

The workforce risk report

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Australia



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Introduction

Welcome to the latest edition of our Workforce Risk Report, where we examine the current landscape of risk, legislation and workforce complexity around contractors. With continual scrutiny on contingent workforce practices, combined with emerging risks around cybersecurity and AI, it's crucial for businesses to stay informed.

Read on for our analysis of:

- **Secure Jobs, Better Pay Act:** The Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 continues to be rolled out, dramatically altering aspects of engaging contingent workers.
- **Concerns around "Same Job, Same Pay":** We look at the latest government consultation process, and critics' responses to the proposed changes.
- **Rising Workers' Compensation Costs:** Businesses across Australia are facing significant increases in workers' compensation costs, driven by factors such as mental health claims. These cost pressures, combined with recent minimum wage increases, may impact economic growth.
- **Remote working and cybersecurity challenges:** The rise of remote working due to the COVID-19 pandemic has created cybersecurity challenges, particularly for contractors who are vulnerable to cyberattacks.
- **AI implementation and contingent workers:** Upskilling efforts, ethical oversight, and protecting the rights of contingent workers are important for a fair and inclusive future of work.

By staying up to date with these developments, businesses can proactively address potential risks, adapt their workforce strategies, and ensure a fair and inclusive future of work. Vigilance and preparedness in navigating these changes will be key to maintaining a competitive edge and ensuring the well-being of both businesses and contingent workers.



Further milestones pass in the Secure Jobs, Better Pay Act



The Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 was introduced by the Australian Government in response to the need to improve the fairness and efficiency of the workplace relations system. The Act is expected to have a significant impact on the Australian workplace, and it will be interesting to see how it plays out in the years to come.

The last workforce risk report highlighted the ongoing workforce legislation reforms, which are progressively coming into effect. Since then, we've seen a few more enter enforceable laws:

- **Changes to agreement-making:** The new laws make it easier for employees to bargain for better pay and conditions. Under the old rules, only unions could initiate bargaining, but now individual employees can also do so. The new laws also make it easier for employees to bargain across multiple workplaces.
- **Increased access to multiemployer bargaining:** There are now three types of multiemployer bargaining:
 - **Single-interest bargaining:** This is when employees from different workplaces bargain together for the same terms and conditions.
 - **Supported bargaining:** This is when an employer agrees to bargain with a union on behalf of its employees.
 - **Cooperative bargaining:** This is when an employer and a union work together to develop a new agreement.
- **Changes to extending unpaid parental leave:** The new laws extend unpaid parental leave from 12 months to 18 months. They also give the Fair Work Commission the power to deal with disputes about unpaid parental leave.
- **More employees being able to access flexible working arrangements:** The new laws make it easier for employees to request flexible working arrangements, such as working from home or flexitime. They also give the Fair Work Commission the power to order employers to allow employees to work flexibly.

By the time this report is published, there'll be a few more as well:

- **Creation of the National Construction Industry Forum:** The National Construction Industry Forum is a new body that will be responsible for providing advice to the government on how to improve the construction industry. The forum will be made up of representatives from government, unions, and businesses.
- **Increase in the monetary cap for recovering unpaid entitlements via the small claims process:** The monetary cap for recovering unpaid entitlements via the small claims process has been increased from \$10,000 to \$20,000. This means that employees can now use the small claims process to recover unpaid wages, superannuation, and other entitlements up to \$20,000.

Check out our [previous report](#) if you'd like more in-depth coverage of flexible work requests and small claims court changes.



Same job, same pay



Business advocates in Australia are expressing concerns about the proposed "same job, same pay" measures, arguing that they would bring complex and unproductive changes to the workplace relations system.

In March 2023, the Department of Employment and Workplace Relations released a consultation paper on the issue. The paper sought feedback on a range of issues, including how the law should be defined, how it should be enforced, and how it would impact businesses.

