



# MEMBERS UPDATE

————— AUGUST 2023 —————

# Welcome to the August 2023 member's update

In this month's members update we look at:

- Award wages less than the National Minimum Wage
- Right to superannuation in the National Employment Standards
- Reminder – Changes to The Professional Employees Award 2020
- Authorised employee deductions
- Pay Day Super
- Family and Domestic Violence – Small Business

We hope that everyone had a wonderful National Payroll Day on the 21st of July. The National Payroll Awards are now open. Make sure you shine a spotlight on exceptional payroll professionals, innovative teams, and rising stars in the industry by submitting your entries for the prestigious *Australian Payroll Awards!*



# Award wages less than the National Minimum Wage

As a result of the 2023 Annual Wage Review decision, some minimum award wages may now be less than the National Minimum Wage. As of 1 July 2023, the National Minimum Wage is \$23.23 per hour or \$882.80 per week.

For example, some awards contain introductory pay rates for new employees in their industry. These rates generally apply for a limited time until an employee progresses to the next level.

*Example – Alpine Resorts Award 2020*

	Ordinary hours	Public holiday
% of minimum hourly rate		
	100% \$	250% \$
Training	22.62	56.55
Resort Worker Level 1	23.23	58.08

## A.1.2 The maximum period of time on which an employee may be engaged at the Training Level is 7 weeks

If your employees are covered by an award or agreement, the National Minimum Wage doesn't apply.

- Check your employees who are paid less than the National Minimum Wage. Is there a time limit on how long you can pay them that rate under your Award or Agreement

[Award Wages less than National Minimum Wage Link](#)

# Right to superannuation in the National Employment Standards

From 1 January 2024, the National Employment Standards (NES) will include a right to superannuation contributions. This means that unpaid or underpaid superannuation can be enforced under the Fair Work Act by more employees.).

Employers already have an obligation to pay superannuation contributions for eligible employees under superannuation guarantee laws. There would be no contravention of the NES provision where an employer has met their obligations under these laws.

The Australian Taxation Office (ATO) will continue to have the main responsibility for ensuring compliance with employer obligations under superannuation guarantee laws. The Fair Work Ombudsman can continue to make referrals involving unpaid superannuation to the ATO.

By bringing the right to superannuation into the NES, workers will have the right to directly pursue superannuation owed to them. Employers may also face civil penalties if they do not comply with the entitlement.

Penalties of up to \$82,500 per breach apply to companies that are found to have contravened the NES.

<https://www.fairwork.gov.au/newsroom/news/fair-work-act-changes-protecting-worker-entitlements#:~:text=From%201%20January%202024%2C%20the,an%20employee%20organisation%20or%20us>

# Reminder – Changes to The Professional Employees Award 2020

The new changes to the Professional Employees Award 2020 from the 16 September 2023 will change the way some employers will pay and monitor their employees' work hours. It's a stark reminder that all employers need to keep up to date with their legal obligations.

- Between Monday to Saturday, a penalty rate of 125% applies for hours worked overtime (before 6:00am and after 10:00pm)
- Sundays and public holidays accrue a 150% penalty rate
- Casual employees are also entitled to a 25% loading on top of their usual pay
- Employers need to keep records of all their employees' hours worked which exceed the usual 38-hour week

These changes do not impact employees who have a salary of more than 25% the minimum wage for their employment

## Action items

- Review your employees who are under the Professional Employees Award
- Review who have a salary more than 25% of the award minimum wage
- Look at how you are going to capture hours that are outside 38 hours

## Authorised employee deductions

From 30 December 2023, employees will be able to authorise salary deductions made by their employer that are:

- recurring
- for amounts that vary from time to time.

This means an employee can make a single written authorisation that allows their employer to deduct amounts from their salary even where the deduction amount may vary from year to year. It can be withdrawn by the employee in writing at any time.

At the moment, a new written authorisation between an employee and employer has to be made if a deduction amount changes.

Employees can also continue to allow deductions for specific amounts only. These types of deductions need to be:

- principally for the employee's benefit
- in writing.

<https://www.fairwork.gov.au/newsroom/news/fair-work-act-changes-protecting-worker-entitlements>

## Family and Domestic Violence – Small Business

Employees of small business employers can access 10 days of paid family and domestic violence leave in a 12-month period, from the 1st August 2023.

