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Australian Employment Law – Keeping up to Date with Change

Australian workplace laws have undergone major reform in recent years with key changes marking a broader push towards improving fairness, job security and workplace protections while modernising how employers manage payroll and flexible working options.
This fact sheet outlines some of the major recent changes affecting Australian employees and employers and explains how these rights are protected in the workplace.

1. Casual Employee – A New Definition

Under the *Fair Work Act* 2009 (Cth) eligible casual employees may seek permanent employment through the "**employee choice pathway**". This system is a significant shift from the previous "**casual conversion**" because the responsibility now sits more clearly with the employee to initiate change if they believe that they are now no longer truly casual.

These reforms commenced on 26 August 2024 and strengthen the way the law recognises employees whose working arrangements have, in substance, become ongoing rather than genuinely casual, by providing an enforceable pathway for eligible employees to seek permanent employment.

A worker is a casual only if there is no firm advance commitment to continuing and indefinite work, and the worker receives a casual loading or specific casual rate. This is assessed by looking at the "**real substance, practical reality and true nature**" of the relationship. Relevant considerations may include:

- Whether the employee has a regular pattern of work;
- Whether there is a firm advance commitment to continuing and indefinite work;

- Whether the employer can choose to offer work;
- Whether the employee can choose to accept or reject work;
- Whether there are other employees performing similar work.

Eligible employees can request conversion to permanent employment by submitting a notice under the employee choice pathway system. Generally, eligible employees may use the employee choice pathway after 6 months of employment (or 12 months for employees of a small business employer), provided they satisfy the statutory eligibility requirements. Transitional rules may also apply.
Employers must comply with the consultation and response requirements set out in the Fair Work Act, including responding to the employee in writing within 21 days.

If an **employer accepts** the request they must clearly set out:

- Whether the employee will become full-time or part-time;
- The hours of work; and
- The date the change will take effect (by default change must occur from the first full pay period after the response unless agreed to by both parties)

An employer can only refuse a request if:

- The employee still meets the definition of a casual employee; or
- There are "**fair and reasonable operational grounds**" (as defined in the Act) for doing so. These must relate to the employer's business and cannot simply be a preference to keep someone casual.

Employees are limited to repeatedly submitting notices and cannot make a new request within 6 months of a previous request if it was refused, the dispute was resolved or a transitional casual conversion event occurred.
Employers are now required to issue employees the **Casual Employment Information Statement** ("**CEIS**") at the times required by the Fair Work Act.
The CEIS provides workers with:

- The new definition of casual employee
- Their right to request conversion under employee choice pathway system
- How the request and conversion process works
- Where to seek assistance

2. Payday Superannuation

From 1 July 2026 significant changes to the timing of Superannuation Guarantee ("SG") contributions will come into effect under amendments to the *Superannuation Guarantee (Administration) Act* 1992 (Cth) ("SGAA").

Currently, under section 23 of the SGAA, employers are required to make SG contributions for eligible employees on at least a quarterly basis. From 1 July 2026, employers will be required to comply with a "**payday super**" model meaning superannuation contributions must be paid at the same time as an employee's wages. The introduction of the payday super helps to **strengthen alignment between wage payments and superannuation entitlements and helps to reduce risk of underpayment**.

Under the updated framework, employers will generally need to ensure contributions reach the employee's super fund within 7 calendar days of paying ordinary time earnings ("OTE"). If the employer misses the **new 7-day deadline** for superannuation payments, the superannuation guarantee charge (the penalty for failing to pay superannuation contributions correctly) will become payable immediately from the next calendar day, with daily compounding interest on the shortfall.

A limited concession applies to new employees which provides employers up to 20 business days from the date of the first pay period to make the initial superannuation contribution. This allows for onboarding processes such as obtaining superannuation fund details to be completed and is consistent with the employers' obligations under the *Superannuation Choice of Fund Rules*.

3. Employer-Funded Paid Parental Leave Protections

The *Fair Work Amendment (Baby Priya's) Act 2025* (Cth) introduced protections preserving employees' access to employer-funded paid parental leave in circumstances involving stillbirth or infant death.

Commenced on 7 November 2025, this amendment introduced section 333X into the *Fair Work Act* 2009 providing workplace protections to employer-funded paid parental leave in circumstances involving stillbirth or the death of a child after birth.

Under these changes, an employer must not refuse to allow an employee to take leave and cannot cancel any part of approved parental leave in cases involving a stillbirth or infant death. It preserves the employee's right to request the cancellation of their own employer-funded paid parental leave.

This does not apply in certain situations, with legal exceptions including:

- Where there is an employment contract, enterprise agreement or policy whose existing terms and conditions already expressly allow for refusal or cancellation because of stillbirth or infant death

- The employee's terms of employment expressly state that they are not entitled to employer-funded parental leave in the event of a stillbirth or the death of their child
- The employee is entitled to other leave that expressly addresses stillbirth or the death of a child
- For employers who do not offer employer-funded parental leave, these amendments do not create an obligation to introduce such leave

4. Understanding The Right To Disconnect

The right to disconnect is a workplace entitlement under the *Fair Work Act* 2009 (Cth) that allows employees to **refuse to monitor, read or respond to work-related contact outside their ordinary working hours** unless that refusal is unreasonable.

This right applies to contact initiated by employers or third parties, including clients or suppliers through communication platforms such as phone calls, emails, messaging platforms or social media.

This was introduced in two parts:

1. **26 August 2024** – applied to employees of non-small business employers (15+ employees)
2. **26 August 2025** – applied to employees of small business employers (<15 employees, including associated entities)

The change did not prohibit out-of-hours contact, instead it focused on whether an employee's refusal to engage with that contact is unreasonable. Section 333M of the *Fair Work Act* 2009 (Cth) outlines factors determining reasonableness. This includes:

- Purpose and urgency of the contact
- Method and disruption caused (ie. repeated calls vs. non-urgent email)
- Compensation arrangements including on-call allowances and overtime
- The nature of the employee's role and level of responsibility
- The employee's personal circumstances including family or carer responsibilities

It will be unreasonable for an employee to refuse to read, monitor or respond if the contact, or attempted contact is required by law.

The right to disconnect attempts to strike a balance between protecting employees' personal time while allowing business to function effectively, particularly where urgent or critical work arises.

Employers should clearly communicate expectations about out-of-hours contact, availability and compensation arrangements. Poorly defined expectations about out-of-hours contact may lead to disputes about an employee's right to disconnect. In some circumstances, an application may be made to the Fair Work Commission, which can deal with disputes and, where appropriate, make orders to prevent unreasonable out-of-hours contact. Please seek specific legal advice in relation to your circumstances, as various options may be available.

Further Information

This fact sheet contains general information only. It is not legal advice and should not be relied on as legal advice. You should obtain specific legal advice about your own circumstances before acting on the information contained in this publication.

This material is current as at 21 June 2026. Laws may have changed in the meantime. We cannot warrant that the information contained herein will remain accurate over time.