



Australian Government  
Department of Education

# Quality of governance at Australian higher education providers

Submission from the Department of Education to  
the Senate Standing Education and Employment  
Legislation Committee



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# Quality of governance at Australian higher education providers

## Introduction

The Department of Education welcomes the opportunity to make this submission to the Senate Education and Employment Legislation Committee inquiry into the quality of governance at Australian higher education providers.

The Australian Universities Accord (the Accord) reports included several findings in relation to university governance. These include:

- University governance arrangements had been too slow to recognise and respond to several key issues affecting universities, particularly in the areas of student wellbeing and safety and staff employment, and
- Changes over recent years to university governance have resulted in smaller councils with more business expertise, and that, in general, there is a lack of sector-specific context needed to address some of the issues affecting public universities.

In response to the recommendations from the Accord the Australian Government has agreed to the formation of the Expert Council on University Governance (the Council). The Council has been tasked by Education Ministers to: ‘apply their technical governance expertise to draft new University Governance Principles and Recommendations for Australia’s Public Universities’ (the Principles). Universities will be required to publicly report on their compliance with the new Principles.

The Tertiary Education Quality and Standards Agency (TEQSA) has regulatory power to conduct compliance and quality assessments, which acts as another mechanism whereby higher education providers are held accountable. TEQSA has been tasked to issue new guidance and requirements to higher education providers to ensure they can actively demonstrate compliance with all forms of workplace relations laws and obligations.

Lastly, additional actions to improve universities’ workplace relations compliance include the engagement of an independent expert to the National Tertiary Education Union (NTEU), Universities Australia (UA) and the Australian Higher Education Industrial Association (AHEIA) to identify and resolve priority issues to ensure universities are exemplary employers; and improving staff data collection on the use of casual and fixed term employment arrangements in universities.

## The Australian higher education system

The Australian higher education system comprises 212 higher education providers, delivering education to more than 1.6 million students. There are 44 universities in Australia, of which 39 are public and five are private universities. All universities are



established under their own Acts of Parliament in the States in which they are registered, except the Australian National University, which is established by a Commonwealth Act of Parliament. In addition, there are 156 Institutes of Higher Education and eight University Colleges. All higher education providers operating in Australia must be registered by the TEQSA, the independent national quality assurance and regulatory agency for higher education. TEQSA ensures compliance with applicable legislation, policies and frameworks, including the *Higher Education Standards Framework (Threshold Standards) 2021*, the *Education Services for Overseas Students Act 2000 (including the National Code of Practice for providers of Education and Training to Overseas Students 2018)* and the Australian Qualifications Framework (AQF).

Importantly, TEQSA has a specified purpose in protecting student interests and the reputation of Australia's higher education sector through a proportionate, risk-reflective approach to quality assurance and regulation that supports diversity, innovation and excellence.

### Australia's higher education legislative framework

Higher education providers are governed by a range of legal frameworks to assure their governance, integrity and quality. These include laws governing Government funding, student loans and reporting requirements. The following are specific to the regulation and quality assurance of the sector:

- *Higher Education Standards Framework (Threshold Standards) 2021*

Universities must ensure they are meeting requirements under the Higher Education Standards Framework (Threshold Standards) 2021. The Threshold Standards are monitored and enforced by TEQSA.

Under the Threshold Standards, providers must have a formally constituted governing body. The governing body, and entity, must comply with the requirements of the legislation under which the provider is established, recognised or incorporated, any other legislative requirements (including the Fair Work Act 2009) and the entity's constitution or equivalent. They must also ensure the sufficiency and capability of teaching staff, student access to staff and the nature, appropriateness, quality and access to learning resources appropriate to the course of study.

The Threshold Standards detail the minimum level of achievement that a higher education provider must meet and maintain to be registered to deliver in Australia. The Threshold Standards have seven domains related to student participation and attainment, learning, teaching, research and research training, governance and accountability and quality assurance.



- *Higher Education Support Act 2003 (HESA)*

HESA sets out accountability, quality and fairness requirements for higher education providers receiving Commonwealth grants and reinforces the provisions of the Threshold Standards. The HESA applies to all Table A, B and C universities in Australia as per section 16-25 of HESA.

There are no legislative provisions that allow the Minister for Education to use discretionary power to intervene in a university's operational decisions regarding their curriculum or institutional structure.

