

# AUSTRALIA WIDE TAXATION & PAYROLL TRAINING

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*A Newsletter to our clients . . .*

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## COVID-19 – SUMMARY OF MEASURES TO SUPPORT EMPLOYERS

The ATO acknowledge that many people are being heavily affected by the challenging economic conditions created by the outbreak of COVID-19. Employers can access the ATO's Coronavirus page at

<https://www.ato.gov.au/Individuals/Dealing-with-disasters/In-detail/Specific-disasters/COVID-19/>

to get detailed information about how to access to the tax or superannuation measures as announced by the Government as part of its economic response to COVID-19. Measures include:

- giving individuals early access to their superannuation
- providing cash flow assistance and JobKeeper payments for employers (detailed information provided further on)
- increasing the instant asset write-off, making more businesses eligible
- backing business investment by accelerating depreciation deductions.

Each of the measures have different timings, eligibility, and processes. Some will be applied automatically and others will require an application. Options available to assist businesses impacted by COVID-19 include:

- Deferring by up to six months the payment date of amounts due through the business activity statement (including PAYG instalments), income tax assessments, fringe benefits tax assessments and excise.
- Allowing businesses on a quarterly reporting cycle to opt into monthly GST reporting in order to get quicker access to GST refunds they may be entitled to.
- Allowing businesses to vary PAYG instalment amounts to zero for the March 2020 quarter. Businesses that vary their PAYG instalment to zero can also claim a refund for any instalments made for the September 2019 and December 2019 quarters.
- Remitting any interest and penalties, incurred on or after 23 January 2020, that have been applied to tax liabilities
- Working with affected businesses to help them pay their existing and ongoing tax liabilities by allowing them to enter into low interest payment plans.

Businesses wanting to utilise any of these options can contact the ATO over the coming weeks.

Employers will still need to meet their ongoing super guarantee obligations for their employees.

## RESPONSE TO COVID-19 – PAYG WITHHOLDING STIMULUS

The Government is also providing cash flow assistance for eligible businesses in the form of two separate measures. Small and medium-sized businesses and not-for-profit entities, with an aggregated annual turnover of less than \$50 million (usually based on their prior year's turnover) that employ people, may be eligible to receive a total payment (in the form of a refundable credit) of up to \$100,000 (with a minimum total payment of \$20,000), based on their PAYG withholding obligations in two stages:

### STAGE 1 CREDIT

Commencing with the lodgment of activity statements from 28 April 2020, eligible employers that withhold PAYG tax on their employees' salary and wages will receive a tax-free payment equal to 100% of the amount withheld, up to a maximum of \$50,000. Eligible employers that pay salary and wages will receive a minimum (tax-free) payment of \$10,000, even if they are not required to withhold PAYG tax.

The tax-free payment will broadly be calculated and paid by the ATO as an automatic credit to an employer, upon the lodgment of activity statements from 28 April 2020, with any resulting refund being paid to the employer. This means that:

- quarterly lodgers will be eligible to receive the payment for the quarters ending March 2020 and June 2020; and
- monthly lodgers will be eligible to receive the payment for the March 2020, April 2020, May 2020 and June 2020 lodgments.

Note that, the minimum payment of \$10,000 will be applied to an entity's first activity statement lodgment (whether for the month of March or the March quarter) from 28 April 2020.

### STAGE 2 CREDIT

For employers that continue to be active, an additional (tax-free) payment will be available in respect of the June to October 2020 period, basically as follows:

- Quarterly lodgers will be eligible to receive the additional payment for the quarters ending June 2020 and September 2020, with each payment being equal to 50% of their total initial (or Stage 1) payment (up to a maximum of \$50,000).
- Monthly lodgers will be eligible to receive the additional payment for the June 2020, July 2020, August 2020 and September 2020 activity statement lodgements, with each additional payment being equal to a quarter of their total initial (or Stage 1) payment (up to a maximum of \$50,000).

The ATO will automatically calculate and pay the additional (tax-free) payment as a credit to an employer upon the lodgment of their activity statements from July 2020, with any resulting refund being paid to the employer.

**Important** - If an employer or an associate enters into a scheme with the sole or dominant purpose of obtaining or increasing any of the above payments for a particular employer, for a period, the employer will not be eligible for any such payments for the relevant period.

# RESPONSE TO COVID-19 VIRUS – JOBKEEPER PAYMENT

To receive the JobKeeper Payment, employers must:

- Register an intention to apply on the ATO website and assess that they have or will experience the required turnover decline.
- Provide information to the ATO on eligible employees. This includes information on the number of eligible employees engaged as at 1 March 2020 and those currently employed by the business (including those stood down or rehired). For most businesses, the ATO will use Single Touch Payroll data to pre-populate the employee details for the business.
- Ensure that each eligible employee receives at least \$1,500 per fortnight (before tax). For employees that were already receiving this amount from the employer then their income will not change. For employees that have been receiving less than this amount, the employer will need to top up the payment to the employee up to \$1,500, before tax. And for those employees earning more than this amount, the employer is able to use this \$1,500 per fortnight to subsidise the employee's income.
- Notify all eligible employees that they are receiving the JobKeeper Payment.
- Continue to provide information to the ATO on a monthly basis, including the number of eligible employees employed by the business.

## BACKGROUND ON JOBKEEPER PAYMENT

Under the JobKeeper Payment, businesses impacted by the Coronavirus will be able to access a subsidy from the Government to continue paying their employees. Affected employers will be able to claim a fortnightly payment of \$1,500 per eligible employee from 30 March 2020, for a maximum period of 6 months.

## ELIGIBLE EMPLOYERS

Employers will be eligible for the subsidy if:

- their business has a turnover of less than \$1 billion and their turnover will be reduced by more than 30 per cent relative to a comparable period a year ago (of at least a month); or
- their business has a turnover of \$1 billion or more and their turnover will be reduced by more than 50 per cent relative to a comparable period a year ago (of at least a month); and
- the business is not subject to the Major Bank Levy.

The employer must have been in an employment relationship with eligible employees as at 1 March 2020, and confirm that each eligible employee is currently engaged in order to receive JobKeeper Payments. Not-for-profit entities (including charities) and self-employed individuals (businesses without employees) that meet the turnover tests that apply for businesses are eligible to apply for JobKeeper Payments.

