

4 June 2013

Practice Group(s):
*Labour, Employment
and Workplace Safety*

FWA Increases Award Rates by 2.6%

By Robert King

The Fair Work Commission's Minimum Wage Panel (Panel) handed down its 2013 wage decision yesterday, ruling that all award rates of pay will increase by 2.6%, effective from the first wage period after 1 July 2013. The national minimum weekly wage will increase by AUD15.80 a week to AUD622.20 which represents an hourly rate increase of 31 cents an hour to AUD16.37.

The Reasons For the Decision

The Panel says the following matters were taken into account in reaching its decision:

- general economic conditions, which the Panel described as remaining reasonably strong, particularly in comparison to other OECD countries, together with the expectation that the economy will continue to out-perform most of the developed world, even despite the forecast of a moderation in growth over the next year
- the imminent increase to the superannuation guarantee rate by 0.25%, which the Panel categorised as a deferred benefit to employees, directed at enhancing retirement living standards rather than current living standards during employment, and as a result, the increased superannuation rate was not to be basis for reducing any increase to current award pay rates
- relative living standards and the needs of the low paid and social cohesion. The Panel notes that 16% of employees are entirely award reliant and that a failure to increase award rates would contribute to an increased earning inequality and potential lack of social cohesion.

The Panel rejected the submissions by particular industry sectors that sought to exempt particular industries and/or employers in particular geographical areas (for example, employers in areas that suffered the recent natural disasters and that have received natural disaster relief) from the wage increase on the basis that these industries and/or geographical locations have rendered the employers unable to meet the increased wage cost. The Panel determined there was no compelling reason to exempt or delay the increase for these groups.

What Should Employers Do?

The new award rates will commence from the first pay period after 1 July 2013. To ensure they are ready, employers should:

- identify those employees that are award based or who are entitled to allowances or penalty provision calculated on the award rates and ensure that these payments are increased by 2.6% from the first pay period after 1 July 2013
- review employees whose employment is covered by an award but who are paid an annualised wage under a common law employment contract to ensure that the annualised wage rate that incorporates award allowances still meets and or exceeds the minimum award entitlements for these employees

FWA Increases Award Rates by 2.6%

- if engaging in or about to engage in enterprise agreement negotiations, consider the impact of the increased award rates on the ability of the proposed enterprise agreement to meet the better off overall test.

If employers are unsure about any individual award, entitlement of employment contract, or the impact of this decision on a particular enterprise agreement negotiation they should seek specific advice in advance of the 1 July 2013 commencement date.

Authors:

Robert King

robert.king@klgates.com

+61.7.3233.1265

K&L GATES

Anchorage Austin Beijing Berlin Boston Brisbane Brussels Charleston Charlotte Chicago Dallas Doha Dubai Fort Worth Frankfurt
Harrisburg Hong Kong Houston London Los Angeles Melbourne Miami Milan Moscow Newark New York Orange County Palo Alto Paris
Perth Pittsburgh Portland Raleigh Research Triangle Park San Diego San Francisco São Paulo Seattle Seoul Shanghai Singapore Spokane
Sydney Taipei Tokyo Warsaw Washington, D.C. Wilmington

K&L Gates practices out of 48 fully integrated offices located in the United States, Asia, Australia, Europe, the Middle East and South America and represents leading global corporations, growth and middle-market companies, capital markets participants and entrepreneurs in every major industry group as well as public sector entities, educational institutions, philanthropic organizations and individuals. For more information about K&L Gates or its locations, practices and registrations, visit www.klgates.com.

This publication is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer.

©2013 K&L Gates LLP. All Rights Reserved.