



MEMBERS UPDATE

OCTOBER 2024

Welcome to the October 2024 member's update

In this month's members update we look at:

- Payday Super
- Superannuation on Paid Parental Leave
- Daylight Saving Time change
- Reminder of Annual leave changes during shutdown



Payday Super

On 2 May 2023 the Australian Government announced that from 1 July 2026, employers will be required to pay their employees' super guarantee (SG) at the same time as their salary and wages.

This measure is not yet law.

On 18 September 2024, the government announced further details regarding the payday super framework, including:

- Contributions of super. From the start of the measure, employers will be required to pay their employees' SG at the same time as their salary and wages. They will be liable for the super guarantee charge (SGC) unless contributions are received by their employees' superannuation fund within 7 calendar days of payday.

Payday is the date that an employer makes an ordinary time earnings (OTE) payment to an employee. Each time OTE is paid, there will be a new 7-day 'due date' for contributions, with some limited exceptions.

- Updated super guarantee charge. Where employers fail to pay contributions in full and on time, they are liable for SGC.

The SGC will be updated and consist of:

- Outstanding SG shortfall: any contributions that remain unpaid when the SGC is assessed. The shortfall calculation will be based on OTE, creating consistency with the calculation of SG contributions. Late contributions paid by an employer before they are assessed for the SGC will reduce the outstanding SG shortfall.
 - Notional earnings: an interest component to put employees in the same position that they would have been had the contributions been received in full and on time.
 - Administrative uplift: an additional charge levied to reflect the cost of enforcement.
 - Once SGC is assessed, additional interest and penalties may apply if the SGC liability is not paid in full.
 - The SGC will be tax-deductible, ensuring the income tax consequences for paying employees' super are consistent.
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- The Small Business Superannuation Clearing House will be retired from 1 July 2026. The improvement in payroll software solutions over recent years provides employers with cost-effective and higher quality options for paying superannuation contributions more timely and accurately. The ATO will engage with small businesses ahead of time to guide them in transitioning to a commercial alternative that is fit-for-purpose for Payday Super.
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- SuperStream updates. The deadline for super funds to allocate or return contributions will be reduced to 3 business days, down from 20 days. The SuperStream data and payment standards will be revised to allow payments made via the New Payments Platform and improve error messaging to ensure employers and intermediaries can quickly address errors.
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- STP updates. Employers will be required to report in Single Touch Payroll both the OTE and the total super liability for an employee, ensuring the SG can be correctly identified. Some payroll software already reports both, while others only report one or the other.

Further information can be found in the Treasury Fact Sheet - <https://treasury.gov.au/publication/p2024-581438>

Note that this measure has not yet been legislated. The next steps for the government is to draft the legislation to effect these changes. It is anticipated that the legislation will be drafted this quarter, with additional consultation to occur during this period.

We will keep our members informed as and when new information becomes available.

Superannuation on Paid Parental Leave

On Thursday, 7 March 2024, the government announced, alongside the release of the Working for Women strategy, that from 1 July 2025 it will pay superannuation on government-funded Paid Parental Leave which will be administered by the ATO.

This legislation was passed by both houses of parliament effective 19 September 2024 and is now awaiting Royal Assent.

The employer will still continue to process the government-funded Paid Parental Leave through the payroll system as per usual, however the ATO will then process the superannuation directly to the employees' superannuation fund.

This will apply for children born or adopted after 1 July 2025.

Daylight Saving Time change

Daylight saving time will commence on the first Sunday of October (6th October 2024). Clocks go forward one hour at 2am to 3am in:

- Australian Capital Territory
- New South Wales
- South Australia
- Tasmania
- Victoria

There is no change to the time in:

- Northern Territory
- Queensland
- Western Australia

What employees are paid if they work when daylight saving time commences

Employers should check their award or registered agreement for terms about daylight saving. If there is nothing in them about daylight saving, payment is made 'by the clock'.

