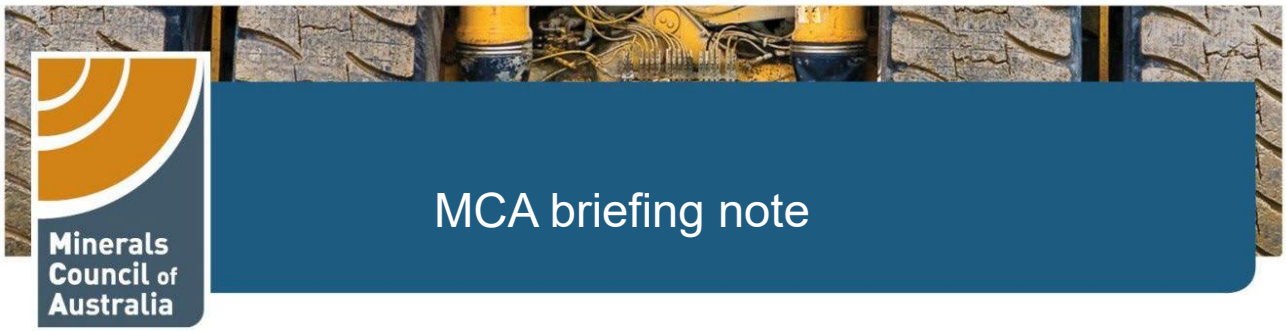

FAIR WORK COMMISSION DECISION IN 'SAME JOB, SAME PAY' TEST CASE

7 July 2025

On 7 July 2025, a Full Bench of the Fair Work Commission released its decision in a major test case concerning the Albanese Government's 'same job, same pay' legislation.[1] This proceeding covered a range of key matters concerning the application of the legislation and will have enormous implications for mining and resources businesses throughout Australia.

Implications of the decision

- In 2023, the government stated that it had made '*a clear policy decision that we did not want service contractors who were providing a service other than effective labour hire to be captured by the labour hire loophole sections of the Act*.'
- Following this decision, it is clear that service contractors can and will be captured by these sections of the Act. There is now only a very limited distinction between labour hire and service contractors – contrary to government guarantees that there would be a '*clear line'* between the two.
- In 2022, the government stated that the legislation would be restricted to the '*limited circumstances in which host employers use labour hire to deliberately undercut the bargained wages and conditions set out in enterprise agreements made with their employees'*
- The legislation is not limited to the 'misuse' of labour hire – contrary to government policy guarantees in 2022.
- Any service contractor is at risk of being captured unless they can litigate their way out. The Commission's decision means this will be a very difficult burden to overcome.

Given the complexity of the legislation, the decision is also highly complex and runs to 102 pages.

This note considers the following matters:

1. Background to the decision
2. Outcome of the decision – service contractors are at risk from 'same job, same pay', not just labour hire providers, and even if they are within the service contractor category, they will have to litigate their way out of the system
3. The impact of the Fair Work Commission's decision
4. Implications of the decision – Previous government assurances have been shown to be worthless
5. The adverse impacts of 'same job, same pay' so far

[1] [2025] FWCFB 134 (Decision, para 34).

6. Service contractors can clearly be captured
7. What must change – urgent amendments now required

1. Background to the decision

In June 2024, the Mining and Energy Union filed ten separate applications for 'Regulated Labour Hire Arrangement Orders' (i.e. 'same job, same pay' orders) covering workers at three BHP coal mines in the Bowen Basin – Goonyella Riverside, Peak Downs and Saraji. The applications covered workers who are employed by BHP Operations Services, WorkPac and Chandler McLeod.[2]

The applications were heard by the Full Bench of the Fair Work Commission over several weeks in January and February 2025. Five other parties are intervening in the proceeding, including the MCA[3] and the Minister for Workplace Relations, Senator Murray Watt.[4]

2. Outcome of the decision – all service contractors are at risk from 'same job, same pay', not just labour hire providers

This case was a major test case which considered as one of its primary issues the extent to which service contractors can be subject to 'same job, same pay' orders in the same way as labour hire.