## ELIGIBLE EMPLOYEES

Eligible employees are employees who:

- are currently employed by the eligible employer (including those stood down or re-hired);
- were employed by the employer at 1 March 2020;
- are full-time, part-time, or long-term casuals (a casual employed on a regular basis for longer than 12 months as at 1 March 2020);
- are at least 16 years of age;
- are an Australian citizen, the holder of a permanent visa, a Protected Special Category Visa Holder, a non-protected

Special Category Visa Holder who has been residing continually in Australia for 10 years or more, or a Special Category (Subclass 444) Visa Holder; and

- are not in receipt of a JobKeeper Payment from another employer.

If your employees receive the JobKeeper Payment, this may affect their eligibility for payments from Services Australia as they must report their JobKeeper Payment as income.

## APPLICATION PROCESS – BUSINESSES WITH EMPLOYEES

Initially, employers can register their interest in applying for the JobKeeper Payment via [ato.gov.au](https://ato.gov.au) from 30 March 2020. Subsequently, eligible employers will be able to apply for the scheme by means of an on-line application which can be accessed at: <https://www.ato.gov.au/Job-keeper-payment/>

The first payment will be received by employers from the ATO in the first week of May. Eligible employers will need to identify eligible employees for JobKeeper Payments and must provide monthly updates to the ATO.

Participating employers will be required to ensure eligible employees will receive, at a minimum, \$1,500 per fortnight, before tax. It will be up to the employer if they want to pay superannuation on any additional wage paid because of the JobKeeper Payment. ***Superannuation will still be payable in relation to the hours worked by employee.***

### Employer with employees on different wages

Adam owns a real estate business with two employees. The business is still operating at this stage but Adam expects that turnover will decline by more than 30 per cent in the coming months. The employees are:

- Anne, who is a permanent full-time employee on a salary of \$3,000 per fortnight before tax and who continues working for the business; and
- Nick, who is a permanent part-time employee on a salary of \$1,000 per fortnight before tax and who continues working for the business.

Adam is eligible to receive the JobKeeper Payment for each employee, which would have the following benefits for the business and its employees:

- The business continues to pay Anne her full-time salary of \$3,000 per fortnight before tax, and the business will receive \$1,500 per fortnight from the JobKeeper Payment to subsidise the cost of Anne's salary and will continue paying the superannuation guarantee on Anne's income;
- The business continues to pay Nick his \$1,000 per fortnight before tax salary and an additional \$500 per fortnight before tax, totalling \$1,500 per fortnight before tax. The business receives \$1,500 per fortnight before tax from the JobKeeper Payment which will subsidise the cost of Nick's salary. The business must continue to pay the superannuation guarantee on the \$1,000 per fortnight of wages that Nick is earning. The business has the option of choosing to pay superannuation on the additional \$500 (before tax) paid to Nick under the JobKeeper Payment.

Adam can register his initial interest in the scheme from 30 March 2020, followed subsequently by an application to ATO with details about his eligible employees. In addition, Adam is required to advise his employees that he has nominated them as eligible employees to receive the payment. Adam will provide information to the ATO on a monthly basis and receive the payment monthly in arrears.

## JOBKEEPER PAYMENT – CONTINUED . . .

### Employer with employees who have been stood down without pay

Zahrah runs a beauty salon in Melbourne. Ordinarily, she employs three permanent part-time beauticians, but the government directive that beauty salons can no longer operate has required her to shut the business. As such she has been forced to stand down her three beauticians without pay.

Zahrah's turnover will decline by more than 30 per cent, so she is eligible to apply for the JobKeeper Payment for each employee, and pass on \$1,500 per fortnight before tax to each of her three beauticians for up to six months. Zahrah will maintain the connection to her employees, and be in a position to quickly resume her operations.

Zahrah is required to advise her employees that she has nominated them as eligible employees to receive the payment. It is up to Zahrah whether she wants to pay superannuation on the additional income paid because of the JobKeeper Payment.

If Zahrah's employees have already started receiving income support payments like the JobSeeker Payment when they receive the JobKeeper Payment, they will need to advise Services Australia of their new income.

### APPLICATION PROCESS - BUSINESSES WITHOUT EMPLOYEES

Businesses without employees, such as the self-employed, can register their interest in applying for JobKeeper Payment via [ato.gov.au](http://ato.gov.au) from 30 March 2020. Businesses without employees will need to provide an ABN for their business, nominate an individual to receive the payment and provide that individual's Tax File Number and provide a declaration as to recent business activity.

People who are self-employed will need to provide a monthly update to the ATO to declare their continued eligibility for the payments. Payment will be made monthly to the individual's bank account. Further details for the self-employed will be provided on [ato.gov.au](http://ato.gov.au).

## OTHER BUSINESS STIMULUS MEASURES

### ENHANCING THE INSTANT ASSET WRITE-OFF

The economic response to COVID-19 introduces a package that will:

- increase the cost threshold below which small business entities can access an immediate deduction for depreciating assets and certain related expenditure (the instant asset write-off) from \$30,000 to \$150,000, from 12 March 2020 to 30 June 2020
- provide access to an instant asset write-off to entities with an aggregated turnover of \$10m or more but less than \$500m (up from the existing cap of \$50m), and
- make the instant asset write-off available for depreciating assets and certain related expenditure costing less than \$150,000, from 12 March 2020 to 30 June 2020.

### ACCELERATING DEPRECIATION DEDUCTIONS

The package temporarily allows businesses with aggregated turnovers of less than \$500m pa to deduct capital allowances for depreciating assets at an accelerated rate.

Generally, to be eligible to apply the accelerated rate of deduction, the depreciating asset must satisfy several conditions including that the asset:

- is new and has not previously been held by another entity (other than as trading stock or for testing and trialling purposes)
- is an asset for which an entity has not claimed depreciation deductions, including under the instant asset write-off rules, and
- is first held, and first used or installed ready for use, for a taxable purpose between 12 March 2020 and 30 June 2021 (inclusive).

There are different rules that apply depending on whether an entity is using the simplified rules for capital allowances for small businesses.

