

Byfields Newsletter

October / November 2020

Bungle Bungles

The AFL has announced the 2020 Grand Final will be played at the Gabba, meaning the league's showpiece event will take place outside of Victoria for the first time in 123 years. The match will be played on the night of Saturday October 24, with the league hopeful around 30,000 supporters will be able to attend this year's decider.

Should the health and safety of the Queensland community become compromised and affect the ability of having a crowd at the Grand Final, the Adelaide Oval will be the back-up venue.

That confirmed South Australia was the runner-up in the bid to host the game, despite Western Australia being seen as the second-best option for almost the entire campaign. Gillon McLachlan denied WA was a "distant third", saying the state's tough border restrictions made it challenging.

Whilst WA missed out on the big day, we're sure there will be plenty of WA footy fans glued to the screen come grand final day in what has been an unprecedented AFL season.

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JobKeeper 2.0 Legislation & the Fair Work Act

The Coronavirus Economic Response Package (Jobkeeper Payments) Amendment Bill 2020 received Royal Assent on 3 September 2020. Apart from extending the end date of the JobKeeper scheme from 27 September 2020 to 28 March 2021, the bill contains amendments to the Fair Work Act 2009 which will have a significant impact on Employer clients.

Decline in Turnover Certificate

Under the current rules, an employer who is eligible for the JobKeeper subsidy is allowed to make certain JobKeeper enabling directions under the Fair Work Act, such as directions to reduce an employee's hours, the type of duties to be performed and performing duties at a different location.

Employers who will be eligible for the extended JobKeeper scheme from 28 September 2020 will be able to continue providing JobKeeper enabling directions. However, employers who will not be eligible for the extended scheme, will only be allowed to continue with JobKeeper enabling directions if they can demonstrate a **10% decline in turnover**.

The 10% decline in turnover test requires that for a JobKeeper enabling direction made between:

- ◆ 28 September 2020 – 27 October 2020, the employer must have suffered a 10% decline in GST turnover for the June 2020 quarter compared to the June 2019 quarter;
- ◆ 28 October 2020 – 27 February 2021, the employer must have suffered a 10% decline in GST turnover for the September 2020 quarter compared to the September 2019 quarter; and
- ◆ 28 February 2021 – 28 March 2021, the employer must have suffered a 10% decline in GST turnover for the December 2020 quarter compared to the December 2019 quarter.

Importantly, employers will need to obtain a **10% decline in turnover certificate** from an eligible financial service provider, such as their tax agent or qualified accountant.

Accordingly, clients who do not expect to be eligible for JobKeeper payments after 27 September, but will need to continue JobKeeper enabling directions to their staff after 27 September 2020, should contact us to prepare the decline in turnover certificates.



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Superannuation Measures - An Update

With Parliamentary sittings resuming, a number of Superannuation related measures have been introduced to Parliament, some of which are being re-introduced for a second time.

SMSF Membership Limit increase from 4 to 6

The Treasury Laws Amendment (Self-Managed Superannuation Funds) Bill 2020 was reintroduced in the Senate on 2 September 2020 proposing to increase the maximum number of allowable members in SMSFs from 4 to 6.

The Government had previously sought to enact this measure as part of the 2018/19 Federal Budget, however these changes were dropped as there was not enough support in the Senate to pass the measures at that time.

The Bill proposes to amend s 17A(1)(a) of the SIS Act to require an SMSF to now have fewer than 7 members (instead of fewer than 5) to satisfy the definition of an SMSF.

The Bill further proposes that for an SMSF with 3-6 directors or trustees, the Bill will also amend s 35B of the SIS Act to require the accounts and statements of the SMSF to be signed by "at least half of" the directors or individual trustees to also satisfy the trustee limit in the State legislation. An SMSF with 1-2 directors or individual trustees must have its accounts and statements signed by all of the directors or trustees.

The Bill has been referred to the Senate Economics Legislation Committee for a report by 4 November 2020.