## Strengthening institutional governance

As per section 3.2.1 of the Australian Universities Accord (Interim Report), State and Territory governments and the Commonwealth have a mutual obligation to ensure good governance at universities. In addition to their obligations under the Threshold Standards, respective University governing bodies also have governance obligations under other legislative frameworks including FWA. These cover issues such as wage theft, casualisation and student safety.

Universities are constituted by individual enabling Acts in their respective jurisdictions (except for the Australian National University (ANU), which is under the Commonwealth).

Appointments of members to the council are made through the respective university acts, or Constitution of Council for each university. Each university council appoints the Chancellor, Pro-Chancellor, Vice-Chancellor and Deputy Vice-Chancellor.

## Public Sector Governance

The Governance Institute of Australia has produced the [\*Governance principles for boards of public sector entities in Australia\*](#). The principles include that a public sector board:

- Sets and clearly articulates a desired culture
- Models the desired culture at the highest levels of the entity
- Actively promotes the desired culture across the entity (going beyond policies, codes of conduct and statements of values)
- Continually monitors culture and address systemic risk factors
- Demonstrate openness transparency and accountability
- Respects all stakeholders
- Recognises and manage risks
- Remunerates fairly and responsibly (including consider remuneration disclosures).

The principles advise that '...to promote transparency and public trust, a board should not only engage and communicate with stakeholders, but actively consider and be responsive to stakeholder views in its decision-making on an ongoing basis,' (p. 35).

## ASX Corporate Governance Principles and Recommendations

The structure [ASX Corporate Governance Principles and Recommendations](#) provides a potentially useful basis to apply to governance of higher education providers. Its eight principles are:

- Lay solid foundations for management and oversight
- Structure the board to be effective and add value
- Instil a culture of acting lawfully, ethically and responsibly
- Safeguard the integrity of corporate reports
- Make timely and balanced disclosure
- Respect the rights of security holders
- Recognise and manage risk
- Remunerate fairly and responsibly

## Regulatory environment for governing bodies

Australian universities are subject to various rules, regulations and legislation that determine the appointment, composition, role and operation of their governing bodies. In addition, public universities have developed and adopted a voluntary code of best practice for governance.

## Voluntary code

In 2010, Universities Australia developed the Voluntary Code of Best Practice for the Governance of Australian Public Universities. This was endorsed by the University Chancellors Council in 2010, and then by the Ministerial Council for Tertiary Education and Employment in 2011. The Code was subsequently updated in 2018 and again in late 2024 by the University Chancellors Council (UCC).

The code provides best practice guidance across a number of domains, including:

- The composition of governing bodies
- First Peoples, staff, student and university community engagement in governance
- Appointment and removal processes
- Duties of members
- Awareness and education of members
- Performance review
- Compliance and reporting
- Risk management
- Academic governance
- Remuneration policies

The updates to the 2024 code, agreed by UCC, reflect the 10 priority areas identified by Education Ministers and include:

- greater emphasis on gender balance and First Nations peoples on governing bodies
- stronger focus on transparent processes for capturing input from staff, students, and the wider community
- more rigorous and transparent appointment processes, including the use of a formal skills, capabilities, and diversity selection matrix
- regular performance evaluations of the governing body, its members, and senior executives, with specific disclosure requirements
- detailed requirements for risk management frameworks and the establishment of an Audit and Risk Committee
- more comprehensive processes for developing and applying remuneration policies for senior university staff, including benchmarking and annual reporting.

These updates reflect a broader emphasis on diversity, transparency, accountability, and risk management in university governance.

### Australian Universities Accord (Interim Report) – Priority Action 5

The Australian Government is committed to achieving a sustainable university sector, one that provides a safe, supportive and secure working environment for academic and professional staff. As recommended by the Australian Universities Accord (the Accord), and in response to Priority Action 5, the Australian Government commenced immediate work with States and Territories to strengthen university governance, with a focus on:

- universities being good employers
- student and staff safety
- membership of governing bodies, including ensuring additional involvement of people with expertise in the business of universities.

On 26 April 2024, Education Ministers agreed to a series of actions to strengthen university governance, including ensuring universities as exemplary employers. These actions are underway and include:

The establishment of an Expert Council on University Governance (the Expert Council). This Expert Council will develop new 'University Governance Principles and Recommendations' based on 10 priority areas designed to enhance the accountability, transparency, engagement and representation of university governing bodies. Universities will be required to publicly report on their compliance with the new Principles.

