



Frances Anderson
Senior Lawyer
Workplace Relations

Frances has considerable experience in workplace relations, having practiced exclusively in this area since 1989, both in Australia and overseas. She has advised employers across several industries and business sectors in both industrial relations and employment law.

Frances has given comprehensive advice in relation to a broad range of workplace relations issues in Australia, including employment related litigation; discrimination complaints; enterprise bargaining; employment contracts; and workplace policies.

Frances has also advised on the employment related implications of sale of business/sale of shares transactions.

Update on key issues for employers: new wage rates and update on equal opportunity

Employers need to be aware of some important changes which took effect from 1 July 2011 – increases to pay rates under modern awards, an increase in the national minimum wage, and the full implementation of the Federal Government's paid parental leave scheme.

In this edition of Employment Alert, we provide an update on these key changes in the federal sphere affecting payroll and employee entitlements.

We also provide a brief update on changes to the Victorian *Equal Opportunity Act 2010*.

Modern Award Wage Increases

3.4% wage increase

From the first pay period on or after 1 July 2011, employees are entitled to increased rates of pay under modern awards. Fair Work Australia granted an increase of 3.4% to modern award weekly wages in its 2011 Annual Wage Review decision.

Calculating the award rate

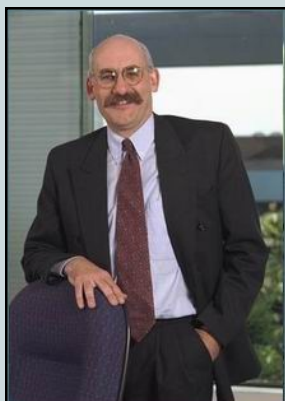
In order to calculate the correct rate of pay for award employees, employers need to take into account any provisions in the award for phasing in of modern award rates. Under these transitional provisions, base rates of pay, penalty rates and loadings are being phased in over four years from 1 July 2010 to 1 July 2014. This may mean that the full rate stipulated in the modern award is not yet payable. However, employees will still be entitled to an increase compared with the rate payable prior to 1 July.

Employers should use the online tools provided by the Fair Work Ombudsman to work out the correct rate of pay under the applicable award <http://www.fairwork.gov.au/pay/finding-the-right-pay/pages/default.aspx#payandconditions>.

Allowances

Employees may also be entitled to increased allowances from 1 July. Allowances which are related to the work performed by the employee and calculated as a percentage of the standard award rate, will increase proportionately. For example, the first aid allowance under the *Clerks – Private Sector Award 2010* is 1.5% of the standard weekly rate of pay.

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Peter Andrew
Special Counsel
Workplace Relations

Peter has extensive experience in workplace relations issues, including unfair dismissal litigation, employment litigation and occupational health and safety issues.

Peter advises on issues including

- negotiation of executive terminations;
- drafting of employment and contractor agreements;
- leave entitlements;
- impact of workplace relations laws on business;
- termination and redundancy;
- workplace procedures including drafting of policies;
- transfer of business, particularly in relation to sale of business;
- restraint of trade;
- protection of intellectual property and other confidential information;
- employee discipline and performance evaluation.

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Other allowances will also increase according to specific determinations made by Fair Work Australia. For example, the *Clerks Award* now provides for a meal allowance of \$13.27 instead of the previous rate of \$12.90.

Employers should check the specific changes to allowances, as well as penalty rates and loadings, by referring to the Pay and Conditions Guides on Fair Work Australia’s website.

Employees paid over-award

Where an employee is paid over the award rate, he or she will not be entitled to an automatic increase in the weekly rate of pay, unless there is an agreement between the employer and employee to the effect that the employee’s rate of pay will remain at a particular percentage above the award.

National Minimum Wage Increase

Employees who are not covered by awards are entitled to be paid the national minimum wage. The adult national minimum wage has been increased from \$569.90 per week to \$589.30 per week (before tax). This equates to an hourly rate of \$15.51.

Employees aged under 21, employees with a disability, trainees and apprentices may be entitled to lower minimum wage rates under the National Minimum Wage Order or the Miscellaneous Award 2010.

High Income Threshold Increased

Certain employee protections under the *Fair Work Act 2009* are related to the income of the employee. For example, modern awards do not apply to “high income employees” – these are employees with a **guarantee** of annual earnings which exceeds the “high income threshold”. Furthermore, employees are only protected from unfair dismissal if they are covered by a modern award or enterprise agreement, or their annual rate of earnings is less than the “high income threshold.” (Unfair dismissal protection is also subject to other requirements, including completion of a minimum employment period).

Fair Work Australia has increased the high income threshold to \$118,100 effective from 1 July 2011.

Paid Parental Leave

The Federal Government’s Paid Parental Leave (‘PPL’) scheme is in full operation as of 1 July 2011. Some employers have been involved in handling parental leave payments on a voluntary basis since 1 January 2011. However, this voluntary phase has ended and employers must now provide the parental leave payments to eligible employees who have a child born or adopted from 1 July 2011. Employers should receive payment from the Family Assistance Office prior to passing those payments on to employees.

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Leanne Tully
Senior Lawyer
Workplace Relations

Leanne has experience in advising clients on all aspects of employment law. Leanne has advised both businesses and individuals on:

- employment issues such as employment contracts,
- employee entitlements,
- termination,
- unfair dismissals,
- sexual harassment and discrimination,
- WorkCover and
- employment policies and procedures.

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Under the PPL scheme, employees may be entitled to 18 weeks of government funded parental leave pay at the rate of the National Minimum Wage.

For full details relating to the PPL scheme, employers should refer to http://www.centrelink.gov.au/internet/internet.nsf/businesses/ppl_business.htm

Victorian Equal Opportunity Update

In the June edition of Employment Alert, we summarised some changes to the Victorian *Equal Opportunity Act 2010* ('the 2010 Act'). The Government's amending legislation had been defeated due to the absence of a Government MP from the vote. However, the amending legislation has since been passed and was given Royal Assent on 21 June 2011. The 2010 Act will come into full operation on 1 August 2011.

This means that the Baillieu Government has been successful in (among other things) removing the requirement in the 2010 Act for religious bodies or schools to show that an attribute (such as religious faith) is an "inherent requirement" of the job in order to discriminate on the basis of that attribute.

For further details about the recent amendments to the 2010 Act, refer to the [June edition](#) of Employment Alert, or contact the Moores Legal Workplace Relations team.

The Moores Legal Workplace Relations team

For further advice and guidance on any employment issue and how it may impact your business and commercial operations, contact the Workplace Relations team at Moores Legal.

Moores Legal is a law firm servicing companies and businesses, Not for Profit organisations and individuals across Melbourne in the areas of Commercial Law, Workplace Relations, Property Law, Not for Profit Law, Aged Care, Elder Law, Estate Planning, Superannuation & Structuring, Dispute Resolution, Family Law and Personal Injury Law.

DISCLAIMER: This Employment Alert is of a general nature only. Specific legal advice should be sought rather than relying on this Alert.

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