Superannuation Bring Forward Contributions age limit Increase

The Treasury Laws Amendment (More Flexible Superannuation) Bill 2020 was passed by the House of Reps on 31 August 2020 without amendment. The Bill seeks to extend the bring-forward age limit from members under age 65 to those under the age of 67 in the financial year of the non-concessional contributions.

Individuals under age 67 in the financial year in which they make a non-concessional contribution will be able bring forward up to 3 times (ie \$300,000) of their annual non-concessional cap of \$100,000, provided that they meet the other conditions.

This aligns the bring forward provisions to the increase in the age before members need to satisfy the work test requirements prior to making contributions to their Superannuation accounts.

The Bill moved to the Senate but had not been passed when Parliament rose on 3 September 2020. This means that the Senate will not consider the Bill again until at least the Budget sittings scheduled for 6-8 October.

COVID-19 early release of Super application date extended

The Treasury Laws Amendment (Release of Superannuation on Compassionate Grounds) Regulations (No 3) 2020, registered on 3 September 2020, gave effect to the Government's extension of the COVID-19 early release of superannuation up to \$10,000 until 31 December 2020.

The Government, as part of their Fiscal update in July 2020, announced that they would extend the application period to allow those dealing with the adverse effects of COVID-19 to apply to access a further \$10,000 from their Superannuation until 31 December 2020 (rather than to 24 September 2020).

The Bill to alter the due date for the application only extends the date and makes no changes to the original criteria in the Bill passed in April 2020.

The requirements are that a person must either:

- ◆ Be unemployed;
- ◆ Be eligible to receive a jobseeker payment, parenting payment, special benefit, farm household allowance or youth allowance (other than on the basis that the person is undertaking full-time study or is a new apprentice);
- ◆ On or after 1 January 2020, the person was made redundant, or their working hours were reduced by 20% or more (including to zero); or
- ◆ For a sole trader, on or after 1 January 2020, the person's business was suspended or suffered a reduction in turnover of 20% or more.

Importantly the release of the Superannuation entitlement must be "required to assist the person to deal with the adverse economic effects of the coronavirus".

If you have any queries about superannuation and the changes above, please contact Roger Thomson on 08 6274 6400.

New Industrial Manslaughter Laws



What is Industrial Manslaughter?

When a worker dies or is injured (and later dies) while carrying out work for the business and the business and senior officers are found to be negligent.

New laws are being introduced in Western Australian next year which mean farmers or business owners could go to jail for up to 20 years and the farm or business fined up to \$10 million.

The new WA legislation is modelled on the Queensland legislation where two company directors recently received 10 months imprisonment suspended sentence and the company was fined \$3 million for Industrial Manslaughter.

- ❖ Action was taken against the company and directors for their negligence and lack of safety systems in place.
- ❖ The company pleaded guilty to causing the death of a worker by failing to separate pedestrians from mobile plant and failing to supervise workers, including operators of mobile plant.

To minimize your risk, you need to have a comprehensive safety set-up. This should include:

- ✓ Risk Register
- ✓ Safety Policy
- ✓ Hazard Identification & Reporting Procedures
- ✓ Emergency Management Procedures
- ✓ Fitness for Work Procedure
- ✓ First Aid Procedure
- ✓ Workshop Safety Procedure
- ✓ Safe Work Procedures
- ✓ Online Employee Safety Inductions
- ✓ Annual Checklists
- ✓ Contractor Forms
- ✓ Incident Forms
- ✓ Mobile Machinery Pre-Start Checks
- ✓ Inspections
- ✓ Safety Meetings
- ✓ Safety Training

ProcessWorx offers complete Farm and Business Safety packages to ensure you are compliant with up-to-date Work Health and Safety Legislation. These include:

- ✓ Telephone Risk Review
- ✓ Risk Register & Risk Assessment
- ✓ Secure Intranet Portal
- ✓ 70+ Branded Safety documents
- ✓ Online Safety Induction
- ✓ Legislation links
- ✓ 120 mins annual Safety support
- ✓ Safety Alerts
- ✓ Automatic document updates

If you are interested and would like more information, please contact ProcessWorx, our specialist HR & safety consultant, on 08 9316 9896 (www.processworx.com.au).