## COVID 19 (CORONA VIRUS) AND WORKCOVER

With much concern over the COVID-19 at present a lot of questions have been asked as to whether workers would be entitled to compensation under worker compensation if the illness is contracted at work. Generally speaking, in the majority of States and Territories, a worker may be eligible for compensation where it can be demonstrated that the workers COVID-19 exposure occurred within the work environment; and that the worker's employment was a significant contributing factor to the contraction of COVID-19. Given that exposure can occur in public settings questions may arise as to the exact time and place of contracting the virus. As a result, it may be difficult to determine that employment was a significant contributing factor.

Each claim would need to be considered on its individual merits, having regard to the individual circumstances and evidence of each claim. Further details can be found at the following sites.

- Safe Work Australia - For information in relation to managing the risks of contracting COVID-19 in the

workplace - <https://www.safeworkaustralia.gov.au/doc/coronavirus-COVID-19-advice-pcbus>

- Comcare (Commonwealth) - [https://www.comcare.gov.au/news\\_and\\_media/news\\_latest/coronavirus\\_whs\\_and\\_workers\\_compensation](https://www.comcare.gov.au/news_and_media/news_latest/coronavirus_whs_and_workers_compensation)
- NSW – <https://www.safework.nsw.gov.au/news/safework-public-notice/coronavirus>
- WA - <https://www.workcover.wa.gov.au/news/workers-compensation-coronavirus-COVID-19/>
- VIC - <https://www.worksafe.vic.gov.au/safety-alerts/exposure-coronavirus-workplaces>
- QLD - <https://www.worksafe.qld.gov.au/news/2020/an-update-from-workcover-queensland-on-COVID-19>
- SA - <https://www.safework.sa.gov.au/news/coronavirus-COVID-19-workplace-information>
- ACT - <https://www.accesscanberra.act.gov.au/app/home>
- NT - <https://worksafe.nt.gov.au/forms-and-resources/guides/getting-your-workplace-ready-for-COVID-19-coronavirus>

# PAYROLL TAX MEASURES TAKING INTO ACCOUNT COVID-19

Many of the State and Territory Governments have started to release their own stimulus packages to help both individuals and businesses during this period. Below is a summary of the proposed payroll tax changes announced so far for certain States and Territories.

## WESTERN AUSTRALIA

- Increase in payroll threshold – The payroll tax threshold for WA will be increased to \$1m on 1 July 2020. (This replaces the previously announced increase planned for 1 January 2021).
- Deferral of payroll tax liability – Small and medium businesses (those with Australian wages (grouped) of \$7.5m or less) who have been directly/indirectly affected by the COVID-19 can apply for a deferral of time to pay their 2019-20 payroll tax liability. The deferral can be until 21 July 2020 (Note: This must be applied for).
- One off grant – Employers (or group of employers) who have Australian taxation wages between \$1m and \$4m will be entitled to a one-off \$17,500 grant. For a group of employers, a single grant will be payable to the designated group employer.

Further information can be found at the following link: <https://www.wa.gov.au/government/multi-step-guides/payroll-tax-employer-guide/COVID-19-relief-payroll-tax-employer-guide>

Application to defer can be found at:

<https://www.wa.gov.au/government/publications/application-defer-payroll-tax-covid-19>

## TASMANIA

- Payroll tax liability waived – Businesses with a payroll of up to \$5m will have their payroll tax waived for the 2020 financial year
- All businesses in the hospitality, tourism, seafood and export sectors will have their payroll tax waived for the 2020 financial year.
- New Youth employment scheme – details of this will be released shortly by OSR Tasmania.

## NEW SOUTH WALES

- Annual threshold to increase – From 1 July 2020 the NSW threshold will be increased to \$1m.
- Payroll tax liability waived - Small businesses with a payroll of up to \$10 million will have their payroll tax liability deferred for up to 6 months.

## QUEENSLAND

Measures in Queensland include:

- refunds of payroll tax for 2 months
- a payroll tax holiday for 3 months
- deferral of paying payroll tax for the 2020 calendar year.

Employers or grouped employers with \$6.5 million or less in Australian taxable wages, may be entitled to:

- refund of payroll tax for 2 months
- payroll tax holiday (i.e. no payroll tax to be paid) for 3 months.

A deferral can also be applied for the payment of payroll tax for the 2020 calendar year. This deferral will mean that payroll tax payments will not be due until 14 January 2021. This must be applied for.

Employers or grouped employers with more than \$6.5 million in Australian taxable wages and have been negatively

affected (directly or indirectly) by coronavirus, may be entitled to:

- deferral of payroll tax for the 2020 calendar year (If you have already applied for a deferral, you do not need not reapply – it will be extended.)
- refund of your payroll tax for 2 months.

A business is directly or indirectly affected by coronavirus if their current turnover, profit, customers, bookings, retail sales, supply contracts or other factors are negatively affected compared with normal operating conditions.

## AUSTRALIA CAPITAL TERRITORY

There will be a 6-month waiver on payroll tax for employers operating in prohibited business activities (those subject to a forced shutdown). There will also be access to interest-free deferrals of payroll tax commencing on 1 July 2020 for all businesses up to a payroll threshold of \$10m in Australian taxable wages. The current threshold for the exemption from payroll tax will remain at \$2m. In order to facilitate the program, a business liaison team will assist local business with these measures. Access information at:

<https://www.revenue.act.gov.au/payroll-tax/waiver>

## VICTORIA

- Small and medium-sized businesses with payroll of less than \$3m will be provided full payroll tax refunds for the 2019/20 financial year, with payments being processed from the week commencing Monday, 23 March 2020; and
- Small and medium-sized businesses with payroll of less than \$3m will be able to defer any payroll tax for the first three months of the 2020/21 financial year until 1 January 2021.

## SOUTH AUSTRALIA

The South Australian Government has announced the following COVID-19 relief measures:

- six month payroll tax waiver for business with Australian grouped wages up to \$4 million.
- six month payroll tax deferral for businesses with Australian grouped wages over \$4 million
- deferral of the third and fourth instalment for 2019-20 land tax liabilities
- increase of amount paid for first year of the land tax reform transition fund
- second anniversary claim for job accelerator grant to be assessed at staffing levels as at 31 January 2020. <https://revenuesa.sa.gov.au/grants-and-concessions/covid19-relief>

## EARLY RELEASE OF SUPERANNUATION

Stimulus measures allow individuals affected by the coronavirus to have up to \$10,000 released from their superannuation or retirement savings account on compassionate grounds. Each person is permitted to have up to two releases — one for an application made during the 2019/20 financial year and another for an application made during the 2020/21 financial year. This means a person may have up to \$20,000 released in total. Any such amounts that are released are not subject to tax.