Daylight saving time starts with rolling the clock forward from 2am to 3am. This means that employees working an overnight shift will work one hour less but are paid for that extra hour.

Example: Working through the night when daylight saving time commences

Dave's usual shift is 8.30 pm – 5 am. He works an 8 hour shift with a 30 minute unpaid break. Dave doesn't have an award or registered agreement that says anything about daylight saving.

During his Saturday night (Sunday morning) shift, daylight saving starts and the clock moved forward one hour. This means that while Dave works for 7 hours, he is paid for 8 hours of work 'by the clock'. Earlier in the year, Dave worked when daylight saving ended, he worked 9 hours but got paid for 8 hours.

Reminder of Annual leave requirements during shutdown

From 1 May 2023, many awards had updated rules inserted regarding taking annual leave during a shutdown.

A shutdown is when a business temporarily closes, such as during Christmas and New Year. It's important to start considering now the implications for your workforce in the upcoming Christmas period, ensuring that you meet your notice and payment obligations.

The updated award rules mean:

- employers may require employees to take paid annual leave during a temporary shutdown
- employers must provide at least 28 days' written notice of the temporary shutdown period to all impacted employees
- the requirement to take annual leave must be reasonable
- the notice period can be reduced through an agreement between the employer and the majority of impacted employees
- an employee who doesn't have enough paid annual leave to cover the whole period can form an agreement with their employer for other options for the days not covered, such as:
 - using accrued time off
 - annual leave in advance, or
 - leave without pay.

However, an employer cannot direct or require an employee to use annual leave in advance or take unpaid leave.

<https://www.fairwork.gov.au/newsroom/news/new-shutdown-rules-for-awards>

- Check your employees’ award/agreements
- Does the employer have a shutdown period
- Talk to your business/HR team about this requirement
- Run a report to check that your employees will have enough Annual leave for the shutdown period after any planned leave

FAQ

Q. How do I process a backpay of Ordinary hours for an employee of \$1,556.05 through my payroll? It was paid on the 1/07/2024?

The backpay related to the following financial years as follows:

2018/29	\$6.05
2019/20	\$400.00
2020/21	\$300.00
2021/22	\$300.00
2022/23	\$250.00
2023/24	\$300.00

A. In some cases, the back payment you are making may be a lump sum E payment. Lump sum E is a separately reported payment type for STP.

If you are making a back payment to an employee and it is not lump sum E, then report it in STP as the relevant payment type (such as gross, allowances or overtime).

Lump sum E is an amount of back payment of remuneration that accrued, or was payable, more than 12 months before the date of payment and is greater than or equal to the Lump sum E threshold amount (\$1,200). You must report Lump sum E YTD amounts by specifying each prior financial year to which the amount relates.

As the employee is paid the backpay on the 1st of July 2024, it means that the backpay that relates to before the 1st of July 2023, will be reported as a Lump Sum E as this amount is also more than \$1,200.00.

2018/29	\$6.05	
2019/20	\$400.00	
2020/21	\$300.00	\$1256.05
2021/22	\$300.00	
2022/23	\$250.00	
2023/24	\$300.00	

The amount of the backpay that is in relation to the last 12 months (Ordinary hours) will be reported as Gross through STP for the \$300.00.

	1/07/2023	1/07/2024
1256.05		300
Lump Sum E		

Make sure you break up your backpay as the amount within the last 12 months from the date of payment and the amount that is more than 12 months from the date of payment.

Compliance: When’s the last time you...

Fair Work are running campaigns for companies to review minimum workplace entitlements on a regular basis not just when an employee starts or is promoted.

Things that the business should review are the employees award classification. Your HR/business should provide you with what award/classification an employee is covered under. This is important as an employee's Award classifications (also known as levels or grades) determine an employee's pay based on their role and type of work.

<https://www.fairwork.gov.au/employment-conditions/awards/award-classifications>

MEMBERS WEBINAR



Our October webinar will be held on 23rd October at 1pm where we will be discussing the Employer Obligations for Payments made after the Death of an Employee.