

Minimum wages

Australia's new workplace relations system

From 1 July 2009, most Australian workplaces are governed by a new system created by the *Fair Work Act 2009*.

The Fair Work Ombudsman helps employees, employers, contractors and the community to understand and comply with the new system. We provide education, information and advice, help to resolve workplace complaints, conduct investigations, and enforce relevant Commonwealth workplace laws.

Overview

A minimum wage is an employee's base rate of pay for ordinary hours worked, and is generally dependent on the industrial instrument that applies to their employment (for example, a modern award, enterprise agreement, transitional pay scale, or national minimum wage order).

The minimum wages received by employees in the national workplace relations system are reviewed by the Fair Work Commission annually, with any adjustments taking effect on 1 July each year.

The review considers the rates of pay in:

- modern awards – from 1 January 2010 will specify the minimum wage rates for employees covered by a relevant modern award
- The National Minimum Wage – this applies to award or agreement-free employees from 1 July 2010¹.

Employers and employees cannot agree to a rate of pay which is less than the applicable minimum wage.

Who determines minimum wages?

The minimum wages received by employees in the national workplace relations system are determined annually by an Expert Panel for annual wage reviews at the Fair Work Commission.

Any determinations made to vary minimum wages in modern awards or a national minimum wage order will apply from the first full pay period on or after 1 July each year.

The Fair Work Commission must publish any adjusted wage rates in a modern award (as a result of an Annual Wage Review Determination) before 1 July each year. Variations to a national minimum wage order must also be published as soon as practical.

What minimum wages will apply for employees covered by a modern award?

From 1 January 2010, modern awards replaced most existing awards and transitional pay scales, and contain the minimum terms and conditions for employees in particular industries and occupations. While modern awards contain minimum wages, some modern awards have transitional arrangements in place, under which the wage-related components may be phased in over five years.

Employers should check their relevant modern award(s) to determine if transitional arrangements apply. If there are no transitional arrangements, the modern award pay rates applied from 1 January 2010.

¹ Until 1 July 2010, the existing federal minimum wage, special federal minimum wage (e.g. for people with a disability), and default casual loading continues to apply. The Fair Work Commission is required to make a national minimum wage order each year that sets both a national minimum wage and special national minimum wage.

Minimum wages under modern awards may include:

- wages rates for adults, in some cases, at different rates according to experience and qualifications
- wage rates for juniors, employees with a disability, and employees to whom training arrangements apply
- casual loadings
- piece rates.

An employee cannot be paid less than the base rate of pay that would be payable to them under a modern award.

For further information on modern awards, including who is covered by a modern award and the appropriate transitional arrangements, please go to

www.fairwork.gov.au.

What is a national minimum wage order?

The Expert Panel of the Fair Work Commission makes a national minimum wage order for employees not covered by an award or agreement. An employee cannot be paid less than the national minimum wage order.

The national minimum wage order must set the following wages for award or agreement-free employees:

- a national minimum wage
- a special national minimum wage for:
 - trainees, apprentices and junior employees
 - employees to whom training arrangements apply
 - employees with a disability
- a casual loading.

What is the current national minimum wage?

The national minimum wage is currently \$17.70 per hour or \$672.70 per 38 hour week (before tax).

Casual employees covered by the national minimum wage also get at least a 25 per cent casual loading.

For award and agreement free junior employees, the percentage scale in the Miscellaneous Award 2010 is applied to the national minimum wage.

What role does the Fair Work Ombudsman play?

An employer must not contravene a term of a modern award or a national minimum wage order. Suspected contraventions will be investigated and enforced by the Fair Work Ombudsman.

A contravention of a term of a modern award or a national minimum wage order may result in penalties of up to \$10,800 for an individual and \$54,000 for a corporation.

Where can I get further information?

For further information about the Annual Wage Review and the National Minimum Wage Order, see sections 285–299 of the Fair Work Act 2009.

The Fair Work Ombudsman has a number of resources to assist employers and workers find their right pay. These resources can be accessed from

www.fairwork.gov.au/pay.

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: **13 13 94**

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

- For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94
- Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94