## COVID-19 – RAMIFICATIONS FOR EMPLOYERS AND EMPLOYEES (INDUSTRIAL RELATIONS)

Fair Work is encouraging both employees and employers to work together to find appropriate solutions in the workplace to enable, where possible, businesses to continue to run and employees to continue to work (or take leave). This may mean some employees will be working from home, others taking forms of paid and unpaid leave and some continuing as normal in the workplace. Below is a list of common situations that workplaces may encounter in relation to COVID-19.

**Note** – Fair Work is continually updating their website as information in relation to COVID-19 based on Government announcements and advice. Employers should ensure they are reviewing these links frequently to ensure they continue to apply the most up to date information in the workplace.

Access the link at:

<https://www.fairwork.gov.au/about-us/news-and-media-releases/website-news/coronavirus-and-australian-workplace-laws>

Situation in workplace	Pay entitlements	Notes for employer
<p>Employer stands down employees temporarily</p> <p>E.g. Employee is unable to work due to an enforceable government order from Commonwealth and/or a State or Territory Government or officer.</p>	<p>Where the Commonwealth or a State or Territory Government or officer makes an enforceable government order, determination or direction (enforceable government direction) under a law which either prevents an employee from attending their workplace or has the effect of temporarily closing down that workplace, and it is not possible for the employee to perform work at another location, an employer can direct the employee not to attend the workplace. In this instance, the employer is not required to pay the employee.</p> <p>Employee will continue to accrue leave entitlements and will be paid for public holidays.</p> <p>An employee is not taken to be stood down during a period when the employee is taking paid or unpaid leave that is authorised by the employer or the employee is otherwise authorised to be absent.</p>	<p>The employer must be able to demonstrate that:</p> <ul style="list-style-type: none"> <li>• there is a stoppage of work</li> <li>• the employees to be stood down cannot be usefully employed (which is not limited to the work an employee usually performs)</li> <li>• the cause of the stoppage must also be one that the employer cannot reasonably be held responsible for.</li> </ul> <p>If an employer unlawfully stands down employees without pay, the employees will likely be able to recover unpaid wages.</p> <p><i>Employers cannot generally stand down employees simply because of a deterioration of business conditions or because an employee has coronavirus.</i></p>
<p>Employee no longer required due to downturn in business (no forced shutdown or lack of vital supply)</p> <p>OR</p> <p>Employer wishes to reduce employee's hours or pay due to downturn in business</p>	<p>Some employers may need to make an employee's position redundant or reduce hours/pay in response to a business downturn. If an employee's job is made redundant, the employer may have to pay them redundancy pay (if 15 or more employees or an award/agreement requires it).</p> <p>In relation to redundancy, the Fair Work Act has requirements that employers have to meet before they can terminate an employee's employment, such as providing notice – see the following link for further information <a href="https://www.fairwork.gov.au/ending-employment/redundancy">https://www.fairwork.gov.au/ending-employment/redundancy</a>.</p> <p>In relation to reducing hours or pay, an employer and employee may agree to an 'individual flexibility arrangement', which allows them to vary terms in their award or enterprise agreement relating to when work is performed.</p>	<p>Employers may try to negotiate new terms with employees (e.g. reduced hours) to be implemented on a temporary basis. Where no agreement can be reached the position may be redundant.</p> <p>Employers need to consult employees about a change to their regular roster or ordinary hours of work under their award or enterprise agreement.</p> <p>Changes to an employee's start and finish times (for example, in order to avoid crowds during peak hours) might be possible under the span of hours provisions in an award or enterprise agreement.</p> <p>Reducing a permanent employee's ordinary hours usually requires the employee's agreement.</p>
<p>Employee or their family member/household is ill with Covid-19</p>	<p>The employee can take paid personal/carers leave. If/when paid personal/carers leave is exhausted an employee can take 2 days unpaid carers leave or unpaid personal leave.</p> <p>Employee is not entitled to be paid unless they use their paid leave entitlements</p>	<p>Employers should consider obligations under applicable enterprise agreement, award, employees' employment contracts or workplace policies, which may be more generous.</p> <p>An employee must give their employer evidence of the illness or unexpected emergency if their employer asks for it.</p>

Situation in workplace	Pay entitlements	Notes for employer
Employee needs to care for an immediate family member in the case of an emergency – i.e. schools have closed down	<p>The employee can take paid personal/carers leave. If/when paid personal/carers leave is exhausted an employee can take 2 days unpaid carers leave/carers leave.</p> <p>Employee is not entitled to be paid unless they use their paid leave entitlements.</p>	<p>Employers should consider obligations under applicable enterprise agreement, award, employees' employment contracts or workplace policies, which may be more generous.</p> <p>An employee must give their employer evidence of the illness or unexpected emergency if their employer asks for it.</p>
Employee must remain overseas or is required to be quarantined or to self-isolate	<p>Employee must notify employer ASAP where this situation has occurred.</p> <p>Employer directed isolation/quarantine on Government advice – Where an employer directs a full-time or part-time employee to stay home in line with advice, for example in line with the Australian Government's health and quarantine advice, and the employee isn't sick with coronavirus, the employee should ordinarily be paid while the direction applies.</p> <p>Not directed by employer – if an employee cannot work because they're subject to an enforceable government direction requiring them to self-quarantine, the employee isn't ordinarily entitled to be paid (unless they use leave entitlements). In this case, their inability to work is because of an enforceable government direction, not because of their employer.</p>	<p>Where the advice is not directed by employer there is no specific guidance in Fair Work Act for this situation. It is therefore up to the employees and employers to come to their own arrangement.</p> <p>This may include:</p> <ul style="list-style-type: none"> <li>• working from home or another location (if possible),</li> <li>• taking personal leave if the employee is sick or needs to care for an immediate family of household member</li> <li>• taking annual leave</li> <li>• taking any other leave available to them (LSL or special leave mentioned in award/agreement/contract)</li> <li>• arranging any other paid or unpaid leave by agreement between the employee and the employer.</li> </ul>
Employee wishes to stay home as a precaution	<p>Discussions between employee and employer should occur to determine a practical solution. Examples could include</p> <ul style="list-style-type: none"> <li>• working from home (if possible) or</li> <li>• taking paid annual leave / LSL or</li> <li>• taking unpaid leave.</li> </ul>	<p>Employee will need to meet normal leave applications processes where they are not working from home.</p> <p>There is no requirement for the employer to continue paying the employee outside of the leave entitlements unless an agreement/award/contract states otherwise.</p>
Employer wishes the employee to stay home as a precaution	<p>Where a full/part time employee is directed by the employer to stay at home due to workplace health and safety risks but the employee is ready, able and willing to work the employee is generally entitled to be paid while the direction applies.</p> <p>An employer can require an employee to provide a medical clearance certificate certifying that can return to the workplace.</p>	<p>Employers should review the relevant industrial instrument (award/agreement/contract) to determine if there are more generous provisions for the employee.</p>
Employer wishes to change the employee's regular hours.	<p>An employer must consult with the employee in relation to the change of hours. Awards and agreements will quite often have instructions that must be followed. For changes to hours, an employer must:</p> <ul style="list-style-type: none"> <li>• provide information of the change</li> <li>• provide opportunity to employee to give their views about the impact of the change</li> <li>• take into consideration the employee's views.</li> </ul> <p>Note – an employer may allow an employee to take some of their accrued annual or LSL during this period to assist the employee.</p>	<p>Reducing a permanent employee's ordinary hours usually requires the employee's agreement.</p> <p>Employers should check the terms of any relevant award, enterprise agreement or contract of employment.</p>

