



Wages and Modern Awards

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workplace confidence

Introduction



Understanding wages is one of the most fundamental parts of employing staff. Yet, it's an area where business owners most commonly struggle.

It's easy to understand why. There are more than 120 Modern Awards, and Australia's has one of the most complex industrial relations systems in the world.

It's created a situation where the risk of underpayment is very real, and the consequences can be severe.

In this guide we introduce you to the fundamental principles of Modern Awards and Wages, so you can better protect yourself and your business.

About EmploySure

EmploySure is Australia's largest workplace relations specialists.

We take the complexity out of workplace laws to help small business employers protect their business and their people.

Every workplace in Australia has a responsibility to be safe, fair and legally compliant.

We're here to ensure your business has the best advice, support and documentation you need to navigate the complexity of workplace relations.



Modern Awards Explained

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Modern Awards provide an outline of the minimum entitlements which employees are entitled to. They primarily cover wages and/or conditions, and are based on a particular industry and occupation.

When it comes to conditions, some of the key aspects included in Modern Awards are the type of employment, overtime, penalty rates, allowances, superannuation and leave entitlements.

As a business owner or employer, one of your main obligations is to ensure that Modern Awards are adhered to and correctly applied throughout your workplace.



**DID YOU
KNOW?**

There are **more than 122 Modern Awards** in Australia, and depending on your industry or the type of occupation, you may need to apply more than one to the staff employed at your business. It's essential that you are aware of the relevant Modern Awards and how they should be applied to your staff.

Modern Awards Explained



Your responsibilities

There are more than 122 Modern Awards, spanning various industries and job types, each with different wage rates and entitlements.

Understanding which Awards need to be applied in your business can be a difficult task, particularly as this can change depending on the activity of your business and on employee's job role. As an employer it is your responsibility to work out which Award needs to be applied to each member of staff, and also to carefully follow the rules within that Award.

The 10 National Employment Standards

Current Modern Awards stem from the National Employment Standards (NES), which outline 10 minimum standards for employment.



Maximum weekly hours



Flexible working requests



Parental leave and related entitlements



Annual leave



Personal, carers and compassionate leave



Community service leave



Long service leave



Public holidays



Notice of termination and redundancy pay



Fair Work Information Statement

Modern Awards Explained



Be aware of changes

It is essential for employers to maintain a sound understanding of the Award system and how it works within their business. Wage rates and obligations also update from time to time, particularly with each new financial year, and it is the employer's responsibility to keep up to date with any changes.

The complexity of multiple awards

While many businesses have all employees falling under a single Modern Award, this is not always the case. If you are a business owner, it is important for you to recognise that there is the

potential for some employees to fall under different Awards.

Businesses operating in the building and construction industry may have administrative employees who will operate under a different award to those who are carpenters or electricians. They may work for the same business, but they will be employed under different Awards.

Employers also need to consider what impact the employee's level of experience and qualifications will have on their rate of pay under the specific Modern Award. For example, if a physiotherapist is hired straight after graduating from university, their pay rate would be lower than if they had five years of experience.



Minimum Wage Explained

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The Minimum Wage is the absolute lowest sum that an adult employee can be legally paid.

Understanding minimum wages in Australia is one of the most important elements to maintaining an effective cost structure when running a business. While there are different minimum wages for different job types and awards, each of these comes from a Government legislated Minimum Wage, which all businesses in Australia must abide by.

Who decides it, and who gets it?

The minimum wage is determined by a specialist panel within the Fair Work Commission. These minimum wage rates are reassessed on an annual basis

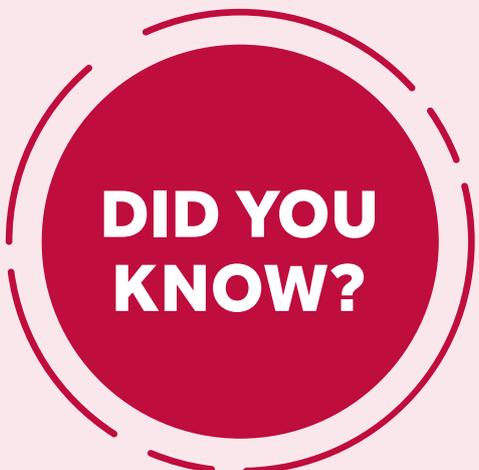
to guarantee that employees of Australia are awarded their fair income.

Upon the annual assessment of minimum wages, if any determinations are made to change or vary wages in Modern Awards they will apply from the first full pay period on or after 1 July each year.

Prior to their implementation, the Fair Work Commission must publish any adjusted wage rates in a Modern Award before 1 July each year. This is to guarantee that employers, and employees alike, have enough notice to make the adjustments to their own business operations.



The current national minimum wage (as of 1 July 2019) is \$19.49 per hour or \$740.80 per week.