Other actions to improve universities' workplace relations compliance include:

- issuing new guidance and reporting requirements from the independent regulator for the higher education sector, TEQSA, to ensure higher education providers have





governance and management processes in place to meet enterprise agreements and industrial obligations

- engaging an independent expert to support the NTEU, UA and the AHEIA to identify and resolve priority issues to ensure universities are exemplary employers; and
- improving staff data collection on the use of casual and fixed term employment arrangements in universities.

The Government has also implemented significant workplace relations reforms aimed at improving fairness and job security for all employees. This includes issuing new guidance to ensure employers and employees, including universities, are aware of the changes and are demonstrating compliance with the FWA.

### Establishment of the Expert Council on University Governance

Education Ministers have established an Expert Council, based on a proposal from the University Chancellors Council (UCC), to develop new 'University Governance Principles and Recommendations' that responds to 10 priority areas for action and against which universities will be required to report their compliance.

The 10 priority areas include:

1. achieve a balance between higher education and other expertise on the governing body, with at least one non-executive member who has university leadership expertise from outside the institution;
2. improve structures and processes to ensure that high risk and high priority matters reflect consultation and engagement with the university community and have appropriate oversight and reporting to and by the governing body;
3. reflect the diversity of the Australian community, and the specific characteristics of the university community they serve, in making appointments;
4. achieve gender balance on the governing body in line with jurisdictional and Australian Government targets;
5. have First Nations membership on the governing body, and separate, transparent processes to capture First Nations leadership and engagement on university strategy, policies and performance;
6. have one or more student members of the governing body, and separate, transparent processes to capture student input on university strategy, policies and performance;
7. have one or more staff members of the governing body, and separate, transparent processes to capture staff and union input on university strategy, policies and performance;
8. require all new appointments to go through a rigorous and transparent selection process that utilises a formal and regularly updated skills, capabilities, and diversity





selection matrix that is in line with their jurisdiction's requirements and directed to the selection of the person best suited to the position;

9. require all governing body members to have, or undertake, training on the specific responsibilities and expectations of their role as governing body members, and separately clarify the way the role of governing body members is described; and
10. demonstrate and maintain a rigorous and transparent process for developing remuneration policies and settings for senior university staff, with consideration given to comparable scale and complexity public sector entities, and ensure remuneration policies and packages are publicly reported.

Education Ministers agreed to the appointment of the following Government-nominated representatives:

- Ms Melinda Cilento, Chair
- Ms Sharan Burrow AC
- Mr Bruce Cowley

To complete the Expert Council of 10, the following organisations will have representatives on the Council:

- University Chancellors Council (UCC)
- Australian Institute of Company Directors
- Governance Institute of Australia
- Australian Indigenous Governance Institute
- Law Council of Australia
- Tertiary Education Quality and Standards Agency (TEQSA)
- Universities Australia (UA).

The National Tertiary Education Union (NTEU) and National Union of Students (NUS) will play a strong and active role in the Council.

### Timeframes and deliverables

The Secretariat of the Council will be hosted by the UCC and UA and be supported by the Department of Education. The Department of Education is working closely with the UCC, UA and the Chair to the Council, Ms Melinda Cilento, and it is expected that at least six Council meetings will be held until completion of the draft Principles and Recommendations. The draft Principles and Recommendations will be circulated to the Australian Education Senior Officials Committee (AESOC) and Education Ministers Meeting (EMM).

### Engagement of independent expert to assist in identification and resolution of priority issues to ensure universities are exemplary employers

The Department of Education has engaged Ms Anna Lee Cribb as an independent expert to facilitate a series of workshops over October 2024 – February 2025 with the National



Tertiary Education Union (NTEU), the Australian Higher Education Industrial Association (AHEIA) and Universities Australia (UA).

These workshops are focused on further actions universities can take to create a supportive, inclusive, and progressive work environment for employees, promoting best practices in employment policies, employee well-being and organisational culture.

## Tertiary Education Quality and Standards Agency and the Threshold Standards

TEQSA is Australia's independent national quality assurance and regulatory agency for higher education. It is responsible for the registration and quality assurance of all higher education providers. It accredits all on self-accrediting provider courses.

