

# EFFECTIVE WORKPLACE

Building effective workplace relations

Telephone: (02)4920-8880

Mobile: (0400)407 224

Fax: (02)49208881

PO Box 283, NEW LAMBTON NSW 2305

Email: [gkerr@effectiveworkplace.com.au](mailto:gkerr@effectiveworkplace.com.au)

Website: [www.effectiveworkplace.com.au](http://www.effectiveworkplace.com.au)

## 2008 PAY INCREASES- FEDERAL SYSTEM

We provide this newsletter to our clients and contacts to keep you up to date on important developments affecting you and your employees. However, the newsletter is no substitute for specific advice about the needs of you and your business. Please contact us if you are uncertain of how or whether you are affected by the issues covered in this newsletter or would like any further information.

### What's New?

On 16 June 2008 the Federal *Fair Pay Commission* handed down its 2008 decision, increasing rates of pay for employees covered under the Federal system. The new rates will take effect from the start of the first pay period beginning on or after 1 October 2008.

### Which employers are affected?

Briefly, the Federal IR system applies to employers which are “*constitutional corporations*”. A constitutional corporation is an entity which is: incorporated (including companies, incorporated associations) and is engaged (at least to a substantial extent) in trade or finance. Employers which are companies and who were previously covered by a State industrial relations system **automatically** came under the Federal system from 27 March 2006 when “*WorkChoices*” took effect.

The changes also affect employers who are already covered by Federal Awards and employers in Northern Territory and ACT.

Employers which are not companies and were not already under the Federal system- mainly sole traders or partnerships- are **not** caught up by the new Federal laws and continue to be covered by the New South Wales system.

The changes introduced by the Federal Labor Government in March 2008 which began the “winding-back” of *WorkChoices* do not make any changes to who is covered by the Federal system.

## **PAY INCREASES- FAIR PAY COMMISSION DECISION**

Since WorkChoices came into effect, responsibility for setting pay rates for employees under the Federal system has been given to the Fair Pay Commission.

**The Fair Pay Commission's 2008 decision and the new rates set under it will take effect from the beginning of the first full pay period commencing on or after 1 October 2008.**

The main points of the decision are as follows:

- an increase of \$21.66 per week (\$0.57 per hour) to the standard Federal Minimum Wage [FMW], bringing it to **\$543.78 per week**. The standard FMW increases from \$13.74 to **\$14.31 per hour**; and
- an **increase** of \$0.57 per hour (approximately \$21.66 per week) in adult Pay Scales.
  - allowances are generally **not** adjusted by the decision unless specifically included in the relevant Pay Scale;
  - Junior rates and rates for employees under training arrangements (such as apprentices and trainees) will be increased proportionately;
  - Rates for employees suffering a disability will also be increased proportionately (for detail: contact us or the Workplace Infoline);
  - The Fair Pay Commission will create and publish authoritative Fair Pay Scales, which will then be binding.

These rates are minimum rates. The increases may be offset against any equivalent amounts in rates of pay received by employees whose actual wages are above the minimum pay scale arrangements. This may include employees on "over-award" wages or under some agreements subject to the arrangements for wage increases specified in the agreements. **Any employer who is considering offsetting part of all of the increase should seek qualified professional advice before not paying the increase. If offsetting is not available or is incorrectly applied, you may end up underpaying your employees, exposing yourself for claims for underpayment and possible prosecution.**

There is no prohibition on paying more and many employers may find that they need to do so simply to attract and retain good staff.

Who does the decision apply to?

All employees (and employers) covered under the Federal system- see above.

For those employers who had been covered by a State award or agreement prior to 27 March 2006, the terms of the former State awards have continued to apply to employer and employees as **Notional Agreements Preserving State Awards** (NAPSAs) unless the NAPSA has been replaced by a new workplace agreement.

However, any changes to wages or allowances under the old State award since 27 March 2006 do not apply. The increases under this Fair Pay Commission decisions apply instead.

#### How do I find out the new rates?

The Fair Pay Scale summaries may be found by going to the Fair Pay Commission website at [www.fairpay.gov.au](http://www.fairpay.gov.au) and following the links to the Scales via the Workplace Authority website. Fact Sheets explaining the Fair Pay Commission system may also be downloaded from the site.

Make sure that you go to the correct decision as links to the Pay Scales under both the 2006 and 2007 decisions are also on the same page.

**If you have not already applied the increase under the Fair Pay Commission's 2006 or 2007 decisions you will need to do so (including any back pay arising from those increases) before applying the new decision.**

The Pay Scale Summaries are organised in alphabetical order by the name of the Award to which they relate, including both Federal Awards and NAPSAs. Simply find the name of the relevant award (being careful that it is from the correct State) and click on the link.

The Summaries include only the top 100 most common awards across all jurisdictions, which means that there may not be a Pay Scale summary for the award which covers your employees.

**If you cannot find a Summary for your award or if your employees are covered by a workplace agreement, either contact us for assistance or call the Workplace Infoline on 1300 363 264.**

**The process of calculating new rates can be complex, so if you cannot find a pay Scale Summary or are not sure how to apply it, it is most important that you seek qualified professional advice well before the date of effect of the latest increases.** Failure to do so may mean that you will pay the wrong rates, resulting in either an underpayment which can be recovered by the employee and might also result in the employer being prosecuted and fined.

For further assistance, please contact us:

Telephone: **(02)4920-8880** or **(0400)407 224**

Email: [gkerr@effectiveworkplace.com.au](mailto:gkerr@effectiveworkplace.com.au)

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