

Annual Wage Review 2012 - minimum wages rise 2.9 percent

Fair Work Australia has decided to increase modern award wages by 2.9 per cent from the first full pay period on or after 1 July 2012 with commensurate increases in hourly rates on the basis of a 38 hour week. The increase also applies to minimum award wages for junior employees, employees to whom training arrangements apply and employees with disability, and to piece rates. Wages in the National Training Wage Schedule (NTWS) will be adjusted by 2.9 per cent.

The national minimum wage order contains:

- The national minimum wage (NMW) of **\$606.40 per week** or **\$15.96 per hour**,
- Two special national minimum wages for award/agreement free employees with disability: for employees with disability whose productivity is not affected, a minimum wage of \$606.40 per week or \$15.96 per hour based on a 38 hour week, and for employees whose productivity is affected, an assessment under the supported wage system, subject to a minimum payment fixed under the supported wage system,
- Wages provisions for award/agreement free junior employees based on the percentages for juniors in the Miscellaneous Award 2010 applied to the national minimum wage,
- The apprentice wage provisions and the NTWS in the Miscellaneous Award 2010 for award/agreement free employees to whom training arrangements apply, incorporated by reference and a provision that adult apprentices should not receive less than the national minimum wage, and
- A casual loading of 23 per cent for award/agreement free employees.

Unless otherwise agreed, the increases may be absorbed into over-award payments made to employees provided in either enterprise agreements or individual employment contracts.

The updated modern award wages should be published and available through the [Fair Work Ombudsman](#) before 1 July. Subscribers to Employee Relations Online will receive a separate notice when they are available through that service. Please [contact](#) Paul Maguire to discuss the implications for your business if you are unsure.

New Regulator for Building and Construction Industry

On 1 June 2012, **Fair Work Building & Construction** (FWBC) became the new workplace regulator in the Building and Construction industry. This new body was created by the Fair Work (Building Industry) Act 2012 and replaces the Australian Building and Construction Commission.

In the Easter edition of Employee Relations MONTHLY we described some of the changes that have been introduced to the powers exercised by the Building inspectorate (now the FWBC). Some employers had expressed concern that the new body will not be able to police the intimidation and standover tactics that often occur in the industry.

FWBC is entrusted to provide information about the National Code of Practice for the Construction Industry. The code establishes minimum standards that businesses have to meet to be eligible to take on certain building and construction projects funded by the Australian Government. FWBC can also investigate complaints about underpayments, sham contracting and any other denial of entitlements.

Employers that provide labour to the industry should review the new regulatory environment and if necessary contact Maguire Consulting to discuss the implications for their business.

A new website has been established explaining its functions and relevant contact details. [\[More\]](#)

Key superannuation rates and ETP thresholds for 2012-2013

The key rates and thresholds that apply in relation to superannuation contributions and benefits, employment termination payments (ETP), superannuation guarantee and co-contributions are normally adjusted at the beginning of each financial year and some have been adjusted due to changes in the governing laws.

For example, the concessional cap for superannuation co-contributions by an employer (including contributions made under a salary sacrifice arrangement) will reduce from \$50,000 to \$25,000 on 1 July 2012. The tax-free part of *genuine redundancy payments* and *early retirement scheme payments* will also be adjusted to a base limit of \$8,806 and \$4,404 for each of completed year of service.

[\[More\]](#)

PAYG tax changes 1 July 2012

The ATO has published the Pay As You Go Tax tables for new financial year. From 1 July 2012 employees who claim the tax-free threshold will have less tax withheld from their pay. However, employees who do not claim the tax-free threshold will have more tax withheld from their pay.

Resident income tax rates from 1 July 2012 (not including Medicare levy)

Taxable income range \$	Tax rate %
0 - 18,200	0
18,201 - 37,000	19
37,001 - 80,000	32.5
80,001 - 180,000	37
Greater than 180,000	45

The temporary flood and cyclone reconstruction levy (flood levy) and associated exemptions will cease from 1 July 2012.

Leave loading changes

There is no longer a separate withholding scale for employees who are entitled to leave loading and they will no longer have higher withholding from every pay. These employees will now be taxed more accurately when the leave loading is paid. Previously, the leave loading scale provided for extra withholding throughout the year to allow \$320 of leave loading to be tax-free when paid.

The ATO advises:

- If you pay leave loading as a lump sum, you now need to use Tax table for back payments, commissions, bonuses and similar payments ([NAT 3348](#)) to calculate withholding.
- If you pay leave loading on a pro-rata basis, then add the leave loading payment to earnings for the period to calculate withholding. That is, instead of the one lump sum payment, you make multiple payments during the year when leave is being taken.

