



Members Update

Dear member,

Welcome to the October 2020 member's update.

This month's update looks at the extension of JobKeeper provisions in the Fair Work Act and Modern Awards, Awards that are set to change 1 November 2020, ATO JobKeeper updates, extending Superchoice, and the extension of NSW Long Service Leave temporary provisions during COVID.

Fair Work JobKeeper provisions and Modern Award updates

The Fair Work Commission has extended unpaid pandemic leave in many awards to 29 March 2021. Schedule X is a temporary schedule that gives employees:

- 2 weeks of unpaid pandemic leave
- the ability to take twice as much annual leave at half their normal pay if their employer agrees.

The pandemic leave needs to start before, but can finish after, the date when the unpaid pandemic leave provisions in the relevant award stop applying. If Schedule X doesn't have a set end date in an award, the leave needs to start before 29 October 2020. **Unpaid pandemic leave doesn't affect other paid or unpaid leave entitlements and counts as service for entitlements under awards and the National Employment Standards.**

Under Schedule X, employees can take their annual leave at half pay, and double their time off work, if their employer agrees. The annual leave needs to start before the date Schedule X stops operating in the relevant award, but can finish after that date. If Schedule X doesn't have a set end date in an award, the leave needs to start before 29 October 2020.

An employee on leave at half pay accumulates annual leave and sick and carer's leave as if they were on leave at full pay.

For a list of affected Awards and new end date, [please click here](#).

As well as the extension of the JobKeeper scheme, the JobKeeper provisions in the Fair Work Act have been extended with some changes. This includes the extension of some provisions to employers who no longer receive JobKeeper payments under the extended scheme. These employers are known as 'legacy employers'. Legacy employers need to meet certain criteria, including at least a 10% decline in turnover for a certain period.

For more information on changes to the Act, please refer to the following links:

- [Extension of JobKeeper provisions in the Fair Work Act](#)
- [Legacy employers](#)
- [JobKeeper enabling directions and agreements for legacy employers](#)
- [Pay, leave and ending employment for legacy employers](#)
- [JobKeeper scheme – overview](#)

Other Award Updates

The Fair Work Commission (the Commission) has again extended the temporary flexibility schedules of the Clerks Award and Vehicle Award. Each award has a temporary schedule that changes some award provisions during the coronavirus outbreak.

The Commission has extended each award's schedule until **30 November 2020**.

- [Clerks Award flexibility during coronavirus](#)
- [Vehicle Award changes during coronavirus](#)

As part of their review of Modern Awards (Modern Award Review), the Commission has also released an updated version of the Retail Award and the Teachers Award. The updated awards have a new layout, use plain English language and include rate tables although the rules and entitlements in the awards haven't changed significantly.

[This table lists the start dates or expected start dates for each award](#)

Also, just a reminder that the new minimum wages will start in the following awards from the first full pay period starting on or after 1 November 2020. [Click here for more info.](#)

ATO JobKeeper Key Date

From 28 September the JobKeeper extension starts and the payment rates change for your eligible employees, based on the total hours each employee worked during their reference period. You will need to pay your eligible employees at least the JobKeeper amount that applies to them each JobKeeper fortnight. This will be \$1,200 per fortnight (Tier 1) or \$750 per fortnight (Tier 2) before tax.

- **Between 1 and 14 October** complete your October JobKeeper monthly business declaration to be reimbursed for payments you made in September.
- **Between 1 and 31 October** determine and submit your **decline in turnover for the September 2020 quarter** through the ATO's online systems.
- **Up to 31 October for JobKeeper fortnights 14 and 15 (starting 28 September 2020 and 12 October 2020)** only, you have until this date to pay each of your eligible employees at least the JobKeeper payment rate that applies to them.
- **Between 1 and 14 November** complete your November JobKeeper monthly business declaration to be reimbursed **for payments you made in October** – tell the ATO which payment tier you are claiming for each eligible employee or business participant.

The ATO have also updated information on the 80 hour threshold - [click here for more info.](#)

Extending super choice

Recent amendments to the law will give more Australians the opportunity to choose their own superannuation fund – preventing them from being locked into a specific super fund under the terms of an enterprise bargaining agreement.

New workplace determinations and enterprise agreements made on or after 1 January 2021 must provide employees the right to choose the super fund to which their employer makes compulsory super contributions.

NSW LSL temporary changes extended

NSW Parliament has passed temporary laws which will create greater flexibility for employers and workers to access their long service leave during the ongoing COVID-19 crisis.

| | As per the Act | Temporary changes | Amended to: |
|--|---|--|--------------------|
| Directing a worker to take LSL | 1 month's notice | An employer can give less than one month's notice to a worker to take their LSL entitlement, if the worker agrees. | 24 March 2021 |
| How leave is to be taken | One continuous period - separate periods may be agreed as follows: 2 months = 2 periods < 19.5 weeks = 2 or 3 periods > 19.5 weeks = 2, 3 or 4 periods | An employer and a worker to agree to taking LSL in smaller blocks, such as 1 or 2 days a week. | 13 May 2021 |
| LSL to be taken in advance of entitlement | Silent | LSL may be taken in advance where there is an agreement to do so between the employer and worker. | 24 March 2021 |
| Absence due to stand down | Does not count as service | LSL continues to accrue if the employee has been stood down without pay as a direct or indirect result of COVID-19 pandemic. | 12 March 2021 |

[Click here for more information.](#)

MEMBERS WEBINAR

Please join us for our October member's webinar on 21st October at 1.00pm where we will look at "Leave accruals for employees absent on workers compensation".

[Register here](#)