

MEMBERS UPDATE



OCTOBER
2021



In this month's members update we look at:

- ATO announces STP Phase 2 blanket deferral
- STP Phase 2 Webinar
- Sexual Harassment and Miscarriage Leave Changes
- Award Updates
- Reminders

Welcome to the October 2021 member's update

It's time to call another Payroll team meeting to discuss the latest news and updates that is happening in our payroll industry.

Fairwork seem to have been very busy over the last few months with a few changes. The main change that we wanted to highlight this month is the change to Miscarriage Leave, employees can now use up to two days of Compassionate Leave when required.

Lastly, we have had a few questions in regards to Public Holidays for employees who are on Stand down.... Should they receive it or not? Let's find out.

ATO announces STP Phase 2 blanket deferral

STP Phase 2 is due to start on the 1st of January 2022, however some payroll solutions are not able to meet this deadline. As a result the ATO has revealed that employers that begin reporting additional payroll information required under STP Phase 2 by 1 March 2022 will be considered to have met its 1 January 2022 deadline.

Whilst the start date for STP phase 2 remains 1 January 2022, the ATO is committed to supporting employers transition to STP Phase 2 reporting by being flexible, reasonable and pragmatic.

Where an employer's payroll solution is ready and they can start reporting from 1 January 2022, the ATO will support and encourage them to do so.

If your solution will be ready for 1 January 2022

- If your solution is ready for 1 January 2022, you should start Phase 2 reporting.
- If your solution is ready and you are able to start Phase 2 reporting before 1 March 2022, you will be considered to be reporting on time and you won't need to apply for more time.

If you need more time

- You can apply for more time past your DSP's deferral if you need more time to transition.
- You'll be able to apply for a delayed transition from December 2021. Registered agents will also be able to apply. More information will be available soon.
- There won't be penalties for genuine mistakes for the first year of Phase 2 reporting until 31 December 2022. This includes employers who have already started Phase 2 reporting.

[https://www.ato.gov.au/Business/Single-Touch-Payroll/Expanding-Single-Touch-Payroll-\(Phase-2\)/](https://www.ato.gov.au/Business/Single-Touch-Payroll/Expanding-Single-Touch-Payroll-(Phase-2)/)

STP Phase 2 Webinars

The ATO are offering some STP Phase 2 webinars that you can sign up to for free. You can register now for the second webinar, which is on Thursday 7 October at 1pm - 2:30pm and will cover:

- an overview of income types and country codes
- a high-level walkthrough of employment conditions and cessation

- discussion of disaggregation of gross (part 1)

To register for the third webinar, which will be held on Friday 22 October at 1pm - 2:30pm. This will cover:

- disaggregation of gross (part 2)
- paid leave
- allowances

Register: <https://www.ato.gov.au/Business/Business-bulletins-newsroom/Tax-Time-and-reporting/STP-Phase-2-webinar-series-continues/>

If you missed their first webinar you can find the recording here <https://publish.viostream.com/play/bi9or7odj5iz7r>

Sexual Harassment and Miscarriage Leave Changes

On 10 September 2021, the Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021 (Respect at Work amendments) took effect. The Respect at Work amendments update the Fair Work Act 2009 (FW Act) to:

- address sexual harassment at work
- include miscarriage as a reason to access compassionate leave.

The Respect at Work Act has introduced changes to 3 separate pieces of existing legislation (discussed further below):

- Introduction of stop sexual harassment orders
- Defining sexual harassment
- Clarifying that sexual harassment at work can be a valid reason for dismissal

In addition, miscarriage leave has been introduced for the first time, through an expansion of the entitlement to compassionate leave. Employees can take up to two days of paid compassionate leave (unpaid for casuals) if they or their current spouse or de facto partner has a miscarriage.

Employees are also entitled to compassionate leave if they experience a stillbirth or death of a child. Another employee may also be entitled to take compassionate leave if the infant was, or would have been, an immediate family or household member of the employee.



You may need to look at updating your Compassionate leave codes/policies, to include these changes.

All the changes are now in effect, except for provisions relating to “stop bullying orders” which commence in November 2021, as explained further below.

