

A VISION IN THE WORKPLACE

In this Vision in the Workplace April edition 2020 includes:

- What Scott Morrison's "Job Keeper Allowance" and third rescue package means for Australian businesses.
- The extension of the Australian relief package to employers and employees.
- The changes occurring to the *Long Service Leave Act (1955) NSW* in wake of the COVID-19 pandemic.
- An overview of the amendments made to the *Hospitality Industry (General) Award (2010)* as well as the *Clerks- Private Sector Award (2010)*, and what this means in for employers and employees in relation to annual leave, working hours and tasks being performed within their businesses.

CORONAVIRUS (COVID-19): UPDATES ON "JOB KEEPER ALLOWANCE", CHANGES TO AWARDS AND LONG SERVICE LEAVE



The Third Rescue Package "Job Keeper Allowance"

Prime Minister Scott Morrison has announced the introduction of a "JobKeeper Allowance" wage subsidy to keep Australian companies afloat during the COVID-19 pandemic. Businesses eligible for the wage subsidy will receive \$1,500-per-fortnight (before tax) flat payment for every employee, as part of the governments new \$130 billion wage subsidy package. It is estimated that almost half the Australian workforce will be eligible for this payment over the next six months, covering around six million workers.

An overview of the wage subsidy program is outlined below:

- Full-time, part-time, sole traders and casual employees who have served within the company for more than 12 months are eligible to receive their wage subsidised if they have been on the books since March 1 through the ATO.
- Payments will be received through the employers who receive direct payment from the government.
- Qualification for the wage subsidy depends on the size of the company you work for.
- For firms and businesses with revenues of less than \$1 billion – sales need to drop by at least 30 per cent.
- For businesses that have turnover above \$1 billion- revenue needs to plunge by half.

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- The program begins on Monday; however, money won't flow until the first of May.
- Employees that have already been sacked will be eligible for the wage subsidy if their business signs up for the program and puts them back on the books.
- Commercial property landlords will be forced to refrain from terminating leases and evicting tenants who are behind on rent.
- Changes to JobSeeker rules that halt unemployment benefits to anyone whose partner is earning more than \$48,000 a year, lifting that threshold to a level that has yet to be announced.

For more in-depth information on the JobKeeper Allowance wage subsidy package, refer to the Australian Governments Job Keeper fact sheet, which provides information for both employers and employees.

In addition to the previous economic package, Morrison unveiled the expansion of the Australian relief package introducing:

- Extension of the six-month deferral of loan repayments to 30,000 businesses.
- An extension of the loan repayment holidays and potential bailouts to big employers.
- The prevention of foreign companies from "attacking" vulnerable Australian owned businesses reducing ownership thresholds that trigger government scrutiny to zero.
- Banks have extended their support through raising the threshold of businesses who are eligible to qualify for the six-month loan repayment deferral from \$3m to up to \$10m. This will enable 98% of all businesses with a loan from an Australian bank to be able to defer payments.

This expansion would apply to an additional \$100bn of business loans, resulting in more cash available for up to 425,000 businesses.

The new changes occurring in Long Service Leave

The NSW state parliament has passed the Treasury Legislation Amendment (COVID-19) Bill, altering the rules surrounding long service leave to create greater flexibility for employers and employees during the pandemic.

These amendments include providing workers with greater access to earlier and more flexible long service leave by removing the need for leave to be taken with one month's notice in blocks of less than a month. Instead, the new Bill offers employees to be able to take leave in shorter blocks, such as one day a week without the usual one-month notice period required by the employee or employer. However, this act of leave must be a mutual agreement between the employee and employer.

The amendments to the *Long Service Leave Act (1955)* NSW will only have a temporary application during the time of COVID-19 and come into effect for six

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months from 26 March 2020, with the possibility of a year extension.

An assessment of the award amendments

Hospitality Industry (General) Award 2010

As a result of the detrimental impact the COVID-19 crisis is having on businesses in Australia, the Fair Work Commission has urgently pushed through amendments and changes within the Hospitality Industry (General) Award 2010, making it more accessible for employers to continue operations during these times.

Award amendments include:

- Employers having the right to direct their employees to do any task that they have the skill level and competency for, even if those tasks aren't in their usual classification or normal stream of work.
- This task must be safe, and the employee must have all the appropriate licenses and qualifications to perform the task.
- Employees must be paid at a higher rate if they are told to work above their usual classification. However, employees who do tasks below their usual classification are still paid their normal pay rate.

Furthermore, working hours can be reduced to:

- Full-time: between 22.8-38 hours

- Part-time: between 60-100% of the guaranteed hours per week over the roster cycle.

If employees want to reduce their employees' hours these changes need to be discussed with them and ensure they comply with the award consultation rules about changes to rosters or hours of work, as well as provide as much notice as practicable.

If an employee is a member of a union, their employer will also need to inform their union of the changes occurring.

Additionally, employees that are working reduced hours will continue accumulating and taking their paid leave based on their ordinary hours before their employer reduced their number of hours.

In relation to annual leave, employers can also direct an employee to take annual leave. The employer must give their employees at least a 24 hours period of notice, as well as take into consideration their employees personal circumstances. Employees are eligible to take twice as much annual leave at half pay if their employer agrees. Both employers and employees can still agree to take annual leave at any time.

Clerks- Private Sector Award 2010

Alterations to the Clerks Private Sector Award 2010 have been implemented by the Fair Work Commission in response to the COVID-19 pandemic which is impacting Australian business.

The key amendments to the Award include:

- Employers have the right to tell their employees to perform tasks that they have the skill and

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competency for, despite whether they are part of their usual classification or normal work;

- This task must be safe, and the employee must have all the appropriate licenses and qualifications to perform the task; and
- Employees must be paid at a higher rate if they are told to work above their usual classification. However, employees who do tasks below their usual classification are still paid their normal pay rate.

When working from home, amendments have been broken down into part-time and casual employees. Firstly, when an employer agrees to allow an employee to work from their home, the spread of ordinary hours has been expanded to 6am till 11pm Monday to Friday and 7am-12:30pm on Saturday. Part-time employees are required to be rostered for a minimum of two hours working from home and only become entitled to overtime rates when they've worked more than 38 hours per week. Casual employees are only required to work a minimum of two hours when working from home. However, this temporary reduction in hours must be agreed upon by a 75% majority of employees in the workplace and unions and the Fair Work Commission must be informed of these changes.

In relation to annual leave, employers and employees may come to an agreement of taking up to twice as much leave at a proportionately reduced rate, including during any close-down. Employers are able to direct employees to take any accrued annual leave, giving at least one week's notice, or a shorter agreed period. However, an annual leave direction by an employer cannot result in the employee having less than two

weeks of accrued annual leave remaining. During a close-down, an employee is eligible to take all their annual leave and then will be given leave without pay for the remainder of the shutdown.

These are temporary amendments to the Clerks- Private Sector Award 2010 in response to the COVID-19 pandemic and any close-down of operations must not extend beyond 30 June 2020.

If you require assistance in drafting workplace policies to help address the implications of COVID-19, or require advice on any other employment issues relating to COVID-19, please do not hesitate to contact [Nick Stevens](#), [Jane Murray](#) or [Angharad Owens-Strauss](#).