What is an Enduring Power of Guardianship?

An Enduring Power of Guardianship (EPG) is a legal document that authorises a person of your choice, to make important personal, lifestyle and treatment decisions on your behalf should you ever become incapable of making such decisions yourself. This person is known as an enduring guardian.

An enduring guardian could be authorised to make decisions about things such as where you live, the support services you have access to and the treatment you receive.

An enduring guardian cannot be authorised to make property or financial decisions on your behalf.

To make an EPG you must:

- » be 18 years of age or older; and
- » have full legal capacity (this means you must be able to make a formal agreement and understand the implications of statements contained in that agreement).

The person you appoint as your enduring guardian must also be 18 years of age or older and have full legal capacity.

You can appoint more than one enduring guardian as joint enduring guardians, but they must act jointly which means they must reach agreement on any decisions they make on your behalf. If you plan to appoint more than one enduring guardian, it is important you consider their ability to work together on your behalf.

The scope of authority given to your enduring guardian is determined by you when you make your EPG.

You may authorise your enduring guardian to make the same range of decisions as a plenary guardian, who is appointed by the State Administrative Tribunal.

This would enable your enduring guardian to:

- » decide where you live, whether permanently or temporarily;
- » decide who you live with;
- » decide whether or not you work and, if so, any matters related to that work;
- » make treatment decisions on your behalf to any medical, surgical or dental treatment or other health care (including palliative care and life-sustaining measures such as assisted ventilation and cardio-pulmonary resuscitation);
- » decide what education and training you receive;
- » determine who you associate with;
- » commence, defend, conduct or settle any legal proceedings on your behalf, except proceedings that relate to your property or estate;
- » advocate for and make decisions about the support services you access;
- » seek and receive information on your behalf.

Alternatively, you may restrict the decision-making authority of your enduring guardian.

Governing Rules

The rules governing the execution and operation of an EPG are set out in Part 9A of the Guardianship and Administration Act 1990.

Under Western Australian law, an EPG is recognised as a private legal agreement, so it does not have to be registered. Both the appointor (the person making the EPG) and the enduring guardian should keep copies of the agreement in a safe place from which it can be accessed readily if required.

Both parties must have full legal capacity at the time of signing the EPG. If there is any doubt over the appointor's capacity, an assessment of capacity should be sought from at least one doctor qualified to make such assessments. The doctor should be advised of the appointor's intention to make an EPG and be requested to provide a written report of the assessment, stating clearly whether or not the appointor has capacity.



The signatures of both the appointor (the person making the EPG) and the appointee (the person being appointed enduring guardian) must be witnessed by two persons who are not party to the agreement, are at least 18 years of age and have full legal capacity. At least one of these two witnesses must be a person authorised to witness legal documents.

Benefits of an EPG

Making an EPG enables the appointor to:

- » choose the person or people who will make decisions on their behalf about personal, lifestyle and treatment matters in the event they lose the ability to make such decisions themselves;
- » safeguard their interests if they are no longer able to make reasoned decisions for themselves;
- » determine the scope of decision-making authority their enduring guardian will have; and
- » maintain decision-making authority over some aspects of their life while passing on authority for other more complex decisions. This would be of significant benefit to an appointor who had a condition that developed over an extended period of time.

For more information, visit the [Office of the Public Advocate](#).



6 Ways to Protect Your Business from Online Fraud

Although many business owners regularly assess the risks that could threaten their enterprises, they may not think online fraud is a threat.

It may especially get overlooked at smaller operations. However, cybercriminals look for vulnerable victims everywhere. Proactive behaviour is essential for keeping businesses protected from fraud.

Here are six ways businesses can remain strong against fraudulent behaviours and tricks.

