



# Changes to the right to superannuation contributions in the National Employment Standards

The Protecting Worker Entitlements Act 2023 amends the Fair Work Act 2009 to insert a right to superannuation contributions in the National Employment Standards (NES).

 [smallbusinesspeak.org.au](https://smallbusinesspeak.org.au)

 [peak@cosboa.org.au](mailto:peak@cosboa.org.au)

# Changes to the right to superannuation in the NES

## The minimum employment conditions

The **National Employment Standards (NES)** are a set of minimum employment conditions under the Fair Work Act 2009 (Fair Work Act) which **apply to all employees** in Australia. The NES includes minimum employee entitlements such as paid annual leave and notice of termination.

## The inclusion of superannuation contributions

Since **1 January 2024**, the NES includes the right to superannuation contributions. The NES now specifically states that **employers need to make appropriate superannuation contributions** to avoid paying the 'super guarantee charge' under superannuation legislation.

**From 1 July 2024, the minimum superannuation amount will increase from 11.0% to 11.5%.**

The final increase to 12% will start on 1 July 2025.

Under superannuation legislation, **if an employer does not correctly pay superannuation contributions**, the **Australian Taxation Office can investigate and take legal action** against the employer. This does not mean that claims can be made about the same matter under both superannuation legislation and the Fair Work Act.

Instead, the new laws in the Fair Work Act create a new way that superannuation claims can be brought.

This can mean, for example, that if:

1. an employee **has been underpaid under a modern award**; and
2. their employer **has not made superannuation contributions** correctly,
3. the employee **can bring a claim against their employer** under the Fair Work Act and
4. the **Fair Work Ombudsman could bring legal action** for both underpayments

# Changes to the right to superannuation in the NES

## How can small businesses best prepare for these changes?

To effectively prepare for the Australian minimum wage increase, employers can take several steps to ensure compliance and maintain operational efficiency. Here are key strategies:



Review payroll processes

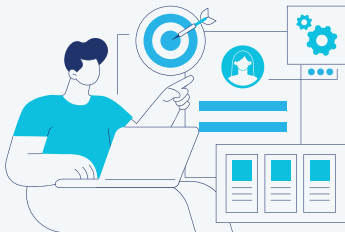
Some of these changes come into effect on

**1 July 2024**

such as the **minimum superannuation amount** which will **increase** from **11% to 11.5%**.

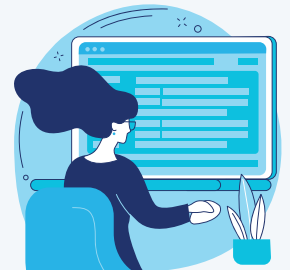


Adjust the Superannuation Guarantee rate

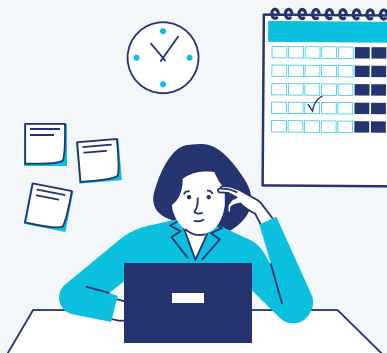


Lodge Super Guarantee Charge (SGC) statements

Additional details on what's involved can be found in this summary guide.



Stay informed



## Not sure where to start?

If you're struggling to navigate these changes, you don't have to tackle them alone, find more information at Small Business Peak, or visit [fairwork.gov.au](http://fairwork.gov.au)

# Changes to the right to superannuation in the NES

## Why do we need this change?

The philosophy behind the changes to the superannuation guarantee levy for business owners in Australia is based on several key pillars.

In essence, these **changes** are about **fairness, planning for the future, and fulfilling legal responsibilities**, all while **supporting employees'** financial security.

- The goal is to **treat all employees fairly** by making sure they receive the superannuation contributions they are entitled to, regardless of their job type or income level.
- The changes aim to ensure that **employees have enough money saved for retirement**, which is important for their financial security in the future.
- Following these changes **helps small business owners stay within the law and avoid penalties** while also doing the right thing for their employees and their future financial wellbeing.
- By gradually increasing contributions and improving compliance, the changes are meant to **create a more stable and reliable superannuation system** for the long term.



## Fast facts

### Increased contribution rate

The minimum SG contribution rate has been gradually increasing, from 9.5% in 2014, to 11% in 2023 and on **1 July 2024 the Super Guarantee contribution will increase to 11.5%**.


### Compliance and reporting updates

It is important to understand superannuation obligations. **The Australian Taxation Office (ATO) has useful guidance material** available to assist employers to understand their obligations.

# Changes to the right to superannuation in the NES

## Timeline for Super Guarantee payments

Date range	Payment due
1 July – 30 September (Q1)	28 October
1 October – 31 December (Q2)	28 January
1 January – 31 March (Q3)	28 April
1 April – 30 June (Q4)	28 July



Remember that **timely and accurate super contributions are crucial** to meet your obligations as an employer.

## Key points

1

The minimum Super Guarantee (SG) is calculated as a percentage of each eligible employee's ordinary time earnings (earnings during regular working hours) to a complying super fund or retirement savings account.

2

The Super Guarantee Charge is triggered if an employer doesn't pay an employee's SG amount in full, on time, and to the right fund.

3

The Super Guarantee Charge is more than the super amount that would have otherwise been paid to the employee's fund and it's not tax deductible.

### What happens if you don't apply the latest SG rate?

If you don't pay the full amount of SG contributions to your employees' nominated funds on time, you'll be liable for the Super Guarantee Charge (SGC).

The SGC applies when employers fail to pay the minimum amount of SG for their eligible employees to the correct fund by the due date.

