

EMPLOYMENT UPDATE

JULY 2010

NEW WAGE RATES APPLY FROM 1 JULY 2010

Modern awards now cover most workplaces, bringing about a change to minimum terms and conditions of employment - with wage increases due from 1 July 2010

Many of these changes result in an increase in wage rates, penalty rates and allowances from what employers have historically paid employees. Whilst the modern awards commenced on 1 January 2010, the wage rates, penalty rates and allowances did not start until 1 July 2010.

In order to allow employers time to adjust to these changes, most modern awards contain transitional arrangements, allowing for the 'phasing-in' of the new wage rates (including the Federal Minimum Wage increase of \$26 per week), penalty rates and allowances over a five year period, starting from the first full pay period on or after 1 July 2010.

From 1 July 2010, employers have the choice to either:

- pay the full amount of any increase in wage rates; or
- to phase the increase in at 20% increments over a 5 year period between 1 July 2010 and 1 July 2014. This would mean phasing in the difference between the wage that applied under the award that covered the employee before 1 January 2010 and the wage in the new modern award.

Employers also have the ability to phase in the difference in casual and part-time loadings, weekend penalty rates, public holiday rates, shift allowances and other allowances, but changes to overtime rates are excluded from the phasing in provisions in the awards and applied as per the modern award from 1 January 2010.

The good news is that the increases in these award entitlements under the modern award can be absorbed into any over-award payment an employee is already receiving. That is, an employer can absorb the increase in any over-award component of an employee's salary where the salary is sufficiently over the award minimum wage to do so. It is strongly recommended that this arrangement be documented in a contract of employment to ensure absolute clarity and to protect the employer from future claims for the entitlements which are being absorbed.



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Where an employee is not covered by a modern award, their minimum wage is set by the Federal Minimum Wage which has been increased by \$26 to \$569.90 per week (being \$15 per hour) from 1 July 2010. If a non-award employee is earning in excess of the Federal Minimum Wage, this wage increase of \$26 per week can be absorbed. There is no ability to phase in the wage increase for award-free employees.

It should also be noted that from 1 July 2010, the high income threshold for award coverage has been increased from \$108,300 to \$113,800. Therefore, where an employee who would otherwise be covered by an award is earning greater than \$113,800, the award will not apply to them.

Key Point: *Employers should consult the modern award that applies to their employees to determine what they need to do to be compliant with the new wage rates, penalty rates and allowances. Employers have the following choices with regard to any increase in wage rates, penalty rates and allowances:*

- *pay the increases in full from 1 July 2010;*
- *phase the increases in at 20% increments over 5 years; or*
- *absorb them into any over-award component of an employee's salary where the salary is sufficiently above the minimum wage rate in the award to do so.*

If you are going to absorb the increases into an employee's current salary under the third option, you should enter into a written contract of employment with the employee confirming this. It is important that the contract is worded correctly to

Lisa Aitken
Managing Partner
+61 7 5413 4000

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FOR MORE INFORMATION PLEASE CONTACT



LISA AITKEN
Managing Partner
lisa.aitken@aitkenlegal.com.au



CHRISTOPHER CAMPBELL
Partner
chris.campbell@aitkenlegal.com.au

AITKEN LEGAL
Level 1, Regatta Corporate,
2 Innovation Parkway,
Kawana Lake Qld 4575

PO Box 256 Wurtulla Qld 4575

Phone: 07 5413 4000
Fax: 07 5413 4099
Email: info@aitkenlegal.com.au

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