1. Perform a Security Audit

It's challenging for businesses to know how to safeguard against online fraud if its representatives aren't aware of the respective problem areas. Undergoing a security audit enables the cybersecurity experts at a business to determine where the weak points exist. Patching those vulnerable points can make it less likely for cybercriminals to carry out online fraud, such as malware that demands a ransom paid to restore file access.

Paying a ransom to appease criminals may seem like a straightforward — albeit costly — remedy. However, it doesn't always get the desired results. A small survey of businesses that submitted ransoms after such attacks found that only 45% got the data back after paying.

No matter what a security audit reveals, it's crucial for businesses to heed advice about how to strategically make their networks stronger against fraud attempts.

2. Implement a Business-Wide Password Policy

An organisation-wide password policy can also go a long way in protecting businesses from online fraud.

In addition to setting strong passwords that are long enough and do not use words found in the dictionary, employees also need to realise it's not safe to share passwords with colleagues or use the same passwords across multiple sites.

If an enterprise uses sites and services that offer two-factor authentication, it's smart to enable that feature.

3. Understand the Signs of Online Payment Fraud

When business representatives take it upon themselves to start recognising signs of payment fraud, they'll likely discover some surprising characteristics.

For example, payment fraud does not always consist of large transactions and may come across as several smaller payments or repeat attempts made over time.

The employees that handle bank accounts need to check the associated records daily and report anything that seems suspicious. Setting rules for employees' job-related expenses and how they should record such purchases or get them approved should make it easier to spot strange transactions.

Additionally, businesses may want to invest in machine learning software that learns the characteristics of normal account activity and gives alerts when things are amiss.

4. Incorporate Online Fraud into Employee Education Topics

Fighting online fraud is a team effort, which means it should ideally take a top-down approach where the business leaders prioritise it, then encourage the employees to follow suit. Making that happen starts with training all employees to know what might constitute online fraud.

Some attempts capitalise on winnings and free things. A victim might get word of the chance to win a contest or get complimentary access to expensive software if they provide some information first.

If employees know some of the warning signs of online fraud, they should find that it's easier to avoid it and report unusual correspondences to the proper employees at their workplaces.

5. Realise That External Parties May Play a Role

Becoming more knowledgeable about how to protect a business from online fraud means being aware of types of fraud carried out by external parties related to a business, such as its customers and contractors.

Customers could attempt to engage in return fraud by trying to send back items that an e-commerce store carries but were not purchased at that outlet or returning items for invalid reasons.

Concerning contractors, fraud can result if businesses get billed for work that was never performed. That kind of online fraud might happen via freelancers who don't work on-site. Businesses must engage in careful checks instead of blindly paying invoices received.

6. Scrutinise All Online Requests — Especially Urgent Ones

Some businesses are so eager to please stakeholders, they rush to meet any need possible without checking for the possibility it's fraudulent. It's crucial for businesses to carefully evaluate any online requests that seem legitimate, especially if the sender conveys exceptional urgency.

Many cybercriminals try to get victims to fall for their tactics by emphasising dire consequences, such as account closures or fines that could happen if people don't act immediately. Fraudulent scenarios like these capitalise on fear. It's best to get the advice of a lawyer or cybersecurity experts before making any sudden decisions that could disrupt business operations.

Online Fraud Affects Businesses of All Types and Sizes

All businesses can ultimately be prone to online fraud attempts. Fortunately, awareness goes a long way in helping organisations pick up on potential characteristics of fraud and understand how best to fight back.



Key ATO Dates for October & November 2020

OCTOBER

Annual PAYG instalment notice (payment and, if using the rate method or varying, lodgement)	21 October
September monthly activity statements (payment and lodgement)	21 October
September quarter activity statements (payment and lodgement)	28 October
September quarter super guarantee contributions	28 October

NOVEMBER

September quarter activity statements lodged electronically (payment and lodgement)	11 November
October monthly activity statements (payment and lodgement)	21 November

For a full list of ATO due dates, go to www.ato.gov.au/Business/Reports-and-returns/Due-dates-for-lodging-and-paying/Due-dates-by-month/.