## STATE STIMULUS MEASURES FOR THE IMPACT OF COVID-19

It is important that all employers access the State websites to determine whether measures have been introduced at a State Government level which may will assist them work through the current situation.

## LEAVE ACCRUALS & PUBLIC HOLIDAYS FOR LEGITIMATELY STOOD DOWN WORKERS

The Fair Work Ombudsman has warned employers that 'employees can't be stood down just because there is not enough work'. That is, a stand down cannot be utilised for a mere economic impact, but rather the actual shut down of all or a substantial part of a business. For employees that are legitimately stood down, that is:

- the business has closed because of an enforceable government direction relating to non-essential services (which means there is no work at all for employees to do even from another location) or
- a large proportion of the workforce is in self-quarantine meaning the remaining employees can't be usefully employed or
- there's a stoppage of work due to lack of supply for which the employer can't be held responsible.

Because employees stood down by affected employers are stood down without pay, this provides some minor cash flow relief for businesses. It is, however, important to note the following employee entitlements continue where employees are stood down in accordance with the provisions of the Fair Work Act (which is not necessarily the case during other periods of unpaid leave):

- annual leave, personal leave and long service continue to accrue;
- employees can access personal and carer's leave (provided they comply with notice and evidence requirements); and
- employees must be paid for public holidays where it would ordinarily fall on a day they could have worked had they not been stood down.

Employees may also request annual leave during a stand down period, although, for cash flow reasons, it may be reasonable for an employer to refuse to provide paid leave in the circumstances. It is unlikely that an employer could reasonably refuse or cancel paid leave during the stand down period that had already been approved.

## SEPARATION CERTIFICATE NOT REQUIRED

For now, the Department of Human Services have removed the requirement for terminated employees to provide a separation certificate. This is due to the large number of terminations resulting from the COVID-19 pandemic. Access link <https://www.servicesaustralia.gov.au/organisations/business/services/centrelink/centrelink-business-online-services/employment-separation-certificates-employers>

## FEDERAL BUDGET DELAYED TO OCTOBER

The annual Federal Budget will be postponed to Tuesday, 6 October 2020, to give the Government time to assess the impact of the coronavirus outbreak, It was originally planned to be handed down on 12 May 2020.

## SUPER AMNESTY NOW LAW

Employers can now contribute, to an employee's superfund, amounts of underpaid super relating to the period from 1 July 1992 to 31st March 2018 without incurring certain penalties. This can occur up to 6 September 2020.

Shortfalls outstanding that have not been contributed to the fund by 6 September 2020 will incur a 100% penalty in all cases. Employers should review super payments made between 1 July 1992 and 31st March 2018 to ensure that any shortfall is lodged with the ATO and paid by 6 September 2020.

If this is done, employers will avoid many penalties that normally apply to late super payments and the payments of late superannuation will remain tax deductible. Payment plans can be made for longer periods but any payments after 7 September are not deductible. Employers should take advantage of this window in which to notify the ATO and pay outstanding SG.

## COVID-19 EFFECT ON AMNESTY SUPER PAYMENTS

The ATO understand that employers may wish to apply for the superannuation guarantee amnesty and may be concerned that, as a result of COVID-19, circumstances have changed and the liabilities may not be able to be paid.

Employers who want to participate in the amnesty, are required by law to apply by 7 September 2020. However, the ATO will work with employers to establish a payment plan that is flexible to help them to continue making payments. These arrangements include:

- flexible payment terms and amounts which will be adjusted if circumstances change
- the ability to extend the payment plan to beyond 7 September 2020, the end of the amnesty period. However, only payments made by 7 September 2020 will be deductible.

If employers are unable to maintain payments, the law requires that the ATO disqualify the employer from the amnesty and remove the amnesty benefits. However:

- the disqualification will only apply to any unpaid quarters
- the ATO will advise the employer which quarters are unpaid – for these quarters the ATO will re-apply the administration component of \$20 per employee included in the disqualified quarter
- the ATO will also take the employer's circumstances into account when deciding whether a Part 7 penalty should be applied – a review of your circumstances may result in the Part 7 penalty being reduced to nil.

The ATO acknowledge the difficult times the community has been experiencing recently with COVID-19 and the 2019/20 bushfires, however, the law does not allow them to vary the due date for lodgment of an amnesty application. Small or medium businesses that need further assistance managing tax and super obligations should contact the Emergency Support Infoline on 1800 806 218.

## FBT RATES AND THRESHOLDS FOR 2020/21

### 2020/21 FBT TAX RATES UNCHANGED

The FBT tax rate for 2019/20 is 47%. The gross up rates remain unchanged and are as follows:

- Type 1 gross up rate 2.0802
- Type 2 gross up rate 1.8868

The exemption caps and net value limits for 2019/20 for exempt and rebatable employers remain the same as those for 2018/19.