The reforms aim to address cases where labour hire is used to undercut negotiated wages and conditions. However, critics, including the Recruitment Consulting and Staffing Association (RCSA), warn that the measures would impose burdensome compliance obligations, restrict labour hire, and result in unreasonable costs for employers. They emphasise that businesses adopt workforce arrangements based on their operational needs, and these decisions are crucial for their long-term viability. The RCSA further highlights that the measures would create a compliance minefield and unfairly impact the labour hire and professional contractor sector, which is a critical component of Australia's employment landscape.

Critics of the reforms also raise concerns about the broad interpretation of the "same job" concept, arguing that it fails to recognise the skills and experience of long-standing workforces and disregards individual circumstances and performance. They question whether all workers in the same role should be paid equally, regardless of the organisation or the length of time in the position. Additionally, alternative solutions, such as a National Labour Hire Licensing system and addressing concerns through the migration system review, are proposed by business advocates. They also emphasise that the Fair Work Act already provides protections and enforcement mechanisms for labour hire workers.

While the Government has asserted its commitment to introducing this law, they have also highlighted its willingness to listen to feedback and make changes if necessary.

Greater cost concerns around workers' compensation rate increases

There's been a general trend across the country of large increases in workers' compensation costs.

In NSW, state insurer iCare has mentioned in a briefing note that they would like to see a [22%](#) increase in premiums in order for the scheme to break even. They have since been directed to limit premium increases by [8%](#).

Significant increases are also coming in Victoria, where premiums paid by businesses are increasing from 1.27% to 1.8% - a huge 41.7% increase. The move comes in response to an earlier government announcement that payments were higher than premiums collected by \$1 billion.

Part of the reason for this increase has been the substantial cost of mental health claims, which now account for 50% of the costs of the scheme. Part of this deficit is also being shouldered by employers, with those that pay over \$10 million in wages to be charged .5%, and those over \$100 million an additional .5%. While the government is calling this a mental health surcharge, it's hard not to equate this to an increase in the overall payroll tax rate for larger employers.

Combined with a minimum wage increase of 5.75%, employers are facing significant cost pressures, which could dramatically slow down economic growth.

Remote working and cybersecurity

The COVID-19 pandemic has led to a dramatic increase in remote working, both in Australia and around the world. This has created new challenges for businesses, including in the area of cybersecurity. Contractors, who are often not directly employed by the businesses they work for, are particularly vulnerable to cyberattacks.

In fact, the recent [Medibank](#) data breach was speculated to have been caused by “theft of credentials belonging to an individual with privileged access to Medibank’s internal systems”. The method for stealing 200gb of customer information was similar to the recent Optus data breach.

Lookout, Inc. has released new research that highlights the growing threats faced by organisations in relation to remote work and bring your own device (BYOD) policies. [The State of Remote Work Security report](#) aims to raise awareness among IT and security leaders about these increasing risks.

According to the survey results, 32% of remote and hybrid workers use unauthorised apps or software, and 92% perform work tasks on their personal tablets or smartphones. These devices, along with the apps and software used, pose a significant risk to organisations as they are not visible to IT, increasing the organisation's vulnerability.

The combination of remote work and BYOD also exposes organisations to greater risks. Since these devices are typically not managed by IT, organisations have limited visibility and control over potential threats such as operating system vulnerabilities, app vulnerabilities, access to corporate data, and phishing attempts. As organisations continue to adopt cloud-based apps, IT departments need to go beyond device-based access control and focus on extending access control policies to ensure the secure usage of corporate data stored in these apps.

To mitigate these cybersecurity risks, organisations need to prioritise comprehensive security awareness training, enforce robust cybersecurity policies, and provide secure remote access solutions to ensure that employees understand the potential threats and adopt safe practices while working remotely.



Artificial intelligence



According to the [ABC](#), the Australian Federal Government is considering the adoption of AI risk classifications; an approach that aligns with similar initiatives being developed in Canada and the European Union. The National Science and Technology Council, in conjunction with the industry and science minister, Ed Husic, is set to release a report on emerging technologies, alongside a discussion paper on achieving AI implementation that is both safe and responsible.

Generative AI, a technology where AI creates new content like text, images, audio, and code, has gained popularity through programs such as ChatGPT, Google's chatbot Bard and Microsoft Bing's chat feature. As AI technologies advance, it becomes crucial to evaluate the risks associated with their implementation, particularly concerning contingent workers in Australia.