The relevant provisions of the legislation were intended to provide some discretion for the Commission to exclude certain businesses from 'same job, same pay' orders if the Commission is satisfied they are engaged in the 'provision of a service', rather than labour hire providers, who provide only labour to the 'host' business.

However, these provisions are complex and are assessed by reference to various discretionary factors which might be considered differently, and given different weight, by various Commission members. Under the legislation, a reverse onus applies – a business will be captured unless it can litigate its way out by persuading the Commission that it should be excluded pursuant to these factors. If it cannot do so, then the Commission must make an order against it.

What is certain is that the legislation contains a very different concept of 'service provision' to the ordinary meaning of that term as understood by industry. The 'multi-factor' test in the legislation was designed to give the Commission the power to capture arrangements well beyond just labour hire – an outcome that was always at odds with the '*straight exclusion'* that service contractors were promised by the government in 2023.

The Mining and Energy Union argued for an extremely broad interpretation that would effectively mean that service contractors would be treated no differently to labour hire providers in almost any circumstances.[5] For example, the MEU argues that contractors that are subject to safety obligations under coal mine safety legislation are not exempt, because BMA is the coal mine operator for the purpose of that legislation (in other words every contractor that is subject to the same statutory safety obligations is captured).

The case will have significant implications for workforce arrangements across the industry. The Commission confirmed the legislation captures more than just labour hire, dismissing the employers' arguments that anything more than the mere supply of labour should be regarded as a service.[6]

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[2] MEU & AMWU applications for regulated labour hire arrangement orders: https://www.fwc.gov.au/hearings-decisions/major-cases/meu-amwu-applications-regulated-labour-hire-arrangement-orders.

[3] https://minerals.org.au/wp-content/uploads/2025/01/Minerals-Council-of-Australia-submissions-to-Same-Job-Same-Pay-test-case-December-2024.pdf.

[4] Minister for Employment and Workplace Relations, *Outline of submissions*, 9 December 2024: https://www.fwc.gov.au/documents/sites/c2024-3846/c2024-3846-corr-min-2024-12-09.pdf.

[5] MEU, *Outline of submissions*, 2 August 2024: https://www.fwc.gov.au/documents/sites/c2024-3846/c20243846-meu-submission-2024-08-02.pdf.

[6] Decision, para 34.

Why service contractors should not be captured

Service contractors in the mining industry are businesses that apply expertise, capital and equipment and labour to deliver mining services. Unlike 'host' businesses, service contractors do not hold mining leases. They can be small, medium or very large businesses.

Service contractors are distinct from labour hire providers because they provide more than just workers to work 'in and as part of' the businesses of their clients.

Almost 40 per cent of workers in the Australian mining industry are employed through service contractors – and almost every major mining project in Australia relies, to varying degrees, on service contractors to conduct large portions, and in some cases the entirety, of their operations.

Service contractors are crucial to the mining industry's competitiveness and productivity, because they provide specialist skills and adaptable capability in the rapidly changing conditions under which mines operate.

For example, a large, diversified mining service contractor could provide services to a large open cut coal mine that include everything from mine design to planning and haulage to drilling and blasting operations.

The commercial arrangements that 'host' businesses have with contractors are nothing like labour hire arrangements. They are often highly sophisticated arrangements worth tens or hundreds of millions of dollars, in which the contractor manages its own equipment, its own processes and its own workforce. To needlessly jeopardise these legitimate arrangements will cause uncertainty and disruption across the entire mining industry.

3. The impact of the Fair Work Commission's decision

Minister Watt's submissions in this case indicate that two years on, the government substantially changed its position on whether its 2023 amendments exempt service contractors. Given the government's current view has effectively been adopted by the Fair Work Commission, the mining industry's worst fears about the legislation have been confirmed. These fears were first raised by the MCA when the legislation was introduced in 2023.[7] The fundamental flaws with 'same job, same pay' remain and the government's 2023 assurances are meaningless.

