



# S.M.A. NEWSLETTER JULY 2021

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## COVID-19 Check-In-Qld App - now available at SMA

All clients and visitors to SMA can now check in with the Check-in-Qld app. Of course, we do still have the sign in book for anyone who is not wanting to use the app.

## Latest Updates : as at 14 July 2021:

**Key Financial Thresholds for Financial Year 2021/22 (K&L Gates) - see attached.**

## Compensation Cap increased to \$79,000 from 1 July 2021 – Fair Work Commission

The income and compensation caps for unfair dismissal claims increased along with filing fees for a range of applications.

The high-income threshold for unfair dismissal applications rises from \$153,600 to \$158,500, while the maximum compensation increases from \$76,800 to \$79,250 for post-July 1 dismissal claims.

The threshold under the Act's [s382\(b\)\(iii\)](#) excludes employees not covered by an award or agreement from making an unfair dismissal claim if they earn more than the amount prescribed in [Regulation 2.13](#) of the Fair Work Regulations 2009.

[Section 392\(5\)\(b\)](#) provides for maximum compensation for unfair dismissal of half the amount of the high income threshold.

**Meanwhile**, the 2.5% increase in the national minimum wage also took effect 1 July 2021, along with the same quantum for workers covered by awards in industries least-affected by the coronavirus crisis.

However, general retail award workers will have to wait till September 1 and those covered by more than 20 awards in aviation, tourism and fitness and some areas of retail trade will have their increases delayed until November 1.

## Can Personal Leave be used for Medical appointments?

From time to time, employees request leave from their employer to attend medical appointments or undergo medical procedures. However, personal leave will not always be suitable for all medical appointments and procedures.

The *Fair Work Act 2009 (Cth)* makes it clear that personal leave can only be taken where an employee is not fit for work because of their own personal illness or injury (section 97(a)). Whether personal leave is appropriate will depend on each individual circumstance, with the employee's fitness for work being the determining factor.

Where an employee is required or wishes to attend medical appointments or undergo medical procedures without prior arrangement, the sudden onset of the illness or occurrence of injury that is the subject of these visits may clearly warrant the taking of personal leave. The same can generally be said about elective surgeries, where illness and injury from post-operative recovery will typically render an employee unfit for work.

Uncertainties may arise, however, where medical appointments or procedures don't have such urgency. Where an employee wishes to attend a pre-arranged medical appointment, their entitlement to take personal leave resides in them being unable to work because of their personal illness or injury. In circumstances where, for example, an employee wishes to attend a pre-arranged visit to a specialist/ medical consultation/ allied health visit (such as physiotherapy), mere attendance to these appointments may not justify taking personal leave.

There may be circumstances in which these appointments are attended in the context of the employee being unfit for work and/or an assessment being made by a medical practitioner that the employee is as such. Where such circumstances exist, personal leave may be appropriate. Without any assessment that an employee is unfit for work, a medical practitioner's mere recommendation or referral to arrange a medical appointment is immaterial to whether personal leave may be suitably taken.

In determining whether an employee may take personal leave, employers should refer to any applicable modern award, enterprise agreement or employment contract, which may define an employee's personal leave entitlement in more favourable terms than the National Employment Standards (NES). Employers should also remain conscious of an employee's entitlement to carer's leave in circumstances where an employee is required to care for or support a member of their immediate family or household (section 97(b)). This NES entitlement may apply where the immediate family or household member becomes ill or injured, or is affected by an unexpected emergency.