[\[More\]](#)

Are you a business in the building and construction industry that pays contractors for building and construction services?

From 1 July 2012, businesses in the building and construction industry must report the total payments they make to each *contractor* for building and construction

services each year. Employers must report these payments to the ATO. It will, no doubt match the record of payments reported by the business with the contractors own tax return. The ATO has published a fact sheet instructing businesses in the building and construction industry how to report the payments made to contractors.

[\[More\]](#)

Federal Court upholds right to mandatory drug testing

The Full Court of the Federal Court had upheld a right to conduct mandatory drug and alcohol testing of employees.

The employer, Wagstaff Piling Pty Ltd (Wagstaff), entered into a contract to do piling for a road being constructed by Thiess Pty Ltd (Thiess). Thiess requires all contractors working on its sites to submit to random drug and alcohol testing to ensure workplace safety, regardless of the identity of their employer. Wagstaff agreed to include its employees in the mandatory drug and alcohol testing when it entered into the contract to complete the piling work. The mandatory testing operated without incident for twelve months until the CFMEU challenged the policy. The dispute went through the Building Industry Disputes Panel, Fair Work Australia and finally to the full bench of the Federal Court of Australia.

[Read the full case](#)

Fair Work Act Review

Readers will recall that in the [Autumn 2012 edition](#) of Employee Relations MONTHLY we reported that the Australian Government had established a panel of 'experts' to review the operation of the Fair Work Act and recommend action to improve the Act so as to better achieve the objectives of the law. It was due to handover its report to the Minister by 31st May this year. The Review panel received over 100 submissions from the public including from the Council of Small Business Australia (which was researched and partly authored by Paul Maguire). View the [submissions](#) on the Review website.

Working Past Our 60s' paper released

The Hon Bill Shorten MP, Minister for Employment and Workplace Relations, Financial Services and Superannuation has launched the Human Rights and Equal Opportunity Commission's '[Working Past Our 60s: Reforming Laws and Policies for the Older Worker](#)' paper at the Australian Institute of Superannuation Trustees in Melbourne. The paper, details how age bars in workers compensation, income insurance and licencing block willing and able people from continuing in work through their 60s.

[\[More\]](#)

Unemployment unchanged

Australia's unemployment rate increased by a very small 0.2 percentage points to 5.1 per cent in May according to the Australian Bureau of Statistics (ABS). There was also an increase in the labour force participation rate of 0.3 percentage points in May to 65.5 per cent.

The ABS reported the number of people employed increased by 38,900 to 11,537,900 in May. The increase in employment was driven by increased full-time employment, up 46,100 people to 8,107,900, and was offset by a decrease in part-time employment, down 7,200 people to 3,430,100.

[\[More\]](#)

TIP OF THE MONTH: Understanding the Consumer Price Index and its application to employment conditions

We all anticipate the announcement of the latest Consumer Price Index (CPI) and generally understand its impact on our household expenditure, savings and home loans. However, beyond the headlines, few of us fully understand how it impacts on employment terms and conditions. The impact is important because the CPI is used to adjust allowances in awards, non-award individual salaries, enterprise agreement wages, and is a major influence in the Annual Wage Review decision each year. Employers may think that they have little influence in these matters and therefore ignore it. However, the CPI is a tool that can work for employers rather than against them where a better understanding of the index occurs.

What is the CPI?

The Consumer Price Index¹ (CPI) measures quarterly changes in the price of a 'basket' of goods and services which account for a high proportion of expenditure by the CPI population group (i.e. metropolitan households). This basket covers a wide range of goods and services, arranged in the following eleven groups:

- Food and non-alcoholic beverages
- Alcohol and tobacco
- Clothing and footwear
- Housing
- Furnishings, household equipment and services
- Health
- Transport
- Communication
- Recreation and culture
- Education
- Insurance and financial services.

Application to employment

It is common in Australian employment instruments such as awards, collective agreements and individual contracts of employment to incorporate adjustments to salary and allowances based on the CPI or other relevant indices. The objective is rarely expressly stated in the instrument. However it is usually done to maintain the real value of the salary and allowances over time. Nothing erodes the purchasing power of a salary more than rising prices for goods and services.

Nevertheless, it should be clear from a simple viewing of the list above that movements in these groups will impact differently on employees, and not all of them relate to expenses incurred in earning a living. Therefore, employers are entitled to be more discerning in the application of CPI adjustments to employee remuneration.