1. ***No actual exclusion – just more litigation and uncertainty:***

   The Commission determined that the 'core question' it had to decide was whether the work was for the provision of an 'identifiable and discrete service' as distinct from the 'supply of the labour of the workers to work in or as part of' the host business'.[8] This involved 'an evaluative inquiry in which all relevant matters… are taken into account' and in which 'questions of extent and degree are likely to be involved in the characterisation exercise'.[9]

   This is consistent with the government's arguments before the Commission, which is that there is no 'exemption', only a 'matter of degree' as to whether the performance of work is characterised as the provision of a service or the supply of mere labour.

   In the inevitable grey areas of the 'matter of degree', the reach of 'same job, same pay' laws will be unpredictable, uncertain and subject to hotly contested and lengthy litigation in the FWC, with no clear boundaries or definitions. Without any precedent dictating the proper interpretation of these laws, same job same pay cases will, for the foreseeable future, be decided on the basis of the Commission's subjective consideration of a wide range of circumstances.

[7] https://minerals.org.au/wp-content/uploads/2023/12/MCA-advice-Proposed-amendments-to-the-Fair-Work-Amendment-Closing-Loopholes-Bill-28-November-2023.pdf
[8] Decision, para 42.
[9] Decision, para 64.

Minister Watt's submissions confirm that the supposed 'exemption' should be interpreted narrowly, so as to not protect a broad range of legitimate service contractor businesses that should never be captured by these laws.

2. ***Every contractor can be roped in, unless they can litigate their way out:***

   The onus is still on the business to demonstrate they should not be captured. According to the government's new position, as endorsed by the Commission,[10] this ought to be extremely difficult, as the 'benefits' of the legislation should be interpreted 'liberally' and 'beneficially' to capture as many businesses as possible.

3. ***The legislation still fails to do what the government said it would do:***

   The government previously said that 'same job, same pay' would apply only to the:

   > *'limited circumstances in which host employers use labour hire to deliberately undercut the bargained wages and conditions set out in enterprise agreements made with their employees'* (emphasis added).[11]

   In June 2023, Minister Burke claimed that:

   > *'The problem that we are trying to solve is where an enterprise agreement has been put in place where there are agreed rates of pay and then an employer uses a labour hire firm in order to undercut those rates of pay,'* [12]

   In October 2023, Minister Burke stated that:

   > '*The government made a clear policy decision that we did not want service contractors who were providing a service other than effective labour hire to be captured by the labour hire loophole sections of the Act*.' [13]

   The Commission has now determined that the legislation goes much further than this. According to Minister Watt's submissions, this was always the government's intent (see below).

4. ***Implications of the decision – Previous government assurances have been shown to be worthless***

   Prior to the 2022 election, the then Opposition Leader, Mr Albanese, stated that the 'same job, same pay' policy was limited to addressing 'wage arbitrage', which was defined as:

   > *'a labour hire service provider being able to profit from wage arbitrage where they deliberately source lower cost labour than would be available to the host through a direct employment model.'* [14]

   The Prime Minister stated that the legislation would be targeted to:

   > *'two Australians working side by side, doing the same hours and the same job, with the same qualifications'*.[15]

   Following the election, the government made similar statements that the 'same job, same pay' laws would not extend to service contractors. The government gave an assurance that:

[10] Decision, [49]-[50].
[11] 'Same Job, Same Pay Consultation Paper', DEWR, April 2023: https://www.dewr.gov.au/workplace-reform-consultation/resources/same-job-same-pay-consultation-paper.
[12] The Australian, *Labor poised to cut deal on 'same job, same pay' laws*, 12 June 2023: https://www.theaustralian.com.au/nation/politics/labor-poised-to-cut-deal-on-same-job-same-pay-laws/news-story/7f3320e68258707d6e77686e2edafba4.
[13] The Australian, 'Tony Burke agrees to IR law changes, with casual employment, labor hire concessions', 31 October 2023: https://www.theaustralian.com.au/nation/politics/back-off-tony-burke-employers-launch-bid-for-a-truce/news-story/20f688e05680924dfeb473d2eb0ec816
[14] *Fair Work Amendment (Same Job, Same Pay) Bill 2021*, Explanatory Memorandum, page 2.
[15] Anthony Albanese, Second Reading Speech for the 2021 'Same Job, Same Pay' Bill.