### INDEXATION FACTOR FOR VALUING NON-REMOTE HOUSING 2020/21

As an alternative to establishing the market rental value every year, employers may base the taxable value for the second and subsequent years on the first year's market rental value. This requires calculating an annual rental value for the first year and thereafter applying an inflation factor. The indexation factors from 1 April 2020 are:

STATE	FACTOR
New South Wales	1.000
Victoria	1.017
Queensland	1.002
South Australia	1.010
Western Australia	0.969
Tasmania	1.056
Northern Territory	0.948
Aust. Capital Territory	1.029

### LAFHA FOOD AND DRINK PROVISION 2020/21 WITHIN AUSTRALIA

Reasonable food component within Australia for 2020/21 – TD 2020/4

Family Unit	Per week
One adult	\$276
Two adults	\$414
Three adults	\$552
One adult and one child	\$345
Two adults and one child	\$483
Two adults and two children	\$552
Two adults and three children	\$621
Three adults and one child	\$621
Three adults and two children	\$690
Four adults	\$690

**FBT liability:** No FBT will be payable where a food allowance is paid up to these limits.

**Overseas rates:** The reasonable amounts for food and drink that may be payable to an employee located outside of Australia are available in determination TD 2020/4 - tables 2 to 4. These amounts differ depending on which country the employee is working in. Contact our office on 1800 803 337 if you require these rates.

### RATE PER KILOMETRE FOR PRIVATE USE OF MOTOR VEHICLES OTHER THAN A CAR 2020/21 – TD 2020/3

The rates to be applied on a cents per kilometre basis for calculating the taxable value of a fringe benefit arising from the private use of a motor vehicle other than a car for the FBT year commencing on 1 April 2020:

Engine capacity	Rates per km
0 to 2500cc	56 cents
Over 2500cc	67 cents
Motorcycles	17 cents

### BENCHMARK INTEREST RATE

The taxable value of a loan fringe benefit is the difference between a notional amount of interest, calculated on the daily balance of the loan during the year at a statutory interest rate, and any interest accruing on the loan. The so-called "benchmark" interest rate for 2021 is:

1/4/2020 to 31/3/2021                      4.80%

### OTHER FBT RATES AND THRESHOLDS

- Record -keeping exemption threshold – \$8,853
- Car parking per day rate – not available at time of print

### LODGING FBT RETURN

The final lodgement date is 21 May.

The dates are later for those lodging through a registered tax agent. Lodgement dates for Tax Agents are as follows:

- electronically, the due date is 25 June 2020
- by paper, the due date reverts back to the statutory lodgement date of 21 May 2020.

To ensure you are covered by your tax agent's lodgement program for the 2020 FBT return, the tax agent must be appointed as the tax agent for you by 21 May.

The total FBT amount owed for the year ending 31 March 2020 must be paid by 28 May 2020. If lodgement is on paper the due date is 21 May 2020.

## PROPOSED – ACCESS TO 12 MONTH'S LEAVE FOR STILLBIRTH

Parents dealing with a stillbirth or infant death will be guaranteed 12 months of unpaid parental leave, giving them the same entitlements as parents with healthy babies.

Currently, under the Fair Work Act, an employer can request an employee return to work after a stillbirth but must provide at least six weeks' notice. All full- and part-time employees are also entitled to two days paid leave if a member of their immediate family dies.

Under new laws, parents will be able to take 12 months of unpaid leave after a stillbirth or infant death should they need it.



## TERMINATION PAY AND SUPER THRESHOLDS AND RATES 2020/21

### CONCESSIONAL CONTRIBUTIONS CAP

There are limits up to which an employer can make employer contributions to a fund before the superannuation fund taxes the excess at a higher rate.

The limit for 2020/21 is \$25,000 and includes the total of all the taxpayer's superannuation guarantee contributions, salary sacrifice contributions and **deductible** personal contributions for the 2020/21 financial year. The cap remains unchanged from 2019/20.

### MAXIMUM CONTRIBUTION BASE

Employers are not required to make superannuation contributions on an employee's total earnings, once those earnings rise over a certain level, unless their industrial instrument states otherwise. The employer is only obligated to pay superannuation contributions on earnings up to the maximum contribution base figure.

The maximum contribution base for any individual employee, for Superannuation Guarantee purposes in the **2020/21** financial year is **\$57,090** per quarter.

### ETP LOW RATE LIMIT CAP, LIFE CAP AND DEATH CAP

Employees are entitled to a concessional tax rate for ETP's depending on their age and the size of the ETP. If the employee is at or above preservation age the tax rate is 17%, For employees below preservation age the tax rate is 32%. The 2020/21 low rate limit cap is **\$215,000**. The life benefit cap and death benefit caps have also increased to \$215,000

The whole of income cap remains at \$180,000.

### TAX-FREE PORTION FOR GENUINE REDUNDANCY (LUMP SUM D) 2020/21

Any payments made which are employer ETP's and meet the conditions for payments under a genuine redundancy are tax-free up to the limit for that year.

That limit, which is indexed annually, is a base amount of **\$10,989** plus **\$5,496** for each whole year of completed service (part years don't count) with that employer, for payments made during the **2020/21** financial year. Payments within these limits are totally exempt from income tax, and do not form part of an ETP.

### SUPER CO-CONTRIBUTION 2019/20

If a low income earner makes personal (after-tax) super contributions to their super fund, the government will match up to 50% of those contributions up to a limit of \$500.

To be eligible for the co-contribution in 2020/21, the employee must:

- have made or make personal contributions to their super (contributions made from net wages);
- earn an individual income of less than \$54,837 per annum from 1 July 2020 with the full co-contribution being available to those on an income of less than \$39,837 per annum;
- be employed full-time, part-time or on a casual basis (but not deriving 100% of their income from self-employment).

## FUEL TAX CREDIT RATES

### FROM 1 JULY 2019 TO 30 JUNE 2020

The fuel tax credit calculator includes the latest rates and is simple, quick and easy to use. You can use it to work out the fuel tax credit amount to report on your Business activity statement (BAS). <https://www.ato.gov.au/Business/Fuel-schemes/Fuel-tax-credits---business/Rates---business/From-1-July-2019/>

Fuel tax credit rates increased on 3 February 2020. New rates apply for fuel acquired from 3 February 2020 to 30 June 2020.