Organisations will need to consider some of the following challenges in the next few months:

01

Displacement of Contingent Workers

The adoption of AI language models might lead to the displacement of contingent workers in certain roles. Tasks that were previously performed by human workers, such as content creation, customer support and data analysis, can now be automated using AI models. As a result, contingent workers may face reduced job opportunities and heightened competition from AI systems.

02

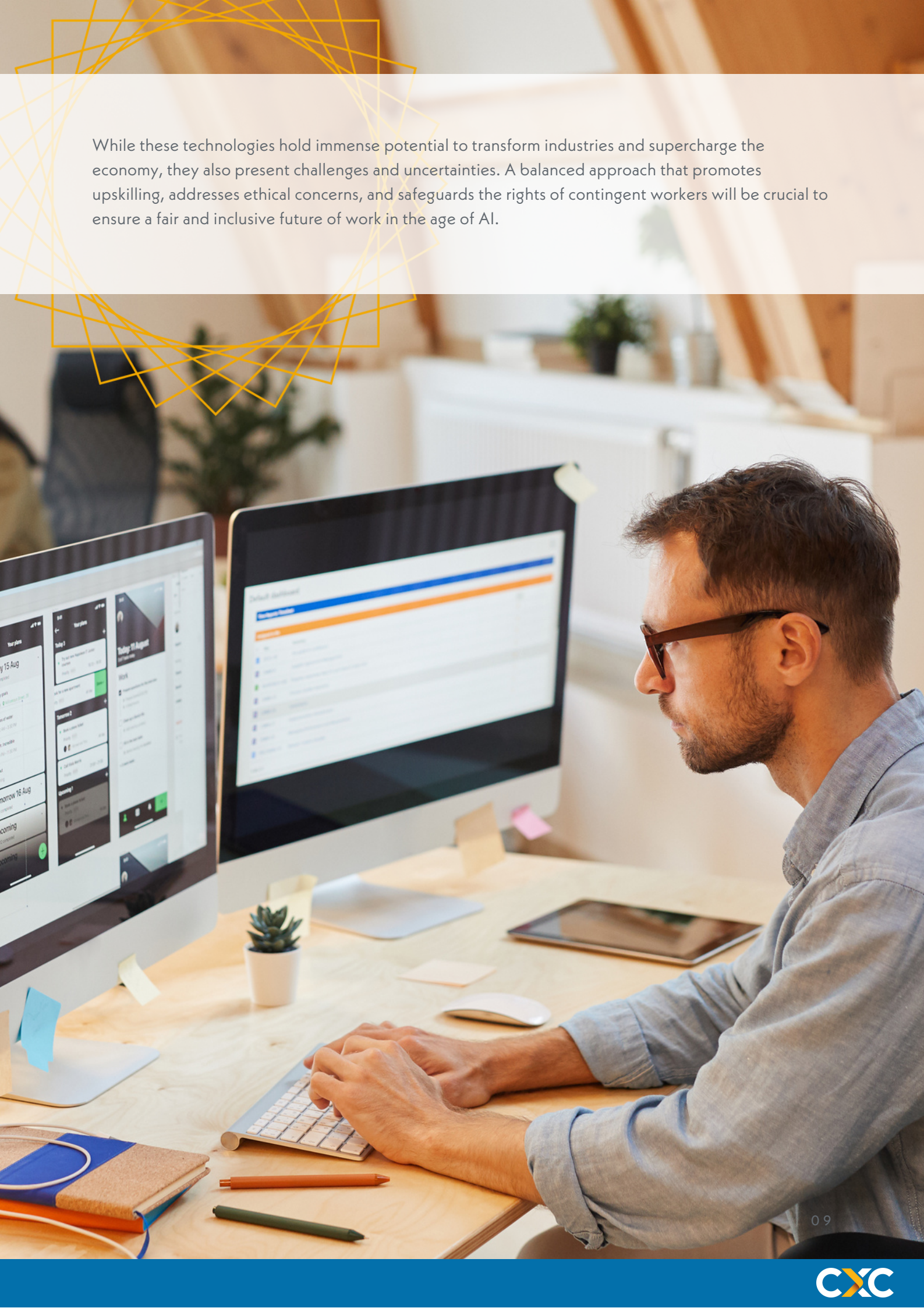
Skills Mismatch

The rapid advancement of AI technologies necessitates upskilling and reskilling efforts for contingent workers. As AI language models become more capable, workers must adapt their skill sets to remain relevant in the job market. Failure to address the skills mismatch could widen the gap between the demands of the AI-driven economy and the capabilities of contingent workers.

