

CG WORKPLACE – JULY BULLETIN (SPECIAL EDITION)

Two important events have recently occurred that are likely to affect the way you manage your staff. This Special Edition reviews those events for you.

EVENT 1

FEDERAL MINIMUM WAGE DECISION 2007

As you will recall, the Australian Fair Pay Commission (the **AFPC**) handed down its first minimum wage determination under Work Choices in October 2006, which took effect from 1 December 2006. On 5 July 2007, the AFPC handed down its second decision about minimum wages for employees covered by the Federal system.

Date of effect

The increases will have effect from the first full pay period commencing on or after 1 October 2007.

Wage Increases

The 2007 Minimum Wage Decision (the **Decision**) has increased both the standard Federal Minimum Wage (**FMW**) and applicable Pay Scales as follows:

- an increase of \$10.26 per week (\$0.27 per hour) to the standard FMW and all applicable adult Pay Scales that currently provide for a basic periodic rate of pay up to \$700 a week;
- an increase of \$5.30 per week (\$0.14 per hour) in all adult Pay Scales that provide for a basic periodic rate of pay above \$700 per week.

The standard FMW will increase from \$13.47 to \$13.74 per hour, that is, \$522.12 per week (based on a 38 ordinary hour working week).

Non-adult and other employees

The Decision has proportionately increased the minimum wage rates for juniors, apprentices, trainees, employees with disabilities and in most cases, casual employees.

Coverage

The above increases in the wage only affect employers covered by the Federal System. By way of reminder, this includes employers who are constitutional corporations and not sole traders or partnerships of individuals.

The practical effect is that as of 1 October 2007, employers who have made new agreements under Work Choices (or continue to employ their employees pursuant to applicable NAPSAs (Notional Agreement Preserving a State Award) or pre-reform Awards, for example) must pay their employees, wages that are *at least equal to* the new minimum wage, as increased by the Decision.

If an employee is receiving a wage that is above the applicable minimum wage, then there is no requirement to increase that employee's rates.

Those adult employees who were not covered by an award before the introduction of Work Choices, that is, non-award employees, are subject to the current FMW and the increase in the FMW from 1 October 2007.

Importantly, the Decision does not apply to employees covered by any of the following industrial instruments:

- a transitional award;
- an Australian workplace agreement or certified agreement made before 27 March 2006; or
- a preserved State agreement (that is, for example, a certified agreement) that was in place prior to 27 March 2006.

Future AFPC wage-setting decisions

The AFPC has stated that it will conduct its future FMW review process on an annual basis and announce its wage-setting decisions in July each year with effect in October that year.

Despite this the *Workplace Relations Act 1996* (Cth) allows the AFPC to vary wages at any time it sees fit.

EVENT 2

FAIRNESS TEST FOR WORKPLACE AGREEMENTS

As you are no doubt aware, the Fairness Test was recently introduced to apply to all workplace agreements or variations of workplace agreements lodged on or after 7 May 2007.

The fairness test is designed to ensure that employees earning under \$75,000 per annum are fairly compensated if their Australian Workplace Agreements or collective agreements exclude or modify certain protected award conditions. These protected award conditions are:

- rest breaks;

- incentive-based payments or bonuses;
- annual leave loadings;
- monetary allowances;
- observance of and payment for public holidays;
- overtime and shift loadings; and
- penalty rates.

Employers looking to make a workplace agreement (or who have lodged workplace agreements after 7 May 2007) must now fairly compensate employees for negotiating away any of the above protected award conditions.

As you will recall, our CG Workplace – May Bulletin (Special Edition) set out further information regarding the introduction of the new Fairness Test. If you require further information about the fairness test, please contact us.

However, by way of general reminder, the Workplace Authority will look at “*the overall effect*” of the proposed workplace agreement as the test to determine whether or not it is “*fair*”.

For further information about any of the above issues or other Workplace matters please contact:

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