

## iGlobal Law 2021 Annual Alert : Australia

Legal Change	Effective Date	Action required
<p><b>JobKeeper Scheme</b> This government scheme provides a temporary wage subsidy that assists businesses and employees who have been significantly impacted by coronavirus. It originally provided a fortnightly \$1500 JobKeeper payment to eligible employers to subsidise the wages of eligible employees.</p> <p>It currently provides a Tier 1 rate of \$1200 and Tier 2 rate of \$750 per fortnight for eligible employees based on hours worked which will change to \$1000 for Tier 1 and \$650 for Tier 2 from 4 January until 28 March 2021.</p> <p>Employers eligible for the Scheme are authorised to make directions in certain circumstances to stand employees down, to reduce their hours of work and to perform alternative duties.</p>	<p>Extended scheme ends on March 28<sup>th</sup> 2021</p>	<p>Keep up to date with the rules and deadlines, and any further extensions. The ATO website provides <a href="#">guidance</a>.</p>
<p><b>Fair Work Amendment Bill</b> The federal government has recently introduced a Bill which proposes to make a number of changes to the industrial relations system including:</p> <ul style="list-style-type: none"> <li>• a new statutory definition of casual employee based on whether there is a firm advance commitment to continuing work;</li> <li>• requiring employers to offer regular casual employees conversion to full or part-time employment after 12 months, unless there are reasonable business grounds not to do so;</li> <li>• clarification that the loading an employee receives because of their engagement as a casual worker will be offset against liability for leave entitlements if the employee is later found to be a permanent employee, entitled to paid leave;</li> <li>• extending temporary flexibilities from the JobKeeper Scheme in relation to duties and locations of work for industries significantly impacted by the pandemic;</li> <li>• reducing the level of prescription currently imposed in relation to the approval of enterprise agreements and providing greater flexibility as to the methods by which employees may be provided with a fair and reasonable opportunity to consider whether to approve an enterprise agreement prior to the vote; and</li> <li>• enhancing the compliance and enforcement framework to more effectively deter employer non-compliance with workplace laws including introducing a new criminal offence for dishonest and systematic wage underpayments.</li> </ul>	<p>Currently unknown, and it is also unknown if the Bill will pass without substantial amendments. It is expected the Bill will pass in some form in 2021.</p>	<p>Employers should familiarise themselves with the key changes the Bill proposes, and monitor the progression of the Bill to determine which changes will potentially be implemented in 2021.</p>

<p>The Bill also proposes greater flexibility for part-time employees to work additional hours in specified industries, extension of the nominal life of greenfields agreements for major construction projects, temporary capacity for industries significantly impacted by the pandemic to obtain approval of enterprise agreements that fail the “better off overall” test, measures to support more efficient Fair Work Commission processes as well as various other changes.</p>		
<p><b>Wage Theft Act 2020 (Victoria)</b> The Wage Theft Act makes it a criminal offence in the state of Victoria to dishonestly withhold entitlements from employees or deal with employee records to dishonestly obtain a financial advantage. It establishes a statutory body (Wage Inspectorate Victoria) to investigate and prosecute the new wage theft offences.</p> <p>This legislation applies only in the state of Victoria but it is possible other states will follow Victoria and introduce laws regarding underpayments. It is also unclear how these laws will interact with the proposed new provisions about systematic underpayments in the Federal Government’s Fair Work Amendment Bill if they become law. This will be something to monitor for employers in Victoria.</p>	<p>July 1<sup>st</sup> 2021 unless commenced earlier by proclamation</p>	<p>Employers in Victoria should ensure employees are paid correctly and correct records are kept.</p>