> *'The Government's Same Job, Same Pay measure seeks to address the limited circumstances in which host employers use labour hire to deliberately undercut the bargained wages and conditions set out in enterprise agreements made with their employees.'* [16] (emphasis added)

What the government claimed in 2023

The government's 'closing loopholes' legislation went far beyond this 'limited' commitment when it was introduced in 2023. While the then Minister initially claimed that *'Completely. Completely. Service contractors have been deliberately excluded'*[17], it was eventually conceded that this was not the case.

The government then introduced amendments to its legislation, which it claimed would result in service contractors being 'exempted'.[18] On 28 November 2023, the then Minister for Workplace Relations, Tony Burke, introduced the government's amendments to ostensibly '*exempt service contractors*' from being captured by 'same job, same pay' orders. At the time, Minister Burke stated that:

> *'These amendments will put it beyond doubt…'*
>
> *'Under the new changes, tighter criteria will direct the commission to focus only on factual matters of supervision, control, provision of equipment, statutory obligations and whether the work is of a specialist or expert nature.'*
>
> *'Contracting businesses will no longer have to prove they are 'wholly or principally' providing a service, rather, on balance, that the arrangement points towards service provision instead of labour hire.'* [19]

What the government argued in 2025

Despite Minister Burke's 2023 assurances, the government argued the opposite in this proceeding. In December 2024, the subsequent Minister, Senator Murray Watt, made his submissions in the case, which set out the Government's new position on the application of the laws.[20]

In essence, the government argued that the amendments do not *'exempt service contractors' from* 'same job, same pay', as it claimed in 2023.

Nor do they '*put it beyond doubt'*, as Minister Burke had previously claimed. The government's new stance was that service contractors can be captured by 'same job, same pay' and they will be required to litigate their way out to avoid capture.

Moreover, the government argued that the legislation should be applied 'liberally' so as to not reduce the intended 'benefits' of 'same job, same pay' laws.

How the government's position changed

The Minister's submissions in this case were a substantial departure from the assurances given by the previous Minister at the time of the Parliamentary debate, as set out in the table below.

Minister Burke, political promises, 2023	**Minister Watt, submissions to the Fair Work Commission, 2025**
Minister Burke claimed the government's intent was to 'straight exclude' service contractors: *'The new wording, we'll just have a straight exclusion, that if it is a service*	Minister argued that this was never the government's intent: *'Thus the intent of sub-ss 306E(1A) and (7A) was not to "excise" any particular employer from the operation of Part 2-7A'* [22]

[16] Department of Employment and Workplace Relations, , April 2023, page 3. https://www.dewr.gov.au/workplace-reform-consultation/resources/same-job-same-pay-consultation-paper.

[17] Minister for Employment and Workplace Relations, Hon Tony Burke MP, *Interview with Andrew Clennell*, Sky News Afternoon Agenda, 5 September 2023.

[18] *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* (Cth).

[19] The Australian, The Australian, 21 November 2023: https://www.theaustralian.com.au/nation/politics/labor-strikes-secret-deal-to-get-workplace-changes-over-the-line/news-story/e6eca09b2f5497e46b583a0cf2368455.

[20] https://www.fwc.gov.au/documents/sites/c2024-3846/c2024-3846-corr-min-2024-12-09.pdf.

[22] Minister's submissions, para 17.

