms insolvent, ultimately costing jobs".

Meanwhile, employees could manipulate the system to claim huge arbitrary payouts.

"It may also drive unproductive behaviours such as employees waiting to be deployed to a 'high paying' site before taking all their leave (or resigning and cashing out their leave entitlements)," the submission said.

Labour hire firms also risked compliance issues as "no payroll system is configured to account for differing rates of pay within an annual period".