



ASBEFO Inquiry into Payment Times Early Finding, Highlights, Pitfalls of Late Payment

An inquiry investigating payment times and practices in Australia is in full swing with preliminary findings confirming that big businesses and some governments are taking longer than ever to pay small businesses.

Early results from the Inquiry – which is being conducted by the Australian Small Business and Family Enterprise Ombudsman (ASBEFO) in partnership with state-based Small Business Commissioners (SBCs), the Council of Small Business Australia (COSBOA), the Australian Institute of Credit Management (AICM) and the Institute of Public Accountants (IPA) – has found almost 50 per cent of small businesses experience late payments on at least half of the bills owed to them.

The Inquiry has also found the practice of late payments is getting worse, with around 60 per cent of small businesses reporting an increase in the trend over the past 12 months.

Almost 70 per cent report that the practice has reduced business profitability, with many business owners acknowledging it has a serious impact on their mental health given the added stress and anxiety late payments – and the associated cash-flow problems – can trigger.

Based on the Inquiry survey data, it's becoming quite clear that big businesses – particularly large multi-nationals – are exploiting the power imbalance that exists in their relationship with small business people who simply aren't in a position to argue for better payment terms – or to demand immediate payment – for fear of destroying their relationship with the larger company.

The Inquiry has also found the practice is not limited to one sector, with the impact of extended and late payments rippling through the entire economy.

Small businesses have until the end of February to have their say. Those who would like to contribute to the Inquiry can do so by completing a survey which can be found at: www.asbfeo.gov.au.

An Inquiry Issues Paper is also available on the website. Those wishing to provide feedback on the Issues Paper can do so by emailing: inquiries@asbfeo.gov.au or by contacting the SBC in their state.

ATO Lodgement Dates

These dates are from the ATO website and do not take into account possible extensions.

You remain responsible for ensuring that the necessary information is with us in time.

BAS/IAS Monthly Lodgement – February
Activity Statement: 21st March, 2017 final date for lodgement and payment.

BAS/IAS Monthly Lodgement – March
Activity Statement: 21st April, 2017 final date for lodgement and payment.

BAS/IAS Monthly Lodgement – April
Activity Statement: 21st May, 2017 final date for lodgement and payment.

2nd Quarter of FY 2017: BAS Lodgement
– October to December 2016 (including PAYGI) 28th February, 2017 final date for lodgement & payment

3rd Quarter of FY 2017: BAS Lodgement
– January to March 2017 (including PAYGI) 28th April, 2017 final date for lodgement & payment

When a due date falls on a Saturday, Sunday or Public Holiday, you can lodge or pay on the next business day.

A public holiday is a day that is a public holiday for the whole of any state or territory in Australia

Due date for super guarantee contributions, for **2nd Quarter of FY 2017**, October to December 2016 - contributions to be made to the fund by 28th January, 2017

Due date for super guarantee contributions, for **3rd Quarter of FY 2017**, January to March 2017 - contributions to be made to the fund by 28th April, 2017
The super guarantee charge is not a tax deduction if not paid by these dates.
Refer to the ATO for details regarding any SGC charges applicable if not paid by due date.



Modern Award Facts for Employers

Modern awards have been a feature of the Australian workplace relations system since their implementation in January 2010. Despite this, we continue to meet many employers who still say they don't understand them or don't even know they exist. This lack of awareness can have very serious consequences. Here are 5 key facts about modern awards that business owners need to know.

Fact 1: Modern Awards Apply by Law, Not by Choice

Australia's 122 modern awards contain mandatory terms and conditions of employment that must be provided to any employee who is 'covered' by a modern award. The modern award entitlements apply in addition to the ten basic entitlements set out in the National Employment Standards (NES). If an employee is covered by a modern award, you can't 'choose' not to comply with award – the award applies as a matter of both law and fact and irrespective of whether the employer or employee want the award to apply.

Fact 2: Modern Awards are Legally Enforceable

If a modern award applies to an employee, his or her employer must ensure that all award entitlements are provided at all times. For example, many modern awards may impose an entitlement to annual leave loading or other additional allowances. Similarly, most modern awards contain limits on the 'daily span' of working hours and detail when overtime rates must be paid and how these are to be calculated. Employers are legally responsible for providing these entitlements and penalties are steep.

Fact 3: Paying 'Over the Award' Doesn't fix Everything

Many employers mistakenly believe that if they pay an employee a basic rate of pay that is higher than the minimum rate in an applicable modern award they don't have to worry about award conditions or provisions. Unless the contract of employment makes it clear which modern award entitlements have been incorporated into the 'over award' rate of pay then it is more than likely the higher rate will simply be treated as the 'base rate' upon which all of the loadings, penalties and allowances in the award must then be calculated. This means the employee will benefit from a higher base rate as well as higher loadings, penalties, and allowances.

Fact 4: Only a Judge can tell you which Award Applies

The Fair Work Ombudsman (FWO) – the Commonwealth Agency responsible for investigating employers for breaches of award entitlements – has no ability to definitively tell anyone what award applies to a particular employee. They can only give you 'general advice', which is no more or less useful than expensive legal advice or the opinions offered by ER consultants. It's still a very good idea to get the Ombudsman to provide their 'general advice' in writing for future reference but nothing can protect employers from future claims that are caused by them applying an incorrect award.

Fact 5: Modern Award Rates Increases Annually

Finally, it's important to note that modern award rates are generally increased on 1 July each year. This means you need to check the rates currently being paid to ensure they are at least equal to the new minimum rates in the award. Remember too that it is essential that all award-covered employees are allocated to one of the award's classifications. If this is not done, it will be impossible to determine whether the correct rates of pay and other entitlements have been or are being provided.

Related References

- [Fair Work - Awards and Agreements](#)
- [Fair Work - National Employment Standards](#)
- [Fair Work - Modern Awards Fact Sheet](#)
- [Workforce Guardian](#)

Disclaimer: All or any advice contained in this newsletter is of a general nature only and may not apply to your individual business circumstances. For specific advice relating to your specific situation, please contact your accountant or contact me for further discussion.

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