The *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act) establishes TEQSA as an agency and gives it regulatory power to conduct compliance and quality assessments. TEQSA is primarily responsible for regulation by ensuring providers comply with the Higher Education Standards Framework (Threshold Standards) 2021, TEQSA Act and the *Education Services for Overseas Students Act 2000* (ESOS Act).

TEQSA conducts its regulatory activities by assessing risks to the sector by means such as data collection and analysis, registering and re-registering providers, accrediting courses (where a provider does not have authority to self-accredit) and monitoring compliance. TEQSA's regulatory decisions are published on the TEQSA National Register available on the TEQSA website.

TEQSA's approach to quality assurance and regulation is:

- standards-based, risk-reflective and transparent
- positioned to promote and facilitate a culture of effective self-assurance as an integral part of a provider's operations
- only intervening to the extent necessary to achieve our regulatory purpose
- based on a model of regulatory partnerships, with individual providers and the sector overall.

### *Higher Education Standards Framework (Threshold Standards) 2021*

The Higher Education Standards Framework 2021 (Threshold Standards) is a legislative instrument that sets the standards a provider must meet and continue to meet to be registered to operate as a higher education provider in Australia. TEQSA uses the Threshold Standards to regulate higher education providers and courses.

### Higher Education Standards Panel

The Higher Education Standards Panel (HESP) is an expert statutory advisory body, established under the TEQSA Act. The HESP have legislated responsibility for advising and

making recommendations to the Minister on making, varying, and on other matters relating to, the Threshold Standards, if requested by the Minister, or on the HESP's own initiative.

Other responsibilities include providing advice and recommendations to TEQSA on matters relating to the Threshold Standards, if requested by TEQSA or on its own initiative.

The HESP can also advise and make recommendations to TEQSA about its strategic objectives, corporate plan, performance against the plan, reform agenda, streamlining of activities and resourcing requirements. Or the HESP can advise and make recommendations to TEQSA about its approaches to deregulation, including by the application of principles relating to regulatory necessity, risk and proportionality in respect of different types of higher education providers if requested by TEQSA or on the Panel's own initiative.

The Panel must consult interested parties when performing its functions and may, by writing, establish advisory committees to assist it in performing its functions.

## Relevant Threshold Standards

The Threshold Standards relating to Domain 6 (Governance and Accountability) have specific requirements to ensure providers are operating within an accountable and effective governance framework.

## TEQSA's Powers

In the event that TEQSA identifies non-compliance with the Threshold Standards, it has a range of compliance and enforcement tools to address the instances of non-compliance as outlined in the TEQSA Act. TEQSA may take the following actions depending on the severity of the non-compliance:

- TEQSA may decide not to pursue further action but may instead provide informal resolution through regulatory guidance to promote self-assurance, build capability and prevent broader non-compliance.
- TEQSA may issue a warning letter where it reasonably believes a regulated entity has not complied with TEQSA's legislative framework. A warning letter places the regulated entity on notice about TEQSA's concerns and the possibility of future action should the conduct continue or re-emerge.
- Providers may agree to enter into a voluntary undertaking with TEQSA, to commit to take specific action, or cease specific conduct, to address identified non-compliances within a specified timeframe.
- Under section 32 and section 53 of the TEQSA Act, TEQSA may impose conditions on a regulated entity's registration or accreditation to mitigate a material risk associated with its operations.
- TEQSA may seek enforcement of an enforceable undertaking (where an entity commits to take particular action or refrain from taking particular action to ensure it



meets relevant legislative obligations) in a court if an entity has breached or failed to comply with an enforceable undertaking.

- Pursuant to Part 7 of the Regulatory Powers Act, TEQSA can apply to a court for an injunction restraining a person (including a regulated entity) from engaging in conduct that contravenes a provision of the TEQSA Act. TEQSA can also apply for an injunction requiring a person to do something in relation to compliance with the TEQSA Act.
- TEQSA may shorten the registration or accreditation of a regulated entity where the provider has failed to meet the Threshold Standards or breached a condition imposed on its registration or course accreditation. TEQSA can cancel a provider's registration if a provider has failed to meet Threshold Standards or breached a condition of its registration.

The legislative framework allows for providers to seek a review of a TEQSA decision. There are three types of review processes:

1. an internal review of decisions
2. merits review of decisions made by TEQSA in the Administrative Review Tribunal (ART)
3. a judicial review of administrative decisions.