<https://www.fairwork.gov.au/about-us/news-and-media-releases/website-news/new-sexual-harassment-protections-take-effect#miscarriage-and-compassionate-leave>

Award updates

Award	Changes
Hospitality Award	<p>Loaded Rate Arrangements</p> <p>On 3 September 2021, the Fair Work Commission (the Commission) made a decision that added loaded rate arrangements to the Hospitality Award.</p> <p>Under these Loaded Rate Arrangements, hospitality employers can pay eligible employees a a loaded hourly rate that compensates the employee for base rates, overtime, penalties and split shift rates.</p> <p>The Fairwork Commission was satisfied that eligible employees will be paid the same or more than they would have otherwise received if discrete Award entitlements were paid.</p> <p>This arrangement may have limited application because it only applies to <i>adult, full time, level 3 and above hospitality employees</i>. However, it is a promising example of all-inclusive rates pay, which may reduce, for employers, the administration burden and inflexibility of certain Award conditions.</p>
Nurse's Award	<p>Nurses award extensively varied</p> <p>The FWC is extensively varying existing awards as a result of the four yearly review of modern awards. In a decision published on 27 April 2020 ([2020] FWCFB 2124), the awards in tranche three were divided into smaller groups. The technical and drafting matters for the Nurses Award 2010 have been completed and has commenced operation on 9 September 2021.</p> <p>https://www.fwc.gov.au/documents/decisionssigned/html/2021fwcfb4504.htm</p>
Various Awards Increase	<p>1 November 2021 award increase</p> <p>21 awards will increase from the first full pay period on or after 1 November 2021. The awards that will increase from 1 November 2021 are:</p> <ul style="list-style-type: none"> • Pilots Award • Cabin Crew Award • Airline Ground Staff Award • Airport Award • Alpine Resorts Award • Amusement Award • Dry Cleaning and Laundry Award • Fitness Award • Hair and Beauty Award • Hospitality Award • Live Performance Award • Models Award • Marine Tourism and Charter Vessels Award • Nursery Award • Racing Clubs Events Award • Racing Ground Maintenance Award • Registered Clubs Award • Restaurant Award • Sporting Organisations Award • Travelling Shows Award • Wine Award

Award	Changes
Hair and Beauty Award	<p>Increases to casual rates in Hair and Beauty award</p> <p>Pay rates in the Hair and Beauty Industry Award for casual employees performing work on the weekend are set to increase following a decision of the Fair Work Commission last week.</p> <p>The award has been updated to include penalties for casual employees working ordinary hours outside the normal span of hours. Hours worked before 7:00am or after 9:00pm Monday - Friday will now be paid at a loading of 150% and hours worked before 7:00am or after 6:00pm on a Saturday will be paid at 150%.</p> <p>The timing of the pay increases is yet to be decided, as the Fair Work Commission recognised that many businesses in the sector are being adversely impacted by COVID lockdowns. The proposal is that the increases will be gradually phased in over the next few years (with the final increases being at the end of 2023).</p>
Various Awards Casual clause	<p>Casual Awards term review</p> <p>Fair Work has updated awards with casual terms, to comply with the new FWA definition of a casual, and casual conversion clauses - effective 27 September. You can find the schedule of determinations for all affected awards here</p>
Plumbing Award	<p>Unpaid pandemic Leave and flexibility to Annual leave</p> <p>The Fair Work Commission has inserted unpaid pandemic leave and annual leave flexibility in the Plumbing Award to apply from 11 August 2021 to 31 December 2021.</p>

Reminders

- Casual conversion – Following on from our previous updates, by 27 September 2021 employers (other than small businesses) should have assessed whether their existing casuals are eligible to be offered permanent employment.
- Super stapling - To make sure you're ready to request stapled super fund details, check and update the access levels of your authorised representatives in ATO online services prior to 1 November 2021

Q. Do I need to pay Public holidays while employees are on stand down?

Yes. Employees who are stood down without pay by their employer under the Fair Work Act are still entitled to be paid for public holidays that fall during the stand down period. This applies if the employee would normally have ordinary hours of work falling on the day of the public holiday.

Example: Public holiday falling during an employee's stand down

Shane is a part-time employee at a gym selling memberships and providing customer service support. His rostered days are Monday, Wednesday and Friday with 7.5 hours each shift.

Because of an enforceable government direction to close all non-essential services including gyms, Shane's workplace has closed. His employer tells him that he will be stood down without pay for 2 months. Shane's enterprise agreement and employment contract don't say anything about stand downs. His employer has relied on the general stand down provisions under the Fair Work Act.

A public holiday falls on the Monday during the second week of the gym's closure.

Shane is entitled to be paid for this public holiday. This is because he would have normally been absent from

work and paid for the public holiday on that day. He is entitled to be paid for 7.5 hours, which are the hours he usually works on that day.

Different rules might apply if the employee has been stood down under an employment contract or enterprise agreement. You'll need to check the agreement or contract for details.

<https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-leave-and-stand-downs/stand-downs#payment-during-a-stand-down>



Please join us for our October members webinar where we will be looking at **“Super Choice / Super Stapling”**.
Join us on **Thursday 21st of October 2021 at 1pm.**

CLICK HERE TO REGISTER