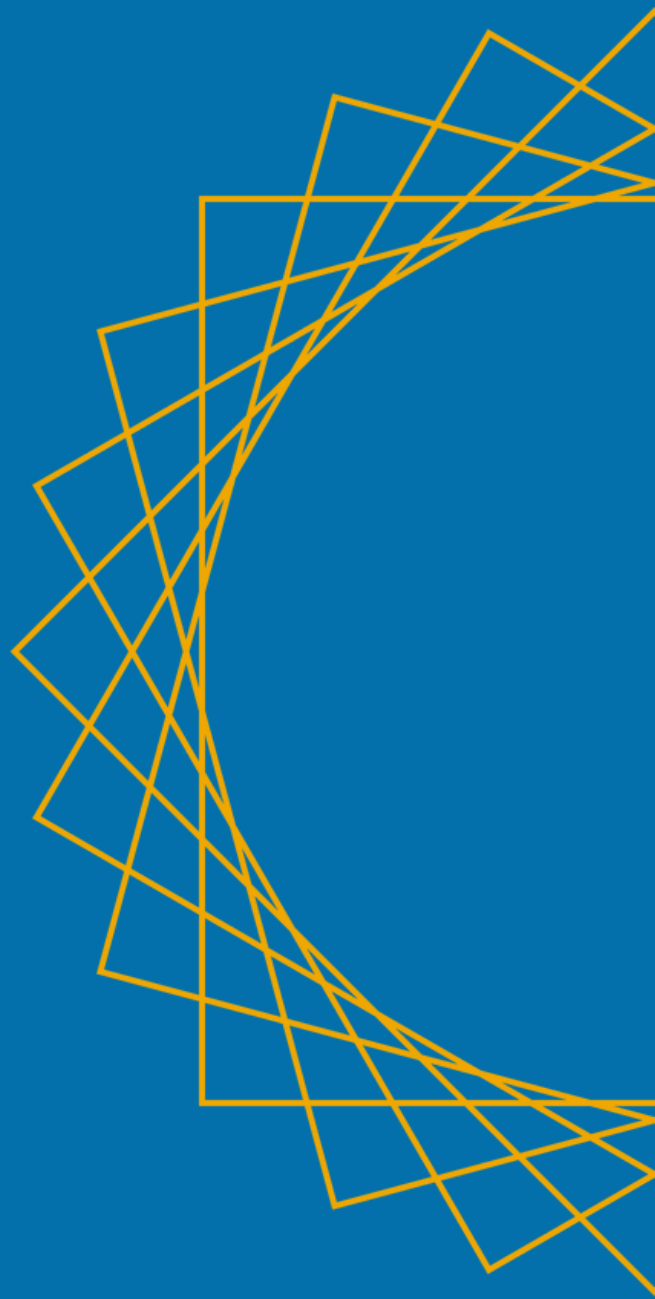
03

Ethical Considerations

AI language models learn from vast amounts of data, including text from the internet. If not properly monitored and regulated, these models may inadvertently incorporate biased, discriminatory, or unethical content into their responses. Contingent workers who rely on AI systems for information or assistance could unwittingly perpetuate and amplify these biases, potentially causing harm or perpetuating unfair treatment.



While these technologies hold immense potential to transform industries and supercharge the economy, they also present challenges and uncertainties. A balanced approach that promotes upskilling, addresses ethical concerns, and safeguards the rights of contingent workers will be crucial to ensure a fair and inclusive future of work in the age of AI.



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