Reviewable decisions made under the TEQSA Act include decisions about:

- applications for registration in a particular provider category
- applications for course accreditation
- conditions on a registration or course accreditation
- renewing a registration or course accreditation
- removing the authority of a provider to self-accredit one or more courses of study
- shortening the period of a registration or course accreditation
- cancelling a registration or course accreditation.

Reviewable decisions under the ESOS Act include decisions about:

- whether a provider should be registered or have its registration renewed
- the period for which a provider should be registered or have its registration renewed
- imposing, varying or removing a condition on a provider's registration
- whether a course at a location should be added to a provider's registration
- extending a provider's registration
- imposing sanctions on a provider's registration (such as cancellation or suspension of that registration).

Reviewable decisions made under the Tertiary Education Quality and Standards Agency Determination of Fees No. 1 of 2020 (Fee Determination) in relation to fees include decisions about:

- the waiver of fees
- the refund of fees.

Reviewable decisions made under the Tertiary Education Quality and Standards Agency (Registered Higher Education Provider Charge) Guidelines 2022 (Charging Guidelines) in relation to the registered higher education provider charge (RHEP charge) include decisions about:

- notices informing a provider of the amount of the charge
- the waiver of the charge or part of the charge
- the refund of part of the charge.

## Background

### *Threshold Standards – Domain 6 Governance and Accountability*

The Threshold Standards specify requirements for corporate governance including corporate monitoring and accountability. Providers must have a formally constituted governing body (Standard 6.1) that attends to its governance functions and processes diligently and effectively. The governing body must undertake periodic independent reviews to ensure its effectiveness. The governing body is accountable for all of the higher education provider's operations in or from Australia, and for continuing to meet the requirements of the Threshold Standards.

Standard 6.1.1 and Standard 6.1.2 sets out certain characteristics for the governing body, including independent members that are fit and proper persons, meet the Australian residency requirements with competence to undertake its governance roles. Standard 6.1.3 specifies a number of key governance roles including ensuring its financial viability and sustainability and student and staff wellbeing and safety.

Standards 6.2.1d requires that the governing body assures that the provider's financial position and financial performance are monitored regularly, that financial management meets Australian accounting standards, that effective financial safeguards are operating and that financial statements are audited independently by a qualified auditor against Australian accounting and auditing standards

Under Standard 6.2 of the Threshold Standards, all registered higher education providers must comply with the requirements of the legislation under which the provider is established, recognised or incorporated, any other legislative requirements (including Commonwealth and State and Territory workplace legislation) and the entity's constitution or equivalent. If TEQSA determines that a provider is systematically in breach of workplace relations legislation, it has powers under the TEQSA Act to impose sanctions.

### *The Role of the Australian Skills Quality Authority (ASQA)*

The Australian Skills Quality Authority (ASQA) also regulates approximately 60 dual-sector providers alongside TEQSA.

Work is ongoing to align the regulatory approaches of ASQA and TEQSA, to support the regulation of dual-sector providers. This includes reforms announced in the 2024-25 Budget focussed on improving collaboration, and streamlining regulation for dual-sector providers.

## Corporate governance and workplace relations priority actions

### TEQSA's new annual reporting requirements on corporate governance and industrial relations

TEQSA has been tasked to issue new guidance and requirements to higher education providers to ensure they can actively demonstrate compliance with all forms of workplace relations laws and obligations, including as part of their corporate governance requirements of the Threshold Standards, and that they can readily implement changes to enterprise agreements appropriately and in good faith.

The new reporting requirements will come into effect in 2025, commencing with universities. Further details will be provided by TEQSA in early 2025, before commencement of the academic year.

Where TEQSA finds evidence of potential non-compliance with the *Fair Work Act 2009* through its monitoring of these reporting requirements, the agency will refer such matters to the Fair Work Ombudsman (FWO).

### *Role of Fair Work Ombudsman*

The role of the FWO is to promote harmonious, productive, cooperative, and compliant workplace relations. The FWO also monitors, inquires into, investigates, and enforces compliance with the Fair Work Act. Improving compliance in the university sector is a priority area for the FWO.

