

Paying Minimum Rates of Pay (June 2018)

Are you paying your employees correctly?

In June each year, the Fair Work Commission announces adjustments to the minimum wage for Australian workers covered by the Fair Work system and the adult minimum rate of pay that applies throughout the country, both effective from 1 July 2018.

Now is an ideal time to ensure your business is meeting its legal obligation to **correctly pay employees** the relevant remuneration, including, where relevant, penalties and loadings, overtime and allowances before a further increase effective from 1 July 2018.

Minimum rates of pay are highly regulated in Australia. The Modern Awards and the Fair Work Commission set minimum rates of pay that are to be paid to employees. Minimum rates of pay may also be set by an enterprise agreement.

In this newsletter we highlight the importance of ensuring you are paying your employees correctly and additionally provide information on finding and using the correct rates of pay.

What should I do to ensure my employees are properly paid?

There are several key actions a business can take including:

- Becoming familiar with the National Employment Standards (the NES). Here is a link to the NES details on the Fair Work Ombudsman website <http://www.fairwork.gov.au/Employee-entitlements/national-employment-standards>.
- Finding out the relevant modern award that applies to the industry and / or the roles that your employees do and becoming familiar with the terms in the award.
- Determining the correct rates of pay that apply to the various roles and classifications of work within your workplace.
- If an enterprise agreement applies, become familiar with the terms and the rates of pay that apply.
- Being aware of the administrative obligations related to record keeping and the preparation and issuing of pay slips.

Most information is available on the Fair Work Ombudsman's website (www.fairwork.gov.au).

Where can I find the correct rates of pay?

Minimum Wages	You can refer to the Fair Work Ombudsman pay guides using this link: http://www.fairwork.gov.au/pay/minimum-wages/pay-guides .
Agreements	If your employees are covered by a registered agreement, check the agreement for rates. The agreement must be available within the workplace for all employees to refer to.
Awards	You can refer to the Fair Work Ombudsman pay guides using this link: http://www.fairwork.gov.au/awards-and-agreements/awards/list-of-awards The relevant award(s) must be available within the workplace for all employees to refer to.

Where can I find the correct rates of pay continued?

Salary Payments	An annual salary is an agreement about the amount of pay for work over a 12-month period. They are often included in employment contracts. For more information visit this link: http://www.fairwork.gov.au/pay/minimum-wages/salary-payments
Fair Work Ombudsman's 'Pay and Conditions Tool'	'Pay and Conditions Tool' is a wage calculator that can be used to calculate an employee's: <ul style="list-style-type: none">• minimum wages

(the Fair Work Ombudsman's website refers to it as 'The P.A.C.T.' and it includes calculators for various leave types)

- penalty rates and
- allowances

The calculator can be used as if you are an employee or an employer to determine rates of pay.

To access the tool, use this link:
<https://calculate.fairwork.gov.au/FindYourAward>

Fair Work Ombudsman – focus on compliance

The Fair Work Ombudsman places a significant focus on working with employers to ensure they understand their obligations in relation to paying employees correctly. The Fair Work Ombudsman runs targeted campaigns across various industries and / or regions in Australia. This has included initiatives such as information sessions through to targeted Audits related to pay and conditions. Additionally, the Fair Work Ombudsman also acts on behalf of employees who have formally raised complaints / concerns relating to their conditions.

In recent months, the Fair Work Ombudsman has supported employees in a number of businesses secure back payment including owners who are television stars. The Fair Work has also successfully prosecuted a business owner in northern Queensland and that business owner employer has now commenced a period of imprisonment owing to underpayment of employee pay and other terms and conditions.

The following provides some brief details of examples of recent cases where the Fair Work Ombudsman has found employers in breach of paying their employees correctly:

- Intervention by the Fair Work Ombudsman to assist employees and employers to resolve workplace disputes has resulted in more than \$100,000 back-pay for 41 workers across Perth.
- A former Brisbane 7-Eleven operator has been hit with \$168,000 in penalties for short-changing workers and falsifying records to conceal the underpayments.
- A not-for-profit business in northern NSW inadvertently underpaid 18 employees a total of more than \$370,000 after incorrectly classifying each of them as an 'employee with a disability', an audit by the Fair Work Ombudsman has found.

Additional service offered by the Fair Work Ombudsman for migrant workers

Last year in July, the Fair Work Ombudsman commenced a new service making it easier for migrant workers to report workplace concerns to the agency by launching its popular Anonymous Report function in 16 languages other than English.

This service further expands the ways employees, who feel they have been disadvantaged, can seek support from external agencies like the Fair Work Ombudsman.

Summary

Understanding and applying correct rates of pay and conditions is critical to ensuring your business is legally compliant. Employers must make serious efforts in ensuring the employees of their business are correctly paid. In addition, employees are easily able to seek external support encouraging business leaders to be ensuring they are paying their employees correctly.

Needing advice and help?

If you would like assistance with understanding the application of correct rates of pay, modern award terms or you would like your rates of pay reviewed and checked, the team of advisors at AB Phillips can assist you with practical advice and support. AFA Members are entitled to discounted advice.

For support and assistance, please contact our team of advisors at AB Phillips, Monday to Friday between 9:00 am and 5:00 pm AEST by phone on 1300 208 828 or email advice@abphillips.com.au

This article refers to employees engaged in the national Fair Work system. If you are not sure if your employees are in the national Fair Work system, check this link <http://www.fairwork.gov.au/About-us/the-fair-work-system> or contact us at AB Phillips for assistance.

The national Fair Work system applies to employees of incorporated companies and all employees engaged in the State of Victoria, the ACT and the Northern Territory and to employees of incorporated companies in other states.

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