



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, investigate workplace complaints, 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 Fair Work Australia 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, these will specify the minimum wage rates for employees covered by a relevant modern award
- The National Minimum Wage – this will apply 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 a specialist Minimum Wage Panel of Fair Work Australia.

Fair Work Australia's first annual wage review will be conducted and completed between 1 January and 30 June 2010.

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.

Fair Work Australia 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 replace 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, whereby the wage-related components do not come into effect until 1 July 2010, and may be phased in over five years.

Where transitional arrangements are in place, the minimum wages, loadings and penalties in place as at 31 December 2009 continue under the modern award until 1 July 2010.

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 apply 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. Fair Work Australia 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 Minimum Wages Panel of Fair Work Australia will make 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.

The 2010 national minimum wage order may also consider whether to vary rates of pay for employees covered by modern awards or transitional pay scales.

The Minimum Wages Panel is not required to set a special national minimum wage for trainees, apprentices and juniors until its 2011 Annual Wage Review.

What is the current national minimum wage?

Until the Minimum Wage Panel of Fair Work Australia makes a new national minimum wage order, the current federal minimum wage remains in effect.

The federal minimum wage sets both:

- a minimum wage which applies to employees not covered by a pay scale and
- special minimum wages for employees with a disability.

The federal minimum wage is currently \$14.31 per hour or \$543.78 per 38 hour week (before tax). If you are covered by a pay scale, it will contain the relevant minimum wage rates.

This federal minimum wage rate took effect from the first pay period starting on or after 1 October 2008. Casual employees covered by the federal minimum wage also get at least a 20 per cent casual loading.

Employees with a disability are covered by either a special federal minimum wage or an applicable pay scale. Junior employees not covered by a pay scale, or those working under a registered training scheme not covered by a pay scale, are not entitled to the federal 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 \$6,600 for an individual and \$33,000 for a corporation.

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: **13 13 94**

Monday to Friday, between 8.00am–6.00pm

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