



# MEMBERS UPDATE

JANUARY 2025

# Welcome to the January 2025 member's update

In this month's members update we look at:

- Protected Earnings Amount for 2025
- Study loan indexation change
- Reminder of Wage Theft laws
- Voluntary Small Business Wage Compliance Code

Happy New Year and welcome to 2025.



# Protected Earnings Amount for 2025

The Protected Earnings Amount (PEA) is an important figure in Australia that determines the minimum amount of a person's income that cannot be deducted for child support payments. For the year 2025, the PEA has been set at \$534.23 per week, effective from 1 January 2025.

## Details of the Protected Earnings Amount

- **Weekly Rate:** \$534.23
- **Daily Rate:** \$76.31857 (\$534.23 / 7 days)
- **Fortnightly Rate:** \$1,068.46 (which is double the weekly rate)
- **Four-week Rate:** \$2,136.92 (which is four times the weekly rate)
- **Monthly Rate:** \$2,322.95 (\$76.31857 x 30.4375 days per month)

Note that Services Australia has not yet published the new rates as at the date of publication of this update. The rates listed above are based on the Services Australia PEA formula. Check back [here](#) from 1 Jan 2025 to confirm the rates before applying these.

# Study loan indexation change

The Government has implemented significant changes to the indexation of student loans, specifically affecting the Higher Education Loan Program (HELP) and other related schemes such as the Vocational Education and Training (VET) Student Loan and Australian Apprenticeship Support Loan. Traditionally, indexation was determined by the Consumer Price Index (CPI), but effective June 1, 2023, it will now be based on the lower of the CPI or the Wage Price Index (WPI).

## Key Changes to Indexation

- **Backdating of Changes:** The new indexation method is retroactively applied from 1st June 2023.
- **Reduction in Rates:** The indexation rate for 2023 was initially set at 7.1% but has been reduced to 3.2%. For 2024, the rate has decreased from 4.7% to 4.0%.

## Employer Guidance:

Employers are advised that no action is required on their part regarding these changes. However, they should be prepared to address any enquiries from employees about the new indexation rates and direct them to consult the ATO.

# PROPOSED: Change to HELP and student loan repayments.

The Australian Government announced significant changes to the Higher Education Loan Program (HELP) and other student loan schemes on 2 November 2024, aimed at making repayments fairer.

The key proposed changes include:

1. **Increased minimum repayment threshold:** The threshold is proposed to rise from \$54,435 in 2024-25 to \$67,000 in 2025-26.
2. **New repayment calculation:** HELP repayments will be based only on income above the \$67,000 threshold, rather than total annual income.
3. **Implementation date:** These changes are set to take effect from 1 July 2025, subject to legislation being passed.

# Reminder of Wage Theft laws

New wage theft laws in Australia will come into effect on 1 January 2025, making it a criminal offence for employers to intentionally underpay their employees. This legislation is part of the Fair Work Amendment (Closing Loopholes) Act 2023, designed to enhance employee protections and enforce accountability among employers.

To adhere to the new regulations, employers are encouraged to:

- **Update Payroll Systems:** Implement reliable systems to ensure accurate wage calculations and maintain thorough records.
- **Conduct Regular Audits:** Identify and rectify potential underpayments proactively.
- **Train Staff:** Ensure that HR and payroll personnel are well-versed in wage laws and compliance requirements.

To learn more about the new Wage Theft Laws make sure you watch our Criminalisation of intentional wage theft webinar:

<https://www.austpayroll.com.au/members-webinar/criminalisation-of-intentional-wage-theft/>

## Voluntary Small Business Wage Compliance Code

Further to the commencement of the wage theft laws on 1 January 2025, a Voluntary Small Business Wage Compliance Code has been developed to provide protection for small businesses against criminal prosecution for unintentional wage underpayment. A small business is one which employs less than 15 employees.

