

MINIMUM WAGE DECISION: LESS THAN 4 WEEKS FOR IMPLEMENTATION

JUNE 2011

Fair Work Australia handed down its minimum wage decision on Friday 3 June 2011 in its Annual Wage Review. This has resulted in a uniform percentage increase in wages of 3.4%. The Annual Wage Review increases pay rates for employees covered by the national minimum wage, Modern Awards, all transitional Australian Pay and Classification Scales, State reference transitional awards and Division 2B State awards.

Critically for business, these new wage rates will need to be in place for the first pay cycle starting after 1 July 2011. Less than four weeks from now.

NATIONAL MINIMUM WAGE

The national minimum wage has increased by \$19.40 per week (or 51 cents per hour), bringing the weekly minimum wage up to \$589.30 per week (or \$15.51 an hour).

MODERN AWARDS

As you read this, Fair Work Australia are currently in the process of releasing draft determinations of the Modern Awards which reflect a 3.4% increase in the rates of pay contained in the Modern Awards and updated Modern Awards will be published in due course.

CASUAL LOADING

In addition, the casual loading for award/agreement free employees has increased to 22%. However, the standard casual loading in modern awards has not changed.

ARGUMENTS FOR AND AGAINST ANNUAL WAGE REVIEW INCREASE

Prior to the decision, union representatives had argued for a \$28.00 a week increase, while employer groups had suggested that the increase be limited to \$9.50 per week.

Arguments had been made that small business owners affected by natural disasters across the country earlier in 2011 should be exempt from the increase but the tribunal cited the difficulty involved in identifying those businesses as a key reason why this could not be implemented. In addition, the tribunal noted that the Australian economy had continued to perform strongly despite the impact of the natural disasters.

TRANSITIONAL ARRANGEMENTS

As previously discussed, due to the introduction of the Modern Awards, Fair Work Australia has implemented a phasing in period for rates of pay and other entitlements. As you would be aware, Schedule A of the majority of Modern Awards outlines the transitional calculations for the purpose of calculating the applicable minimum rates of pay.

Schedule A provides that on 1 July 2011 the percentage used to calculate the proportion of the 'transitional amount' will change. The 'transitional amount' is the *difference* between the Modern Award 1 January 2010 rate of pay and the applicable minimum rate of pay prescribed in the industrial instruments that applied up to 31 December 2009.

In accordance with Schedule A, from 1 July 2011 to 30 June 2012 the proportion of the 'transitional amount' will be multiplied by 60%. Please note when calculating the 'transitional amount' you must always use the Modern Award rate of pay as it was at 1 January 2010. This is because the 'transitional amount' is to remain preserved over the phasing period (i.e. this amount will not change). It is very important that you apply the correct proportion of the 'transitional amount' as it affects the phased rate of pay.

A working example for calculating the proportion of the 'transitional amount' is as follows:

If the Modern Award rate at 1 January 2010 (e.g \$18.00 an hour) is higher than the rate of pay that applied to an employee up to 31 December 2009 (e.g. \$16.00 an hour) (for the classification of the employee concerned) then the proportion of the 'transitional amount' is obtained as follows:

$$\$18.00 - \$16.00 = \$2.00 \text{ (transitional amount)}$$

$$\$2.00 \times 60\% = \$1.20 \text{ (proportion of transitional amount)}$$

This means for the period 1 July 2011 to 30 June 2012 the proportion of the 'transitional amount' is \$1.20 an hour.

As the new minimum wage rates apply from 1 July 2011, the phased rates of pay will need to reflect the latest Annual Wage Review increase and also the applicable proportion of the 'transitional amount'.

Ensuring you are paying the correct amount to minimum wage earners from 1 July 2011 is essential to avoid potential future penalties or prosecutions by the Fair Work Ombudsman.

Clifford Gouldson provides a service to assist employers comply with both general wage requirements and the complex phasing in provisions. Please contact us as soon as possible if you wish to make use of this service prior to 1 July 2011.

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