Minister Burke, political promises, 2023	Minister Watt, submissions to the Fair Work Commission, 2025
other than the provision of labour, then they are excluded' [21]	Moreover, Minister Watt adopted the exact opposite approach: '*The Minister submits that it is not the intention of sub-s 306E(1A) that the provision of a service means any performance of work that is more than the mere supply of labour…*' [23] *'…The Commission's reaching of that state of satisfaction does not involve any task or process whereby what is described as "mere(ly) suppl(ying) labour" by the employer is first found to exist as a concept, and if the employer provides more than the mere supply of labour, it follows inevitably that he performance of work is to be characterised as being "for the provision of a service"…*' [24]
Minister Burke claimed the legislation would provide a 'clear line' between labour hire and service contractors: *'And that just gives a really clear line drawn that if it's labour hire, it's covered, if it's service contractors, it's not.'* [25]	Minister Watt argued that there is no clear line between 'labour hire' and 'service contractors', and that it is a 'matter of degree': *'… the ordinary meaning of these two concepts are not mutually exclusive, which lends support to a construction of sub-s (1A) which directs the Commission to satisfy itself whether as a matter of degree – the performance or work is properly or more readily to be characterised as for the provision of a service or the supply of labour.'* [26]
Minister Burke claimed the government's amendments were a substantive change to the legislation: *'the agreement to exempt service contractors from the new workplace laws was signed off on Tuesday by Mr Burke and the Australian Resources and Energy Employer Association...'* *'These amendments will put it beyond doubt,' he said. 'We will end up with better legislation as a result of the constructive engagement and industrial expertise that AREEA has brought to the table.'* [27]	Minister Watt argued that the amendments were largely the same as the original Bill: '*During the second reading debate on the Bill, the Government moved amendments to insert sub-ss 306E(1A) and (7A) in similar terms to the original first reading test of sub-para 306E(8)(b)'* [28] … *'Nor were sub-ss 306E(1A) and (7A) entirely new "qualifications" that had not been in contemplation at the time of the Minister's Second Reading Speech. A similar form of these provisions was in the original but ultimately unenacted sub-para 306E(8)(b)'* [29]
Minister Burke claimed the Fair Work Commission would no longer have discretion in determining whether a business was a 'service contractor':	Minister Watt argued that the legislation retains very broad discretion for the Commission on this subject.

[21] Minister Burke, interview with ABC RN, 22 November 2023.
[23] Minister's submissions, para 35.
[24] Minister's submissions, para 35.
[25] Minister Burke, *Interview with ABC RN*, 22 November 2023.
[26] Minister's submissions, para 34.
[27] 'Labor strikes secret deal to get workplace changes over the line', The Australian, 21 November 2023: https://www.theaustralian.com.au/nation/politics/labor-strikes-secret-deal-to-get-workplace-changes-over-the-line/news-story/e6eca09b2f5497e46b583a0cf2368455.
[28] Minister's submissions, para 16.
[29] Minister's submissions, para 17.

Minister Burke, political promises, 2023	Minister Watt, submissions to the Fair Work Commission, 2025
'So that discretion that otherwise would have been there with the Commission won't be there under the amendments.[30]	This was also confirmed by the Commission's first decision on 'same job, same pay' (the *Batchfire* case[31]), which the Minister endorsed: *'While the relevant opinion or state of mind required by sub-s 306E(1) must be reached reasonably, there is "a degree of latitude and subjectivity in the evaluation of the three prescribed matters."'* [32]
Minister Burke claimed the amendments would make it easier for service contractors to avoid being captured by 'same job, same pay': '*Contracting businesses will no longer have to prove they are 'wholly or principally' providing a service, rather, on balance, that the arrangement points towards service provision instead of labour hire*.' [33]	Minister Watt adopted a very different approach: *'The Commission ought to give weight to each matter under sub-paras 306E(7A)(b)-(e) having regard to the extent to which that matter may be relevant on the facts.'* [34] In practice, this means employers must prove to the Commission that they should not be captured, based on an uncertain and complex set of considerations. Minister Watt argued that the service contractor 'exemption' must be interpreted narrowly in accordance with its stated intent: *'…sub-ss 306E(1A) and (7A) ought to be interpreted narrowly to preserve the statutory intent behind the beneficial or remedial scheme set out in Part 2-7A. It is well settled that beneficial provisions ought to be construed liberally and beneficially, "lest courts become the undoers and destroyers of the benefits and remedies provided by such legislation"...'* [35]