For example, reimbursement of expenses and expense related allowances should be adjusted according to the specific sub-indices of the CPI group relevant to that expense. Fair Work Australia has implemented this method to adjust expense related allowances in modern awards such as overtime meal allowance and travel allowance. The indices used are the *take away and fast foods* sub-set of the food and non-alcoholic beverages group and the *private motoring* sub-set of the transport group.

Employers not covered by a modern award and those applying collective agreements should also apply the relevant sub-indices to ensure they are not 'over compensating' employees for their work related expenses.

How is the CPI different to indices measuring movements to the price of labour?

There are other measures that do have relevance to the employment relationship but serve different purposes.

The Labour Price Index (LPI) broadly measures annual changes in the price of labour in the Australian labour market. The [Wage Price Index \(WPI\)](#) broadly measures changes in the wages paid by Australian businesses to employees and it is compiled and published quarterly.

The main or 'headline' wage price index is the one showing movements in *total hourly rates of pay, excluding bonuses*, for Australia.

Changes in rates of pay reflected in the WPI arise from a range of sources including award variations, enterprise and workplace agreements, minimum wage setting, individual contracts and informal arrangements. The reason an employer may choose to adopt the WPI as a mechanism to adjust the salary of an employee is because it reflects genuine movements in statutory and market rates. It is also reported at the industry level and as such employers competing in that sector can observe trends applicable to them.

¹ 6461.0 - Consumer Price Index: Concepts, Sources and Methods, 2011

Employers should use this index rather than the CPI when setting salaries or negotiating individual and collective wage levels as it is a better measure of movements in market rates. It should be used in conjunction with other research on industry and national remuneration to obtain a clearer picture of the market for particular occupations and professional jobs.

Conclusion

The Consumer Price Index is an important tool to adjust wages, salaries and allowances. Its application to Australian employment regulation has a long history. There have been periods of Australian history where award wages have been directly linked to movements in the CPI. It is a good measure to maintain the real purchasing power of wages and salaries over time. However, the national weighted average CPI is not necessarily the correct index to use in every circumstance and may result in the employer over compensating employees.

The intelligent approach is to identify and apply the applicable CPI group sub-set index to maintain the real value of work related expenses and drill down to industry or State level CPI to adjust for genuine changes to the cost of living for your employees.

The Wage Price Index is a better indicator of movements in statutory and market rates of pay and therefore should be applied to wage negotiations with current and prospective employees to maintain the true market value of the wage and salary paid to the employee.

For specific advice [contact](#) Paul Maguire.

Events Calendar

The National Small Business Summit 2012

Paul Maguire will be participating on a Panel of Experts at the National Small Business Summit scheduled for 1-2 August 2012 in Melbourne. For further details go to the website [National Small Business Summit 2012](#)

The 2012 NESA National Conference

Maguire Consulting will once again be exhibiting at the NESA National Conference at the Hilton Hotel Sydney 29-31 August 2012. Paul Maguire will also be presenting the results of the Australian Employment Services Remuneration Survey 2012. [\[More\]](#)

Short Courses 2012

Maguire Consulting is able to deliver a range of short day (one and half day) courses on a variety of topics relevant to the employment and management of staff. The courses may be delivered in-house for your team of managers or for all staff. See the [list of short courses currently available](#) in 2012.

Around the States

Western Australia

Western Australia is the only State in Australia that has not referred its powers to make laws in respect of employment, to the Commonwealth. Consequently, employers that are not incorporated such as partnerships and sole traders will be covered by Western Australian law.

The minimum wage in WA has increased by 3.4%, representing an increase of \$20.60 per week.

The Western Australian Industrial Relations Commission (WAIRC) in Court Session issued its 2012 State Wage Order.

[\[More\]](#)

NSW

The New South Wales Government continues to publish information for employers on employee relations notwithstanding that it referred its powers to make employment laws to the Commonwealth in 2010.

The NSW Department of Industrial Relations conducts education seminars and provides some useful information for national system employers. It has published its recent submissions to the Fair Work Act Review.

[\[More\]](#)

Take the tour for advice tailored to industry groups



The employee relations online subscription service covers all employee relations issues including: industry pay rates, award conditions, leave and holidays, workplace agreements, termination of employment, employee tax and superannuation, health and safety.

Employee relations online is tailored exclusively to employers and their industry groups. Employee Relations Online for Employment Services has been supporting employers in that industry successfully for over 24 months.

If you think [Employee Relations Online](#) would be suitable for your business and your industry please contact us.