For more information about the SGC visit the ATO [here](#).

If you have any doubts or need further guidance, consult with a professional accountant or seek advice from the ATO to ensure compliance with the new regulations.

# Changes to the right to superannuation in the NES

## Small businesses next steps explained



### Adjust the Superannuation Guarantee rate

- **Update your payroll system** to reflect the new Superannuation Guarantee rate of 11.5% starting from 1 July 2024.
- **Ensure all super contributions** for eligible employees **are calculated** based on this revised rate.



### Review payroll processes

- **Double-check your payroll processes** to ensure that super contributions are accurately calculated and paid on time.
- **Verify that the correct amounts are being deducted** from employees' salaries and promptly remitted to their nominated super funds.



### Stay informed

- **Prepare for upcoming changes to Superannuation Guarantee rate increases** (11.5% on 1 July 2024 and 12% on 1 July 2025) and update your payroll system accordingly.
- **Regularly monitor official announcements and guidelines** to stay informed about any further changes.



### Overdue Super Guarantee payments

- If you **miss or delay super payments** for any quarter, **promptly lodge an Super Guarantee Charge (SGC) statement** and **pay the SGC to the ATO** by the due date for that quarter which is one calendar month after the super guarantee due date to disclose any discrepancies and avoid penalties.

To learn more visit the ATO website [here](#).

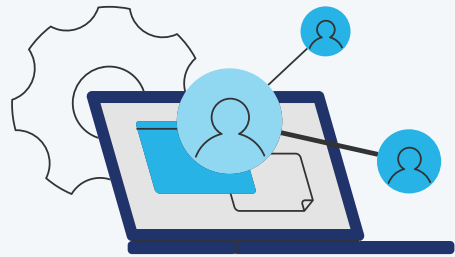
# Changes to the right to superannuation in the NES

## Small businesses next steps



### Company policies

**Review and update** company policy documents to ensure they are aligned with the revised Super Guarantee rates



### Payroll

Update your payroll system and **confirm Super Guarantee calculations** are correct



### Employees

**Communicate** these changes to your **employees**



### Employee contracts

**Update employment contracts** related to employee superannuation contributions, eligibility criteria, and payroll processes



## Not sure where to start?

If you're struggling to navigate these changes, you don't have to tackle them alone, our team is here to help.

# Changes to the right to superannuation in the NES

## Key dates

### From 1 July 2022

- The Super Guarantee rate increased from 10% to 10.5%.
- The \$450 per month eligibility threshold was removed.
- Employees no longer need to earn \$450 per month to be eligible for super.
- Employees who are under 18 still need to work more than 30 hours in a week to be eligible.

### From 1 July 2023

- The Super Guarantee rate increased from 10.5% to 11%.

### From 1 July 2024

- The minimum superannuation amount will increase from 11% to 11.5%.

### From 1 July 2025

- Super Guarantee rate will increase from 11.5% to 12%.



## Important

If you have any doubts or need further guidance, **consult with a professional accountant or seek advice from the ATO** to ensure compliance with the new regulations.





# SMALL BUSINESS PEAK

A large white arrow graphic pointing upwards and to the right, with the text 'SMALL BUSINESS PEAK' integrated into its path.

## Legal Disclaimer

The information contained in this, and all other guidance material published by The Council of Small Business Organisations Australia (COSBOA) is not intended to constitute, and should not be treated or relied upon as, legal advice or a substitute for legal advice.

Instead, all information, content, and materials available from COSBOA are published for general informational purposes only.

Readers of this material should contact a suitably qualified legal practitioner to obtain appropriate legal advice with respect to any particular legal matter. No person should act or refrain from acting on the basis of information published by COSBOA without first seeking appropriate legal advice from a suitably qualified legal practitioner.

If any reader requires legal advice or assistance in relation to a workplace or employment law matter, contact a suitably qualified legal practitioner.

Please note this publication has been funded by the Australian Government Department of Employment and Workplace Relations through the Productivity, Education and Training Fund grant program.

# Changes to the right to superannuation in the NES

## Why do we need this change?

The philosophy behind the changes to the superannuation guarantee levy for business owners in Australia is based on several key pillars.

In essence, these changes are about fairness, planning for the future, and fulfilling legal responsibilities, all while supporting employees' financial security.



The changes aim to **ensure that employees have enough money saved for retirement**, which is important for their **financial security** in the future.



Following these changes helps **small business** owners **stay within the law and avoid penalties** while also doing right by their employees and their future financial wellbeing.



The goal is to **treat all employees fairly** by making sure they receive the superannuation contributions they are entitled to, **regardless of their job type or income level**.



By gradually increasing contributions and **improving compliance**, the changes are meant to create a **more stable and reliable superannuation system** for the long term.



# SMALL BUSINESS PEAK

A large white arrow graphic pointing upwards and to the right, with the text 'SMALL BUSINESS PEAK' written in white, bold, sans-serif capital letters across its shaft.

## Legal Disclaimer

The information contained in this, and all other guidance material published by The Council of Small Business Organisations Australia (COSBOA) is not intended to constitute, and should not be treated or relied upon as, legal advice or a substitute for legal advice.

Instead, all information, content, and materials available from COSBOA are published for general informational purposes only.

Readers of this material should contact a suitably qualified legal practitioner to obtain appropriate legal advice with respect to any particular legal matter. No person should act or refrain from acting on the basis of information published by COSBOA without first seeking appropriate legal advice from a suitably qualified legal practitioner.

If any reader requires legal advice or assistance in relation to a workplace or employment law matter, contact a suitably qualified legal practitioner.

Please note this publication has been funded by the Australian Government Department of Employment and Workplace Relations through the Productivity, Education and Training Fund grant program.