5. The adverse impacts of 'same job, same pay' so far

The 'same job, same pay' measures came into effect in December 2024 and there have now been a number of Fair Work Commission decisions, which are showing the problems with the application of the law and have created various perverse outcomes. For example:

1. *'Different Job, Same Pay'* – No reward for qualifications:
   - in one case in a coal mine, unqualified vehicle washers working off the mine site were awarded *'the same pay'* as skilled mining production technicians working on site.[36] (*Bengalla* decision)
2. *'Several different Jobs, Same Pay for each'* – No differences for skills and experience:
   - In another case, the labour hire company had a pay structure with different pay rates for different skill levels, which the FWC admitted '*enables employees to progress through the classifications, generally if the employee achieves minimum competencies'.* In contrast, the 'host' employer had no such structure. Yet the FWC made an order overriding the tiered pay structure, forcing all workers

[30] Minister Burke, interview with ABC RN, 22 November 2023.
[31] *Application by the Mining and Energy Union* [2024] FWCFB 299 ('*Batchfire*').
[32] Minister's submissions, para 23, citing *Batchfire* at [10].
[33] 'Labor strikes secret deal to get workplace changes over the line', The Australian, 21 November 2023: https://www.theaustralian.com.au/nation/politics/labor-strikes-secret-deal-to-get-workplace-changes-over-the-line/news-story/e6eca09b2f5497e46b583a0cf2368455.
[34] Minister's submissions, para 53.
[35] Minister's submissions, para 46, citing *Chief Executive Officer of Customs v Adelaide Brighton Cement Ltd* [2004] FCAFC 183.
[36] *Application by the Mining and Energy Union re Bengalla Mining Company Pty Ltd* [2025] FWCFB 53 ('Bengalla decision')

to be paid the same, regardless of competency or experience.[37] (*Mount Thorley/Warkworth* decision)

3. *'Same Job, More Pay'* – No extra pay for more hours worked:
   - Orders are leading to 'overcompensation' of employees – in a recent case, the FWC admitted some labour hire workers would get all the benefits of extra pay for working additional 'unsociable hours' – without having to work those extra hours.[38] (*Bengalla* decision)
4. *No 'same job' but still the 'same pay'* – Hypothetical jobs must be considered:
   - The Commission is making orders even when a 'host business' doesn't employ the same workers itself. The result is that employers must then calculate 'the same pay' for positions that don't event exist. (*Rix's Creek* decision[39]; *Mt Arthur* decision[40])
   - The Commission's approach is that if a position could be covered by a host's enterprise agreement because it is the 'same type of work', then it can still issue an order.[41]
5. *'No job, no pay'* – Job losses don't matter:
   - Certain labour hire businesses facing 'same job, same pay' orders will be forced to either retrench staff or shut down if excessive costs are placed on them. The Commission concedes that there will be job losses, but this is outweighed by other 'fair and reasonable' considerations.[42] (*Bulga Mine* decision)
   - The Fair Work Commission has been unsympathetic to any argument so far made about the costs to businesses, simply stating '*that is a consequence of the provisions Parliament has chosen to enact…'*[43]

6. Service contractors can clearly be captured

The government called this legislation '*closing the labour hire loophole'* but then designed these laws with so much uncertainty and ambiguity that has resulted in it going much further than just labour hire.

The lack of clarity in the legislation and the Commission's recent decision now means there is a real risk of capturing any service contractor business – who provide a specific service, rather than just provide workers.

