



Workplace relations and platform work

Workplace relations regulation has a bearing on both the use of efficient practices in the workplace and the improved matching of workers with employers.

While platform work involves some challenges for workplace relations policy, it promises significant productivity and other efficiency benefits. It can directly link workers and consumers, avoiding search costs. It provides flexibility for those workers who value it, higher quality on demand services for

consumers and greater competition between firms. Although there are regulatory challenges associated with platform work, policy should not seek to force platform workers to be employees. This would harm the workers who value platform work and risk reducing or removing key productivity benefits, including labour flexibility. That said, balanced safeguards are needed for platform workers.



Recommendations

Regarding **workplace relations** (recommendations 7.13 to 7.17), the Australian Government should:

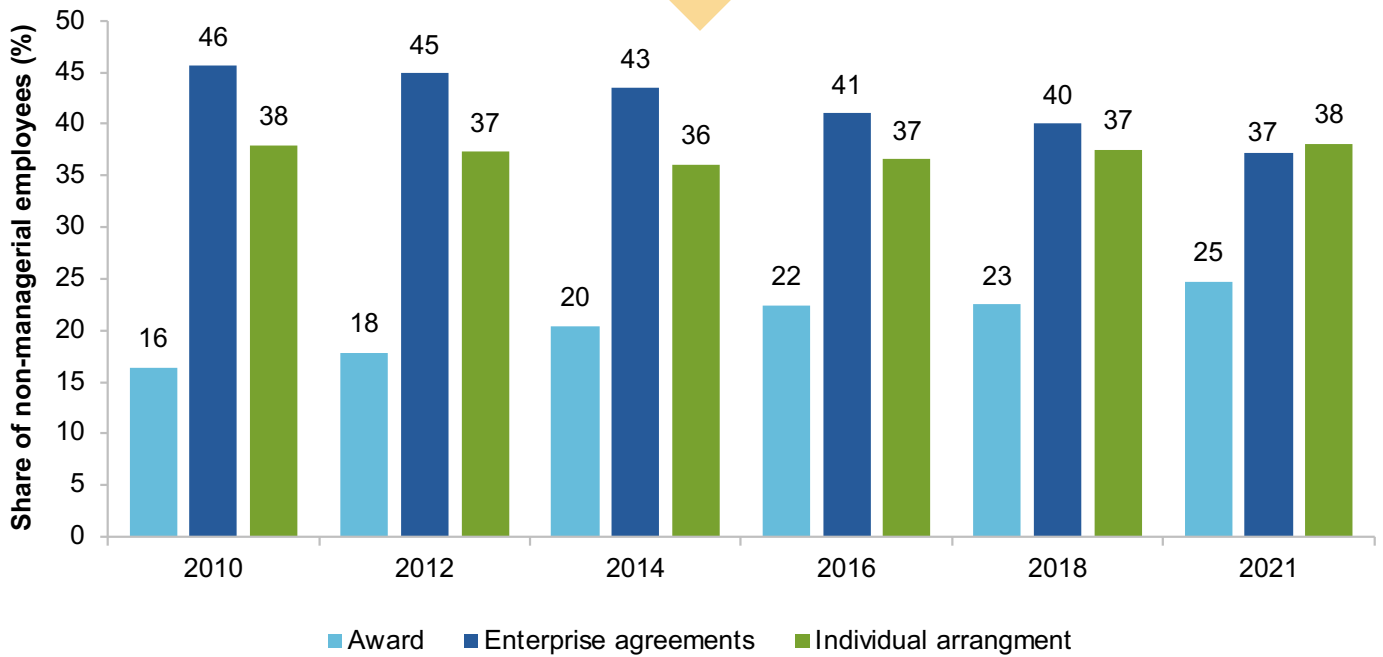
- Amend section 134 of the Fair Work Act 2009 (Cwlth) to clarify the modern award objective, focusing on the needs of the employed; the need to increase employment; the needs of employers; the need to achieve gender equality in the workforce; the needs of consumers; the need to ensure that modern awards are easy to understand; and the likely impact of any exercise of modern award powers on efficiency and productivity.
- Improve the Fair Work Commission's (FWC) ability to vary awards to better achieve the modern awards objective, removing some of the rigidities of the current system and targeting those awards with the greatest potential for improvement.
- In making variations to modern awards, the FWC should consider options that allow employers some choice about how they can meet award requirements, subject to meeting the modern awards objective and undertaking appropriate consultation with employees.
- Limit the ability for enterprise agreements to restrict productivity enhancing changes to technology or workplace practices that are best left to managerial prerogative. This includes amending the Fair Work Act so that the model consultation term would be the only legally enforceable consultation term in enterprise agreements. A mechanism that enables the FWC to specifically authorise an alternative enforceable term should be explored.

- Further loosen the relationship of enterprise agreements with awards by allowing the FWC to approve agreements that do not pass the Better Off Overall Test if a range of public and private interest tests are met. Any changes should have adequate protections in place to avoid undesirable outcomes as exemplified by the Construction, Forestry, Mining and Energy Union v One Key Workforce Pty Ltd.

Regarding the **regulation of platform work** (recommendations 7.18 to 7.19), the Australian Government should:

- Introduce an external, independent dispute resolution function within the Fair Work Commission that can provide conciliation and arbitration services relating to suspension or termination disputes or non-payment of earnings. The function should be funded by platforms and should be designed to encourage platforms to improve internal processes, rather than relying on the external body as the primary method of resolving disputes.
- Evaluate insurance arrangements for platform work where there are significant risks to workers, drawing on data and consultation with platforms, workers and their representatives. Classes of platform work that are likely to be of initial interest are those with many workers or total hours worked and those where there are material risks to worker health and safety. Where insurance arrangements are insufficient, governments should consider at minimum mandating a baseline level of insurance to be provided and paid for by platforms, creating an industry wide insurance scheme, or extending workers compensation. Each of these policy options would be best funded by the covered platforms.

While only a minority of employees rely solely on awards to determine their wages and conditions, awards have grown in significance. Most EA covered employees are on an expired agreement. (Volume 7, p. 96)



Increasingly, employers and employees are leaving expired EAs in place, with 56% of employees covered by an agreement on an expired EA. By their nature, expired EAs cannot include new productivity enhancing clauses, so the scope for them to improve productivity depends on whether existing clauses leave room for future flexibility. (Volume 7, p. 115)