## PROPOSED – CAR EXPENSE PER KILOMETRE RATE INCREASING FROM 1 JULY 2020

From 1 July 2020 employers are not required to withhold tax from a car allowance paid at a rate of 72 cents per kilometre or less where the business kilometres travelled by an employee in the employee's own car do not exceed 5000 kilometres per annum. From 1 July 2020, where the rate paid is higher than 72 cents per kilometre, the employer is only required to withhold from the amount in excess of 72 cents per kilometre. Employers should review employee contracts.

## SET UP YOUR NEW ACCESS TO THE BUSINESS PORTAL

After 27 March 2020, employers will no longer be able to use AUSkey and Manage ABN Connections. There's a new way to access the ATO's our on-line services like the Business Portal. You will need:

- myGovID – a new, easy and secure way to prove who you are on-line.
- Relationship Authorisation Manager (RAM) – allows you to access government on-line services on behalf of your business.

You'll need to use myGovID & RAM if you:

- use the ATO Business Portal for example to lodge your activity statement or access the Small Business Superannuation Clearing House
- use Access Manager
- access government on-line services using AUSkey or Manage ABN Connections like the Australian Business Register (ABR)
- have employees or authorise others to access government on-line services on behalf of your business
- are a tax professional accessing On-line services for agents

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## ANNUALISED SALARY CLAUSES

Following a decision of the Full Bench, the Fair Work Commission has finalised arrangements for new annualised salary clauses to be inserted into a number of modern awards with effect from 1 March 2020. These changes introduce important new practices aimed at reducing non-compliance with awards.

### WHAT DO EMPLOYERS NEED TO DO?

Review employment contracts to ensure they comply with the new obligations to audit annual salaries, record hours of work and backpay any shortfall when annual salaries are audited against modern award entitlements.

### EFFECTED AWARDS

Employers with employees on salary who are covered by the modern awards listed in the industries/occupations may require amendments to employment contracts in preparation for annual salary changes to be introduced on 1 March 2020. Effected awards include:

- Banking, Finance and Insurance Award 2010
- Broadcasting and Recorded Entertainment Award 2010
- Clerks – Private Sector Award 2010
- Contract Call Centres Award 2010
- Health Professionals Award 2010
- Hydrocarbons Industry (Upstream) Award 2010
- Horticulture Award
- Hospitality Industry (General) Award 2010
- Legal Services Award 2010
- Local Government Industry Award 2010
- Marine Towing Award 2010
- Manufacturing & Assoc. Industries & Occ. Award 2010
- Mining Industry Award 2010
- Oil Refining and Manufacturing Award 2010
- Pastoral Award 2010
- Pharmacy Industry Award 2010
- Rail Industry Award 2010
- Restaurant Industry Award 2010
- Salt Industry Award 2010
- Telecommunications Services Award 2010
- Water Industry Award 2010
- Wool Storage, Sampling and Testing Award 2010

### WHAT ARE THE CHANGES?

The new clauses impose a number of detailed mandatory requirements on employers who pay employees an annual wage in satisfaction of specific modern award entitlements. For example, a requirement to advise employees in writing of:

- which provisions of the modern award that apply to them will be satisfied by payment of an annualised wage

- the mathematical method by which the annualised wage has been calculated, including specification of each separate component of the annualised wage and any overtime or penalty assumptions used in the calculation
- the outer limit number of ordinary hours which would attract the payment of a penalty rate under the award and the outer limit number of overtime hours which the employee may be required to work in a pay period or roster cycle without being entitled to an amount in excess of the annualised wage under the award
- any excess hours of work that will not be covered by the annualised wage for which separate payments under the award would apply.

Employers are required by the new clauses to ensure employees are at all times adequately compensated by the annual wage, including:

- Annual calculations of what the employee would have been paid under the award compared with the annualised wage actually paid, and perform reconciliations and back-pay any shortfalls within 14 days
- Keep a record of the starting and finishing times of work, and any unpaid breaks taken, of each employee subject to an annualised wage arrangement in order to perform the calculations and reconciliations
- Records must be signed by employees or acknowledged as correct in writing (including by electronic means) each pay period or roster cycle

### WHY THE CHANGES?

The new award obligations introduced by the Fair Work Commission are aimed at ensuring that award covered employees are properly compensated for the work they perform by ensuring annual remuneration received is adequately calculated and monitored to capture the full range of monetary benefits applicable under modern awards for the particular work performed.

### HOW TO COMPLY?

The first step to ensure compliance is to understand which modern awards apply to your workplace, including the new changes, and whether employees are currently paid correctly for the work they perform. Secondly, amendments to employment contracts are highly likely to be the most practical and efficient way to comply with the obligations imposed with effect from 1 March 2020.

### FAILURE TO COMPLY

From 1 March 2020, a failure to comply will amount to a breach of a modern award and will attract civil penalties under the Fair Work Act 2009 (Cth).

## STP EXPANSION MAY REDUCE CHILD SUPPORT REPORTING

Employers will voluntarily be able to report deductions related to child support from employee salary or wages through Single Touch Payroll if new draft legislation is passed.

The Single Touch Payroll legislative changes, if passed, will see employers able to report on their withholding of child support deductions from salary and wages.

It will also see them able to report on any child support garnishee amounts that are being paid to the Child Support Registrar through the withholding of salary or wages.

A further amendment would see the Child Support (Registration and Collection) Act 1998 changed to ensure that if employers do choose to report under Single Touch Payroll arrangements to the Commissioner of Taxation, they do not also have to report the amounts to the Child Support Registrar.

Employers who do not report any withheld amounts for such purposes within the Single Touch Payroll system must still report to the Child Support Registrar.

# TEMPORARY CHANGES CLERKS PRIVATE SECTOR AWARD

The key amendments to the award, which will be included in a schedule attached to the award, are outlined below:

## DATE AND OPERATION

Effective immediately these amendments will operate until 30 June 2020, unless extended.

## OPERATIONAL FLEXIBILITY

This amendment allows employees to be directed to perform all duties that are within the employees skill and competency (even if they are lesser duties) regardless of their classification provided the duties are safe and the employee is qualified to perform them, without the reduction of pay.

## WORKING FROM HOME

These amendments have been broken down to address part-time and casual employees under working from home arrangements:

**Spread of hours:** Where an employee requests to work from home, and the employer agrees, the spread of hours has been expanded to 6am-11pm Monday-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 become entitled to overtime rates worked in excess of 38 hours per week, or an average of 38 hours per week on a roster system.

