

CCI IR Alert

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Knowledge Influence Support
CHAMBER OF COMMERCE
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1 July 2010

The modern award transition begins

1 July 2010 marks the commencement of new rates of pay under modern awards.

On 1 January 2010 modern awards came into operation. However, the Australian Industrial Relations Commission (AIRC) delayed the commencement of the '*main matters affecting pay*' for a six month period until 1 July 2010.

The AIRC included model transitional arrangements relating to the phasing of:

- minimum wages (including wages for junior employees, employees to whom training arrangement apply and employees with a disability);
- casual and part-time loadings
- Saturday, Sunday, public holiday, evening and other penalties; and
- shift allowances.

Changes to these entitlements will be phased in five equal annual instalments from 1 July 2010 to 1 July 2014.

Phasing of the '*main matters affecting pay*' does not include:

- allowances (other than industry and shift allowances);
- hours of work; or
- overtime.

These provisions took effect on 1 January 2010 with the commencement of modern awards.

What do employers need to do?

Employers will need to determine how their current pay arrangements compare with the requirements under the modern award.

Where an employer is paying below the modern award, they may transition their payment up to the modern award rate in five equal instalments, annually, from 1 July 2010.

Where the modern award rate is lower than that contained in the pre-reform award or NAPSA, employers have the option of transitioning down in the same manner, subject to current contractual terms. However, employers need to be aware that employees may make application to FWA for a take home pay order where they have suffered (or will suffer) a reduction in pay as a result of award modernisation.

Employers may be in the position where some of their payments are above the modern award, whilst others are below. In this instance, employers may be required to simultaneously transition some elements up, and others down.

Where an employer is paying over the award, they will have the option of absorbing any monetary obligations into their over-award payment. Employers are not required to maintain or increase any over-award payments.

Employers absorbing modern award cost increases into over-award payments must be mindful of increases to modern award rates set to take effect on 1 July each year.

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From 1 July 2010 the Federal Minimum Wage will increase by \$26 to \$569.90 per week. Minimum wages in modern awards will also be increased by \$26 per week.

Award modernisation has resulted in expanded award coverage. As a result, many previously award free employees are now covered by modern awards. Employers need to be aware that transitional arrangements will also apply to this group of employees.

If an enterprise agreement is in place it will displace the modern award during its term. However, employers should ensure their base rate is at least equal to the relevant base rate in the award which covers the classification.

The process of transition to modern award arrangements may involve complex transitional calculations for some organisations.

CCI's award service contains information on standard transitional provisions. However, calculations will need to be undertaken for each classification separately by the employer, taking into account the circumstances and pay rates unique to each organisation.

Members seeking further information on modern award coverage and transitional provisions should contact the Employee Relations Advice Centre on 9365 7660 or email advice@cciwa.com.