



President's statement

Net Zero Economy Authority Act 2024

Justice Hatcher, President

Melbourne, 20 September 2024

Introduction

[1] The *Net Zero Economy Authority Act 2024* (Cth) (NZEA Act) received Royal Assent on 17 September 2024.¹ The NZEA Act confers new functions on the Fair Work Commission in relation to workforce transition after an owner or operator of a coal-fired or gas-fired power station determines to close the whole or part of the power station. The NZEA Act will commence by proclamation, or six months after Royal Assent.

[2] This statement outlines the Commission's new functions under the NZEA Act and the approach the Commission will take to implement the changes.

Overview of changes

[3] The NZEA Act establishes the Net Zero Economy Authority. Section 4 of the NZEA Act states that '[t]he Authority's functions are directed at promoting orderly and positive economic transformation as Australia transitions to a net zero emissions economy'.

[4] Part 5 of the NZEA Act ('Energy industry jobs plan') facilitates a workforce transition after an owner or operator of a coal-fired or gas-fired power station announces its intention to close the whole or part of the power station. The Energy industry jobs plan is administered by the Net Zero Economy Authority and is intended to support 'transition employees' of both 'closing employers' and 'dependent employers' through this workforce transition. 'Transition employee', 'closing employers' and 'dependent employers' are all defined terms in the NZEA Act.

[5] Where a closure is announced, the CEO of the Net Zero Economy Authority (CEO) can undertake a 'community of interest process', which is the first step in implementing the Energy industry jobs plan. This involves identifying:

- closing employers and dependent employers;
- the number of transition employees of closing employers and dependent employers, including details of their employment and the kind of work they perform;
- potential 'receiving employers' who may be able to offer employment to transition employees; and

¹ The *Net Zero Economy Authority (Transitional Provisions) Act 2024* (Cth) received Royal Assent on 5 September 2024. That Act deals with transitional matters arising from the enactment of the *Net Zero Authority Act 2024* (Cth) and for related purposes.

- an estimate of the number of transition employees who are or will become ‘participating employees’ (being employees of a closing or dependent employer who have given their employer an expression of interest in finding other employment).

[6] The CEO must consult with the closing and dependent employers, relevant registered organisations and the community as part of the community of interest process.

[7] After completing the community of interest process, the CEO can apply to the Commission under section 56 of the NZEA Act for a ‘community of interest determination’.

[8] If satisfied that it is reasonable in the circumstances to do so, the Commission must make a written community of interest determination specifying the closing or dependent employers covered.² Before making a community of interest determination, the Commission must give a number of affected persons an opportunity to be heard, including the CEO or their nominee, the Energy Industry Worker Redeployment Advisory Group,³ relevant employers, registered organisations and transition employees who wish to be heard.

[9] Closing employers and dependent employers specified in a community of interest determination have general obligations under section 58 of the NZEA Act and other obligations under section 59 of the NZEA Act to support transition employees to find other employment.

[10] While a community of interest determination is in force the Commission may make, on application, a determination about specific actions to be taken by the closing employer or dependent employer under section 59, or an order in relation to actions to be taken under sections 58 or 59. A determination about actions under section 59 must also include a procedure for settling disputes, which may provide for the Commission to deal with the dispute.

Approach to implementation

[11] The Commission’s functions have expanded significantly as a result of the passage of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay Act) 2022* (Cth), the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* (Cth) and the *Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024* (Cth). Further information about these changes is available in my previous statements on Royal Assent to these items of legislation.⁴

[12] My statement on the Commission’s work and performance in 2023–24 highlights the Commission’s strong results against our performance benchmarks throughout this

² Section 57 of the NZEA Act sets out the matters that the Commission must consider before making a determination.

³ The Energy Industry Worker Redeployment Advisory Group is established under section 63 of the NZEA Act and consists of members appointed by the Minister.

⁴ See President’s statements of [27 February 2024](#), [20 December 2023](#), and [8 December 2022](#).

significant and historic transformation. The Commission is accordingly well-placed to implement our new functions under the NZEA Act.

[13] Prior to commencement of the provisions, we intend to publish information materials and guidance about the Commission's new functions and associated processes on our website. To lead the Commission's implementation process for this new jurisdiction, I have appointed Deputy President Saunders as the National Practice Leader for Net Zero.

[14] As outlined above, the Commission's powers under the NZEA Act depend on the CEO of the Net Zero Economy Authority making an application for a community of interest determination.

[15] In light of the significance of these applications for affected communities, it is our intention to provide targeted information materials to those communities when an application has been made. We expect this to be an iterative process that takes into account the circumstances of the particular application and the parties and community concerned.

[16] In keeping with the Commission's commitment to implementing change in an open and transparent way, we encourage active involvement from all interested parties. Feedback relating to documents and information materials published on the Commission's website can be sent to consultation@fwc.gov.au.

PRESIDENT