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The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

**Fair Work Amendment (Equal Pay for
Equal Work) Bill 2022**

No. , 2022

(Senator Roberts)

**A Bill for an Act to amend the *Fair Work Act 2009*,
and for related purposes**

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A Bill for an Act to amend the *Fair Work Act 2009*, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act is the *Fair Work Amendment (Equal Pay for Equal Work) Act 2022*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Fair Work Act 2009

1 Section 321

After:

Division 3 is about the guarantee of annual earnings that may be given to a national system employee whose earnings exceed the high income threshold. Modern awards do not apply to such an employee.

insert:

Division 4 is about the requirement that certain labour hire employees receive at least the same amount of pay as other employees performing the same work.

2 At the end of Part 2-9

Add:

Division 4—Minimum pay for certain labour hire employees

333B Minimum pay for certain labour hire employees

(1) This section applies if:

- (a) an employer (the *labour hire employer*) enters into a contract or an arrangement with another person (the *host employer*) for an employee (the *labour hire employee*) of the labour hire employer to perform work for the host employer; and
- (b) while performing the work, the labour hire employee is in a classification or class of work covered by a specified modern award.

(2) The labour hire employer must pay the labour hire employee, in respect of the work:

- (a) a base rate of pay for the labour hire employee's hours of work that is no less than the base rate of pay that is, or would be, payable to an employee of the host employer in the same classification or class of work for the same hours of work; and
- (b) any of the following that is, or would be, payable to an employee of the host employer in the same classification or class of work:
 - (i) incentive-based payments and bonuses;
 - (ii) loadings;
 - (iii) monetary allowances;
 - (iv) overtime or penalty rates;
 - (v) any other separately identifiable amounts.

Note: This subsection is a civil remedy provision (see Part 4-1).

- (3) For the purposes of paragraph (2)(a), a person's **hours of work** includes:
 - (a) the person's ordinary hours of work; and
 - (b) the person's roster for when the work is performed.

Example: John and Frank both have a 40-hour work week. However, Frank is on a rotating roster, whereas John only works day shifts. For the purposes of paragraph (2)(a), Frank does not have the same **hours of work** as John.

- (4) In this section:

specified modern award means the following modern awards, as in force from time to time:

- (a) the *Aircraft Cabin Crew Award 2020*;
- (b) the *Australian Nuclear Science and Technology Organisation (ANSTO) Enterprise Award 2016*;
- (c) the *Black Coal Mining Industry Award 2010*;
- (d) the *Fire Fighting Industry Award 2020*;
- (e) the *Maritime Offshore Oil and Gas Award 2020*;
- (f) the *Seagoing Industry Award 2020*;
- (g) any other modern award specified by the Minister for the purposes of this paragraph in a legislative instrument.

3 Subsection 539(2) (after table item 10A)

Insert:

10B	333B(2)	(a) an employee; (b) an employee organisation; (c) an inspector	(a) the Federal Court; (b) the Federal Circuit and Family Court of Australia (Division 2); (c) an eligible State or Territory court	for a serious contravention— 600 penalty units; or otherwise—60 penalty units
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4 In the appropriate position in Schedule 1

Insert:

**Part 12—Amendments made by the Fair Work
Amendment (Equal Pay for Equal Work)
Act 2022**

51 Application of amendments

Section 333B, as inserted by the *Fair Work Amendment (Equal Pay for Equal Work) Act 2022*, applies in relation to a contract or an arrangement entered into on or after the commencement of this Part.