



Employment law updates 2022

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Employment law updates

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In 2022, we can expect to see some changes in the employment law space that will affect all employers. We know it can be hard to stay on top of changes to employment law – but that's where we come in. We've put together this factsheet to help you navigate the changes, so you can be confident you're compliant as we enter the new year.

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Increase to the superannuation guarantee

On 1 July 2022, the Super Guarantee is set to rise from 10% to 10.5%. As an employer, this means you'll have to adjust your payroll systems to cater for the rise across your business. It's important you're aware and prepared for this change to ensure your systems are correct from the very start.

What happens if you fail to increase the Super Guarantee in your organisation?

If you fail to increase the Super Guarantee (SG) for your employees to 10.5% by the quarterly due date, you may have to pay the Superannuation Guarantee Charge (SGC). This is a penalty from the ATO for incorrect or late payments for your employees. If you're directed to pay the SGC, you'll not only have to pay the SG amounts owing, but also interest and an additional administration fee.

For more information on super for employers, we suggest visiting the ATO website or seeking tailored advice.

On 1 July 2022, the \$450 threshold for super guarantee will be removed

As part of the 2021-22 federal budget, it was announced that the current \$450 monthly minimum threshold will change.

From 1 July 2022, employees who earn less than the minimum threshold (\$450 per month) will be entitled to the super guarantee, regardless of their monthly pay. They must, however, fulfil the other eligibility requirements.

[Learn more about the changes to the super guarantee here.](#)

The mandatory start date of STP phase 2 is 1 January 2022.

On 1 January 2022, [Phase 2 of STP](#) was rolled out. This further streamlines reporting burdens for employers who need to report information to multiple government agencies.

You can learn more about [Single Touch Payroll \(Phase 2\) here.](#)

Unpaid pandemic leave to stay until June 2022

At the beginning of the pandemic in 2020, the Fair Work Commission added unpaid pandemic leave and annual leave flexibility to 99 different modern awards. This was designed to support employees impacted by restrictions or who fell ill with Covid-19.

The Fair Work Commission has granted the extension of unpaid pandemic leave. This will apply from 31 December 2021 until 30 June 2022.

[You can find more information about unpaid pandemic leave and the eligibility criteria here.](#)

Changes to skill shortage visas

In November 2021, the government announced it would make changes to visas to help with the current skills shortage. It includes an easier way to assist over 200,000 foreigners and skilled migrants to gain permanent residency, as well as easing the process for international students to gain employment after they graduate.

It's expected that migrants employed in the health and hospitality industries will benefit most from these changes, two industries that have been extremely hard hit by the pandemic and ongoing restrictions. It's expected these changes will come into effect progressively through to 1 July 2022.

[Find out more information about the changes to visas here.](#)

Minimum wage increase

The national minimum wage (i.e. the minimum wage paid to employees not covered by a modern award) is reviewed each year by the Fair Work Commission and will, as it has in previous years, likely increase on 1 July 2022.

Each year the Fair Work Commission also reviews the minimum rates paid to modern award-covered employees. How this year's increase (if any) will be rolled out will likely be announced by the Fair Work Commission in mid-June.

[You can find out more information about the minimum wage increase here.](#)

The High Court to weigh in on how to distinguish independent contractors and employees

These days, many small businesses need to rely on contractors to quickly adapt to changing business conditions. Engaging independent contractors can provide greater flexibility to meet short term changes and increased demand for specific skills.

However, a worker may not always be a genuine independent contractor simply because they have an ABN and offer specialist skills. Furthermore, having a worker sign an agreement that states they are not an employee does not necessarily make it so. Rather, whether an individual is a true independent contractor or an employee is currently determined by the Court weighing up multiple factors that look at the “substance” or true relationship between the worker and the business who engages them. However, there are currently two cases before the High Court that may change this approach.

Importantly, the High Court handed down a landmark decision last year regarding casual employees rejecting the principle that the Courts should focus on the “real substance, practical reality and true nature of that relationship” when determining who is or is not a casual employee. Rather, the High Court found that the Courts should simply be looking at what is written in the contract to determine the true nature of the relationship. In other words, regardless of what the relationship looks like, if the contract states an employee is engaged on a casual basis then they are a casual employee.

Therefore, we are interested to see if the High Court will apply this reasoning in the independent contractor cases and find that it is actually what is written in the contract that should determine whether a worker is an independent contractor or an employee. Watch this space.

Election-driven policy and reform

In the event there is a change of government after this year’s federal election, this will likely lead to significant changes in employment-related policy including, for example, casual employment, enterprise bargaining and the gig economy.

As the election approaches, we’ll keep you up to date with any changes that come into effect.

Confused about employment law? Let us help.

Does all of this talk about employment law and superannuation have you feeling overwhelmed and confused? We don't blame you – it's some tricky business.

But that's where Employment Hero can help. Our purpose-built HR and payroll system updates when changes like the above occur. It can give you peace of mind knowing that your HR and payroll software is always up to date and in line with local employment laws. Employment Hero Payroll integrates with some of the most popular apps out there including Xero, QuickBooks, MYOB and more.

If you're looking for an HR and payroll solution, let us help. One of our small business specialists can walk you through how you can get the most out of our end-to-end employment and payroll software. Get in touch today.

Who is Employment Hero?

HR is made easy with Employment Hero's helpful tools. Our platform makes HR tasks seamless, and uses automation to make repetitive paperwork a thing of the past.

Our features include:

- Recognition
- Shout Outs (Peer to peer recognition)
- Policy templates
- Letter templates
- Applicant tracking system
- Employee happiness scores
- Feedback
- 1:1s
- Performance reviews
- Learning management system (LMS)
- OKRs (Objectives and Key Results)
- Custom surveys
- And so much more...

Book a demo with one of our small business specialists today to learn about how we can help you get started in HR.

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