In 2023, former Minister Burke promised the government's amendments would create a 'clear line' between service contractors and labour hire, and there would be a 'straight exclusion' for service contractors.

In this case two years later, Minister Watt argued that this was never the government's intention and that the concepts are not mutually exclusive, ratherit's '*a matter of degree'*.

7. What must change – urgent amendments now required

The 'same job, same pay' legislation must now be amended to ensure that its practical application is consistent with the government's stated policy intent, specifically, its assurances in October 2023: *a clear policy decision*

[37] Mount Thorley/Warkworth Mine decision [2025] FWC 973, 7 April 2025, para 42
[38] *Application by the Mining and Energy Union re Bengalla Mining Company Pty Ltd* [2025] FWCFB 53, para 103.
[39] *Application by the Mining and Energy Union re Rix's Creek [*2025] FWCFB 12 ('Rix's Creek decision'), 17 January 2025
[40] *Application by the Mining and Energy Union- Skilled Workforce Solutions* [2025] FWC 866 ('Mr Arthur decision'), 27 March 2025
[41] *Application by the Mining and Energy Union re Rix's Creek [*2025] FWCFB 12 ('Rix's Creek decision'), 17 January 2025, para 33.
[42] *Applications by the Mining and Energy Union re Bulga Open Cut Mine* [2025] FWC 1273 ('Bulga decision'), 14 May 2025
[43] *Application by the Mining and Energy Union re Rix's Creek [*2025] FWCFB 12 ('Rix's Creek decision'), 17 January 2025, para 57.

that we did not want service contractors who were providing a service other than effective labour hire to be captured by the labour hire loophole sections of the Act.' [44]

A mere amendment to the discretionary factors in the assessment of the "service contractor" test is not be a sufficient change. The key problems in the legislation would still remain:

1. "Labour hire" is not defined in the Bill, so there is a high risk that service contractors will be assessed in the same way as traditional labour hire; and
2. Service contractors could still be captured by the "same job, same pay" provisions unless they can litigate their way out through a narrowly applied exception.
3. Decisions of the Fair Work Commission have confirmed that it is not even necessary for there to be another employee performing 'the same job' for a 'same job, same pay' order to be made.[45] The Commission has also made orders requiring unskilled workers who do not even work at the mine site to be paid the same as skilled workers on site.[46] This is the opposite of the Prime Minister's previous statements that the legislation was targeted to where there were '*two Australians working side by side, doing the same hours and the same job, with the same qualifications*'.[47]
4. The legislation does not protect the legitimate uses of labour hire as it is not limited to situations where the purpose of engaging labour hire was to undercut pay and conditions. This is the opposite of the government's previous promise that it would only apply to the *'limited circumstances in which host employers use labour hire to deliberately undercut the bargained wages and conditions set out in enterprise agreements made with their employees*'.[48]

The only way to address these problems is amend the current legislation to include a clearly expressed exemption for service contractors. The only genuine exemption is one that defines what is – and isn't – 'labour hire' and which clearly and unequivocally excludes service contractors (businesses engaged to provide a service, rather than workers) from being captured. This is the only way that genuine contractors providing specialised services in Australia can avoid being trapped in FWC litigation through union applications to rope them into 'same job, same pay' orders.

[44] The Australian, 'Tony Burke agrees to IR law changes, with casual employment, labor hire concessions', 31 October 2023: https://www.theaustralian.com.au/nation/politics/back-off-tony-burke-employers-launch-bid-for-a-truce/news-story/20f688e05680924dfeb473d2eb0ec816

[45] *Rix's Creek* decision; *Mt Arthur* decision.

[46] Mount Thorley/Warkworth Mine decision [2025] FWC 973, 7 April 2025, para 42.

[47] Anthony Albanese, second reading speech, 'Same Job, Same Pay' private members bill, 2021.

[48] Same Job, Same Pay Consultation Paper', DEWR, April 2023: https://www.dewr.gov.au/workplace-reform-consultation/resources/same-job-same-pay-consultation-paper (emphasis added)