**Casual employees:** May be engaged for a newly reduced minimum of two hours work when working from home.

## AGREED TEMPORARY REDUCTION IN HOURS BY A MAJORITY IN THE WORKPLACE

This allows full-time and part-time employees in a workplace, or part of a workplace, to agree to temporarily reduce ordinary hours for a specified period for the whole workplace or relevant part of it, by a 75% majority vote by employees. The employees must vote on whether to reduce hours or not, and if there is a union involved in the workplace, they must be informed. Additionally, the FWC must be notified of the vote pursuant to the process outlined in the schedule to the award.

The reduction in working hours is limited to a 25% reduction or less.

For example: An employee who is employed for five days per week can have their days of work reduced to four days per week pursuant to this clause. For a part-time employee working four days per week, they could have their days reduced to three days per week.

To illustrate the 'part of a workplace', if you have separate arms of your business, for example, office staff vs call centre staff, the employees can vote to reduce hours in office section but not the call centre section.

Where hours are reduced, the employee's ordinary hourly rate will stay the same. The employee will still continue to accrue entitlements at their ordinary hours of work prior to the agreement to reduce hours.

The amendment does not prevent an employer and an individual employee agreeing to reduce hours or to have an employee move temporarily from full-time to part-time hours of work, with the corresponding reduction in the weekly wage.

## ANNUAL LEAVE

Employers and employees may agree to the taking of up to twice as much annual leave at a proportionately reduced rate, including during any close-down.

An employer may direct an employee to take any accrued annual leave, by giving at least one week's notice, or any shorter period as agreed. A direction to take annual leave shall not result in an employee having less than two weeks of accrued annual leave remaining.

## CLOSE-DOWN

Where an employee is required to take annual leave during a close-down of operations, or part of its operations, the employer must give at least one week's notice.

During a close-down, an employee can take all of their annual leave and then will be given leave without pay for the remainder of the shutdown.

Any close-down of operations must not extend beyond 30 June 2020. However, these amendments to the award do not impact upon the operation of section 524 of the Fair Work Act 2009 where an employee stands down employees for reasons beyond the control of the employer where there is a stoppage of work.

These are temporary amendments to the Clerks - Private Sector Award 2010 in response to the crisis facing Australian business in the wake of the COVID-19 pandemic.

**WE ARE HERE FOR YOU**

**We'll remain operational throughout this period of uncertainty and change to ensure that our Helpdesk is able to answer the many questions that employers and their payroll and human resources staff have at this time.**

**OUR LIVE WEBINARS (SEE DATES OVER PAGE) ARE TAKING PLACE REGULARLY FOR ALL STATES AND WILL CONTINUE UNTIL IT IS SAFE FOR YOU AND OUR STAFF TO ENGAGE IN IN-VENUE TRAINING**

## CHANGES TO HOSPITALITY AWARD

On 24 March 2020, the Fair Work Commission made a determination varying the Hospitality Award. The determination inserted a temporary new Schedule, which applies from an employee's first full pay period on or after 24 March until 30 June 2020. Schedule L adds award flexibility during the outbreak of Coronavirus for:

- employees' classifications and duties
- full-time and part-time employees' hours of work
- directions to take annual leave.

The Fair Work Commission may extend when Schedule L operates until, if necessary.

A summary of the changes are as follows:

### CHANGE IN DUTIES

Employers can instruct employees to do any tasks that they have the skill and competency for, even if those tasks aren't in their usual classification or normal work. The task must be safe and the employee must have all the appropriate licenses and qualifications to perform the tasks. Note where the employee is required to work above their usual classification they will be entitled to be paid the higher rate. Where the new duties are below their usual classification then they will be paid at their usual pay rate.

### CHANGE OF HOURS FOR FULL-TIME AND PART-TIME EMPLOYEES

Employers can reduce their permanent employees' hours of work to an average of:

- between 22.8 and 38 ordinary hours each week for full time employees
- between 60% and 100% of the guaranteed hours per week or over the roster cycle for part-time employees.

If an employer wants to reduce an employee's hours, they need to discuss the changes with them, making sure they:

- follow the award's consultation rules about changes to rosters or hours of work
- provide as much notice as practicable.

### WHERE THE EMPLOYEE IS A UNION MEMBER THE EMPLOYER MUST ADVISE THE UNION OF THE CHANGE.

Employees working reduced hours under these new temporary provisions will continue to accumulate and take their paid leave based on their ordinary hours before the employer reduced the hours.

### ANNUAL LEAVE

Employers can direct an employee to take annual leave under Schedule L. Employers need to:

- give their employees at least 24 hours' notice
- consider their employee's personal situation.

Employees can elect to take the annual leave at half pay if the employer agrees.

Access the following link for more information

<https://www.fairwork.gov.au/about-us/news-and-media-releases/website-news/hospitality-award-flexibility-during-the-outbreak-of-coronavirus>

## PROPOSED SUPER CHOICE FOR EA WORKERS

A Bill to allow employees under workplace determinations or enterprise agreements to choose their superannuation fund has been introduced in the parliament.

The Treasury Laws Amendment (Your Superannuation, Your Choice) Bill 2019 ensures employees under new workplace determinations or enterprise agreements have an opportunity to choose the superannuation fund for their compulsory employer contributions. If passed it will apply to new workplace determinations and enterprise agreements made on or after 1 July 2020.

## UPCOMING WEBINARS

You can now participate in our LIVE WEBINAR in place of attending at a venue.

**The content of the live webinar is exactly the same as the at venue training including the opportunity to ask questions. You will receive a hard copy and electronic copy of the manual, 12 months helpdesk and the annual newsletter subscription.**

### 2020 TAXATION & PAYROLL TRAINING LIVE WEBINARS

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23 April 2020	VICTORIA
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13 May 2020	NEW SOUTH WALES
18 May 2020	WESTERN AUSTRALIA
22 May 2020	WESTERN AUSTRALIA
25 May 2020	NEW SOUTH WALES
27 May 2020	QUEENSLAND
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02 June 2020	NEW SOUTH WALES
04 June 2020	NEW SOUTH WALES
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18 June 2020	TASMANIA
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24 June 2020	QUEENSLAND
25 June 2020	VICTORIA
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