The Code includes the factors that the Fair Work Ombudsman will consider when determining whether to forward an employer for prosecution under wage theft laws. The factors that the FWO will consider include:

Factors include whether the employer has:	Example
Taken reasonable steps to work out correct pay rates and entitlements.	This may include checking the relevant award or enterprise agreement or confirming that the National Minimum Wage Order applies.
Made reasonable effort to stay up to date with changes to their obligations, including in workplace laws.	This may include subscribing to the FWO email updates to stay up to date on changes to any relevant awards including pay rate increases
Checked and relied on employee information the employer reasonably believed was accurate in relation to paying wages.	This may include relying on accurate information about the employee when checking they've been classified correctly based on their role and duties, or that they're being paid correctly for their age.
Sought information or advice from a reliable source about paying employee entitlements correctly.	This may include seeking advice from an employer association, such as APA, a lawyer, the FWO, or the Fair Work Commission.
Provided information when seeking information or advice that the employer reasonably believed was accurate.	This may include seeking advice or information from a reliable source, making sure to give that source the correct information about an employee like their classification and age.
Taken steps to fix the underpayment.	This may include repaying an amount as soon as possible and taking steps to prevent the same issue from happening again.
Cooperating with any inquiry or investigation that we may conduct about the underpayment.	This may include responding to our calls and emails and engaging with us throughout the inquiry or investigation as needed.
Other factors that might be relevant, such as what led to the underpayment or how the employer became aware of the underpayment.	A payroll error being identified during a quarterly business audit.

If a small business employer can satisfy the relevant factors then it is likely that they won't be referred for criminal prosecution.

You can find the legislative instrument for the Code [here](#).

The Fair Work Ombudsman has also developed a guide to paying employees correctly and the Voluntary Small Business Wage Compliance Code, which can help businesses to understand the Code. It offers practical advice and tools including a handy checklist, examples and best practice tips.

<https://www.fairwork.gov.au/sites/default/files/2024-12/fg-guide-to-paying-employees-correctly-and-vsbcwcc.pdf>

# Compliance – Wage theft laws

With the new Wage Theft laws coming into effect, make sure you understand the requirements of the minimum entitlements of the NES and any Award or registered agreement that may apply to an employer and their employees. This includes:

- Annual leave
- Personal/carer's leave, compassionate leave and family and domestic violence leave
- Community service leave
- Public holidays
- Superannuation contributions
- Notice of termination and redundancy pay
- Minimum pay rates for an employees' classification in their relevant award or agreement
- Penalty rates
- When to apply overtime
- What allowances are payable

Look over the Fairwork information: <https://www.fairwork.gov.au/employment-conditions/national-employment-standards> or sign up for the next Essential course [https://www.austpayroll.com.au/product/payroll-fundamentals/?v\\_id=77914](https://www.austpayroll.com.au/product/payroll-fundamentals/?v_id=77914)

## FAQ

### Q. Are all employees entitled to the tax-free portion of a redundancy?

A. No, an employee is only entitled to the tax-free portion of a redundancy if it is a genuine redundancy for tax purposes. A payment for a **non-genuine** redundancy is taxed as part of the employee's Employment Termination Payment (ETP).

A **genuine redundancy** payment is made to an employee if they are dismissed because the job they were doing has been abolished. This means the employer has made a decision that your job no longer exists, and their employment is to be terminated. The job itself becomes redundant, not the employee. There must be no plans to rehire the employee (even as a casual) as at the date of termination.

A **non-genuine redundancy** occurs when the employee:

- is dismissed because they've reached normal retirement age
- has reached the age-pension age or they are older on the day of dismissal
- leaves voluntarily
- has their contract terminated
- is dismissed for disciplinary or inefficiency reasons.
- Are terminating at the end of their fixed term contract

### Q. What can be included in the tax-free portion of a redundancy?

A. You can include any amount which "exceeds the amount that could reasonably be expected to be received by the employee in consequence of the voluntary termination of his or her employment at the time of the dismissal".

Depending on the employees' employment conditions, a genuine redundancy payment may include:

- payment in lieu of notice (if the employee is not guaranteed the payment if they resigned. In most cases an employee needs to work their notice if they resigned, so we can include this in the tax-free portion).
- severance payment of a number of weeks' pay for each year of continuous service
- a gratuity or 'golden handshake'.

Any payments that meet the conditions of a genuine redundancy are tax-free up to a limit, depending on the employees' years of service with the employer.

- Refer to the APA Redundancy calculator to check that you are calculating the taxation and superannuation on a redundancy correctly. <https://www.austpayroll.com.au/private/6667e254da432>
- Attend APA's Terminations Masterclass to ensure you have the most up to date knowledge for processing redundancy payments - *Classroom Payroll Training Courses* | *Australian Payroll Association*

## MEMBERS AREA



**Our January webinar will be held on Wednesday 22nd January at 1pm (Sydney time) where we will be discussing Understanding Genuine Redundancy Payments.**