

MEMBERS UPDATE



**NOVEMBER
2021**



In this month's members update we look at:

- Christmas Shutdown
- Award Increase for the First Full Pay period 1st November
- Reminder from ASIC about providing Financial Advice

Welcome to the November 2021 member's update

There is only 2 months until Christmas, it's time to start planning for any Christmas shutdowns. You may need to discuss the timing of the announcement and start considering the impact to employees and the payroll process.

We also have the increases for the 21 awards as at the first full pay period on or after the 1st of November 2021. In order to remain compliant with the wage increase, employers should complete a wage review to ensure they are paying each employee in line with the new minimum rates for their relevant Modern Award.

Now that Super Stapling has started, ASIC wanted to remind employers about providing Financial Advice. It is important that Payroll understands what information they can and can't provide to their employees and the impact that it can have on the team.

Christmas Shutdown

An employee can be directed to take annual leave during a shut down if their award or registered agreement allows it. Most awards have rules about how and when an employer can direct an employee to take leave. For example, an employer may need to give the employee a set amount of notice (eg. 4 weeks) that they will need to take annual leave.

If an employee isn't covered by an award or an agreement, their employer can direct them to take annual leave if the direction is reasonable. An employer and employee can agree that the employee takes annual leave (including in advance of accrual) or unpaid leave for the shut down time. The employee can't be forced to take unpaid leave, so if an agreement can't be reached with their employer, they need to be paid their ordinary pay for the time.

<https://www.fairwork.gov.au/leave/annual-leave/directing-an-employee-to-take-annual-leave/direction-to-take-annual-leave-during-a-shut-down>

Award Increase – 1st November 2021

21 awards increase from the first full pay period on or after 1 November 2021. Fairwork has updated the pay guides via the link below;

<https://www.fairwork.gov.au/pay-and-wages/minimum-wages/pay-guides>

The awards that have increased are:

- 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

Reminder from ASIC about providing Financial Advice

With Super Stapling is effective from 1 November 2021, ASIC wanted to remind what the role of employers are in relation to superannuation?

Employers have obligations to ensure that superannuation guarantee contributions are paid, on time, to the superannuation fund that meets their choice of fund obligations.

From 1 November 2021 for most employers, you need to make superannuation guarantee contributions for employees who start from that date into:

- the fund chosen by the employee
- if no fund is chosen – the ‘stapled super fund’ notified by the Australian Taxation Office (ATO) for the employee, or
- if the ATO advises that there is no stapled super fund – your default superannuation fund or another fund that meets your choice of fund obligations.

A stapled super fund is an existing superannuation account which is linked to an individual employee who does not make a choice of fund when they change jobs. A defined benefit fund can be provided as a stapled super fund but some defined benefit accounts may not be able to accept contributions from all employers.

What you can do, and what you should not do, when communicating with your employees about choice of superannuation fund (‘super choice’).

What you can do	What you should not do
You can give factual information to employees, including documents relating to superannuation	You should not give financial product advice or mislead employees about superannuation products
You can refer employees to information on Government websites, such as the YourSuper comparison tool and Moneysmart resources	You should not mandate, recommend or influence your employees to choose a particular superannuation fund
You can ask a superannuation fund provider to present to your employees	You should not make an unsolicited offer to employees, or ask them to apply for a superannuation product during real-time contact (such as a meeting) – in other words, you should not hawk products
You can refer employees to a licensed financial adviser	You should not give financial product advice or mislead employees about superannuation products

FAQ

Q. Can an employee Salary Sacrifice In lieu of Notice to Superannuation?

A. No, if an employee requests to Salary sacrifice their in Lieu of Notice to superannuation. Under the TR2001/10 employees are not allowed to Salary Sacrifice ETP payments

Q. Does Super stapling override choice of fund for Superannuation?

A. No, choice of fund overrides stapling. Employees can nominate their preferred fund at any time using a super Choice form. If a new employee provides a completed, signed super Choice form, you must pay their super contributions into that nominated fund.

Q. We have an EBA from pre-January 2021 that does not allow for super choice, and which stipulates the fund that super will be paid into. Does this override Super Stapling?

A. Although employers with a registered agreement (entered into prior to 1 January 2021) don't need to provide a choice of fund, they are still required to make a stapled super fund request prior to paying into the fund specified in the agreement. They will only be able to pay into the fund specified in the agreement if the ATO provides that there is no stapled super fund.

Members Webinar

Want to stay up to date on all the important aspects of Single Touch Payroll Phase 2?

Then make sure you sign up to this month's webinar which will be with Chontelle Weyman from the ATO. Chontelle will be answering all of your burning STP Phase 2 questions. Hear from the industry professionals who'll help you understand the changes and what you need to consider.

Please email us your STP Phase 2 questions for Chontelle PRIOR to the session at Louise@austpayroll.com.au



Register for Single Touch Payroll Phase 2 Webinar
Join us on **Thursday 18th of October 2021 at 11.15am (SYD tme).**

[CLICK HERE TO REGISTER](#)