A small business employer is an employer with fewer than 15 employees at a particular time. If an employer has 15 or more employees at a particular time, they are no longer a small business employer. When counting the number of employees, employees of associated entities of the employer are included. Casual employees are not included unless engaged on a regular and systematic basis.

Employees of a non-small business employer have been able to access the leave from 1 February 2023.

### Action items

- To find out more, watch our members webinar on Family and domestic violence leave - [Webinar link](#)

## Pay Day Super

Pay Day Super is a significant initiative announced by the Australian government in May 2023. The introduction of Pay Day Super is scheduled for 1 July 2026, and we want to keep you informed about the progress and its potential impact.

### Co-Design Workshops and Our Involvement

In June and July 2023, our National Consulting Lead, Jasmine Fernance, actively participated in a series of ATO Pay Day Super Co-Design Workshops. These workshops brought together key stakeholders, including representatives from Treasury, the ATO, employers, employer representatives, super funds, super clearing houses, and payroll software vendors. The primary objective of these workshops was to raise awareness of the current challenges related to super and collaboratively explore a range of potential solutions to implement Pay Day Super effectively. We were there to ensure that the perspectives and concerns of our valued members were heard and included in the discussions.

### Issues Addressed in the Co-Design Workshops

During the workshops, various critical topics were covered, and several challenges were highlighted concerning superannuation, including, but not limited to:

- **Understanding OTE Complexity:** The complexity of comprehending Ordinary Time Earnings (OTE) was discussed, as it poses challenges for both employers and employees.
- **Stapled Super Details for New Employees:** Delays in receiving stapled super details for new employees were identified, and potential solutions were explored to streamline this process.
- **Super Fund Bounce Backs:** Issues relating to super fund bounce backs were discussed to minimise disruptions and delays in contributions.
- **Superannuation Guarantee Charge Statement:** Participants discussed the quarterly Superannuation Guarantee Charge Statement and how it would need to be amended or replaced in a Pay Day Super environment
- **Pay Cycles and Pay Day Super:** Weekly, fortnightly, and monthly pay cycles were analysed concerning the implementation of Pay Day Super, ensuring smooth transitions for businesses.
- **Under and Overpayments of Super:** The challenge of under and overpayments of super was explored, along with strategies to facilitate the recovery of overpayments.

### What's Next?

As a result of these constructive workshops, the government Treasury department is now working on Pay Day Super consultation papers. These papers will provide more detailed insights into the proposed framework and regulations. As a member of the Australian Payroll Association, we assure you that we will promptly notify you once the consultation papers are released. We strongly encourage all our members to review these documents carefully and actively participate in the consultation process.

Stay tuned for more updates, and we are committed to supporting you throughout the journey towards

the implementation of Pay Day Super.

## Compliance – Payslips

Pay slips ensure that employees receive the correct pay and entitlements and help employers to keep accurate and complete records.

Pay slips have to be given to an employee within 1 working day of pay day, even if an employee is on leave or terminated. Pay slips have to be in either electronic form or hard copy. Electronic pay slips must have the same information as paper pay slips. When an employee terminates, you should request from them their personal email or postal address. This will ensure that you are meeting the requirements of Fair Work as the employee will no longer have access to their work email or employee self service. Leave on employees' payslip - It's not a requirement to show leave balances on payslips. Employers do need to tell employees their leave balances if they ask for it.

<https://services.fairwork.gov.au/workplace-basics>

## FAQ

### Q. Under STP Phase 2, do I need to still do a separation certificate?

A. The ATO shares STP data with Centrelink to reduce the need to separation certificates. However, they only share data for employees who are already a 'customer' of Centrelink (i.e., they already claim some type of government benefit). They don't share STP data for every person. Therefore, if a terminating employee does not already have a relationship with Centrelink, they will still need a separation certificate to be able to commence claiming benefits, as Centrelink will not have had this information shared with them via STP.

An Employment Separation Certificate is a document that is provided by the employer upon request from the employee when they have ceased work. You must provide this within 14 days of receiving the request.

## MEMBERS WEBINAR

Our August webinar will be held on **30th August** at **1pm (Sydney time)** where we will be looking at **Understanding ETP's and Genuine Redundancy Payments.**