The FWO is responsible for investigating and enforcing non-compliance with the Fair Work Act, while TEQSA is responsible for assessing whether higher education providers have adequate governance and management processes in place to ensure they can meet their obligations, and then taking appropriate action in relation to the provider's registration if concerns are identified. Both the FWO and TEQSA have an important role in supporting compliance with the Fair Work Act in the higher education sector.



## Enhancing data transparency around casual staff data

The Department of Education is currently scoping improvements to require higher education providers to provide additional data to the Australian Government on casual staff numbers to increase transparency and understanding of workforce patterns and issues. These new requirements will form part of an enhanced suite of student and staff data collection processes.

## Australian Government reforms to workplace relations to improve fairness and job security

The government has implemented significant workplace relations reforms aimed at improving fairness and job security for employees, including those in the higher education sector. This includes fixed term contract limitations, casual employment reform, and making age theft a criminal offence.

### *Fixed-term contract limitations*

The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Secure Jobs, Better Pay Act) amended the Fair Work Act to introduce limits on the use of fixed term contracts to two years or two consecutive contracts, whichever is shorter. These reforms are particularly aimed at improving job security for workers employed on rolling fixed term contracts, who could otherwise reasonably be employed on a permanent basis.

The Fair Work Act also contains a range of exceptions that allow fixed term contracts to extend beyond these limits when genuinely necessary and appropriate. These include (but are not limited to) instances where an employee earns above the high-income threshold, or where it is permitted under a modern award. The *Fair Work Regulations 2009* (Fair Work Regulations) also include time-limited exemptions until 1 November 2025 for higher education, organised sport and international sporting events, charities and not-for-profit organisations, medical research institutions and public hospitals.

In the case of the higher education sector, the time-limited exemption in the Fair Work Regulations is intended to allow time for parties to reach a longer-term solution. A process for doing so is currently underway before the Fair Work Commission, which is reviewing the fixed term provisions in the *Higher Education Industry-Academic Staff-Award 2020* and the *Higher Education-General Staff Award 2020* following the findings of the Modern Awards Review 2023-24.

A broader review of the operation of the fixed term contract provisions is also underway through the independent review of the Secure Jobs, Better Pay Act. This review is being led by Emeritus Professor Mark Bray and Professor Alison Preston and commenced in October 2024. A draft report was published on 3 February 2025, with a final report due to be delivered to the Minister for Employment and Workplace Relations by 31 March 2025.

Further information on the Review can be found here:

<https://www.dewr.gov.au/workplace-relations-australia/review-secure-jobs-better-pay-act>



### *Casual employment reforms*

The *Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024* amended the definition of 'casual employee' and replaced the previous casual conversion pathways with the new single employee choice pathway. These reforms aim to improve job security by ensuring casual employees working like permanent employees have a clearer pathway to permanent employment if they want it.

The new definition of casual employee provides that an employee is casual if:

- there is no firm advance commitment to ongoing work, taking into account a number of factors, including the real substance and true nature of the employment relationship; and
- the employee is entitled to a casual loading or specific casual pay rate under an award, registered agreement, or employment contract.

The new definition requires consideration of the practical reality and true nature of the employment relationship, which may include any mutual understandings or expectations about the relationship.

The changes also replace the existing casual conversion pathways with a new single employee choice pathway, giving employees a clear and simple way to convert to permanent employment if they choose to. Employees who have worked for at least 6 months (or 12 months in a small business) are now able to give their employer a notification if they believe they no longer meet the definition of casual employee.

Recognising that insecure work is a particular issue in the higher education sector, academic and teaching staff covered by the two higher education awards<sup>1</sup> cannot be engaged as a casual on a fixed term contract. This means, for example, that academics in higher education institutions cannot be engaged as casuals on a contract which terminates at the end of an identifiable period, such as the end of a university semester.

### *Wage theft criminal offence and changes to civil penalties*

The *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* introduced a criminal offence for the intentional underpayment of employees' wages and certain entitlements, which commenced on 1 January 2025.

The *Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024* increased the maximum civil penalties for underpayment-related contraventions of the Fair Work Act, for bodies corporate that are not small business employers. The amendments also changed the threshold for what constitutes a serious contravention, from one that is done knowingly and systematically, to one that is done either knowingly or recklessly. These changes commenced on 27 February 2024.

Together, the new offence and changes to civil penalties provide for a graduated scale of penalties and enforcement tools and reinforce the expectation that employers, including



those in the higher education sector, maintain a culture of compliance with the Fair Work Act.