DID YOU KNOW?

Every year in Australia the Minimum Wage **increases on 1 July.**

If you have employees who are not covered by a Modern Award, then you need to understand what rates they are to be paid and check in annually to ensure they are still being paid in accordance with the National Minimum Wage.

Minimum Wage Explained

Penalty Rates, Overtime and Allowances

Penalty rates

Employees often get higher rates when they work late nights, early mornings, weekends or public holidays. Penalty rates come from the Modern Award or Enterprise Agreement and they are different for each industry and job.

Employees who are not covered by an Award or agreement and who are paid in accordance with the national minimum wage, do not get penalty rates unless their contract says they should.

Overtime

What is considered overtime is different under each Award or Agreement.

Overtime is usually any work in excess of 38 hours a week, or outside the ordinary hours listed.

Overtime is often paid at a higher wage (such as time and a half). Instead of being paid an overtime rate, an employee may be able to take time off instead. This is called time in lieu (TOIL). Employees who are not covered by an Award or Agreement will not be paid overtime unless their contract says they do.



Allowances

Allowances are additional payments made to employees for a variety of reasons such as doing certain tasks, using certain skills, working under certain conditions or using personal tools at work. For example, an employer may decide to pay an employee an allowance using their own car to carry work materials or they may be asked to wear a special uniform that requires cleaning. It's important that you always check the relevant Award or Agreement for the specific employee because allowances in each industry will vary.



Payslips and Record Keeping

Payslips and Record Keeping

If only paying your employees was as simple as writing cheques or sending electronic payments. While the “payment” part could be that simple, the pay slip that goes with an employee’s payday is more complicated.

Your company’s pay slips are the personalised documents that accompany each employee’s payment within one working day of making payment. This document notes an employee’s wages over the pay period. The document can also include itemised deductions and contributions.

With each slip, an employee understands, amongst other things, that their gross



pay amount and the amount deducted from the total payment. The slip also shows an employee’s final net amount, or their “take-home” pay for the current pay period.

DID YOU KNOW?

The Fair Work Regulations are very clear about when you must deliver a pay slip to each employee. Whether electronically or in print, employers must send these documents within one day of the pay date.

Any delay in delivering slips for a pay period can **result in a fine**.

Payslips and Record Keeping

What must you include on a pay slip?

The Fair Work Regulations are very clear, and all employers must provide this information for each pay period to each employee.

Required information includes:

- The employee's legal name (the office nickname doesn't count)
- Your business name and Australian Business Number (ABN), if applicable
- Date of payment
- The pay period covered by the payment (day, month, and year)
- The number of hours worked by the employee
- The employee's hourly rate (if applicable)
- The employee's salary rate (if applicable)
- The gross payment amount
- The amount of any loadings, allowances, overtime, allowances, or bonus/commission payments
- Types and amounts of all deductions from the employee's gross pay (taxes, penalties, etc.)
- The net amount of the payment (after deductions and additions)
- Details of any superannuation contributions involved in the pay period



After those requirements, consider if it is appropriate to add a few more items below that are helpful to employees and for your record-keeping. The law doesn't require these items, but they're a good idea.

- Any relevant Modern Award that applies to the employee
- Each employee's employment status (full-time, part-time, or casual)
- An employee's classification under the Award/Agreement
- The employee's bank details
- The employee's accrued leave balance



Expenses, Deductions and Overpayments

Expenses, Deductions and Overpayments

Employee expenses.

It is vital to have a clear expenses policy so employees know what kind of business spending is allowed and you know for sure what they have spent. Your employees are entitled to be reimbursed, as long as their spending falls within the policy.

Your expenses policy must set out what spending is legitimate and what is not. It should describe what evidence employees need to show to support their claim, such as receipts, and whether they need approval or countersigning first.

It's ok to set boundaries

You are allowed to set limits, such as a maximum cost for hotel rooms, or whether you use only one hotel chain or airline. You can also set limits on length of time before making a claim, so employees do not build up large expense claims over time.



**DID YOU
KNOW?**

If you **make changes** to your **expenses policy**, you have to let your employees know in writing.

You can also ask them for sign-off, to prove they have read and understood the changes.

Expenses, Deductions and Overpayments

Understanding Deductions.

Taking money out of an employee's pay is called a deduction. There are clear limits to when you can deduct pay and when you cannot.

You can deduct pay if your employee agrees in writing and it is for their benefit, for example, salary sacrifice or payments into their health fund. You can also deduct pay if it is allowed by an agreement, award, court order or the Fair Work Commission.

Always show deductions on the employee's pay slip and wages records. You are not allowed to deduct pay if it only benefits the employer or is unreasonable (for example, making up a shortfall in the till by taking it out of an employee's pay). One common wrong reason for deducting pay (unless allowed under an agreement,

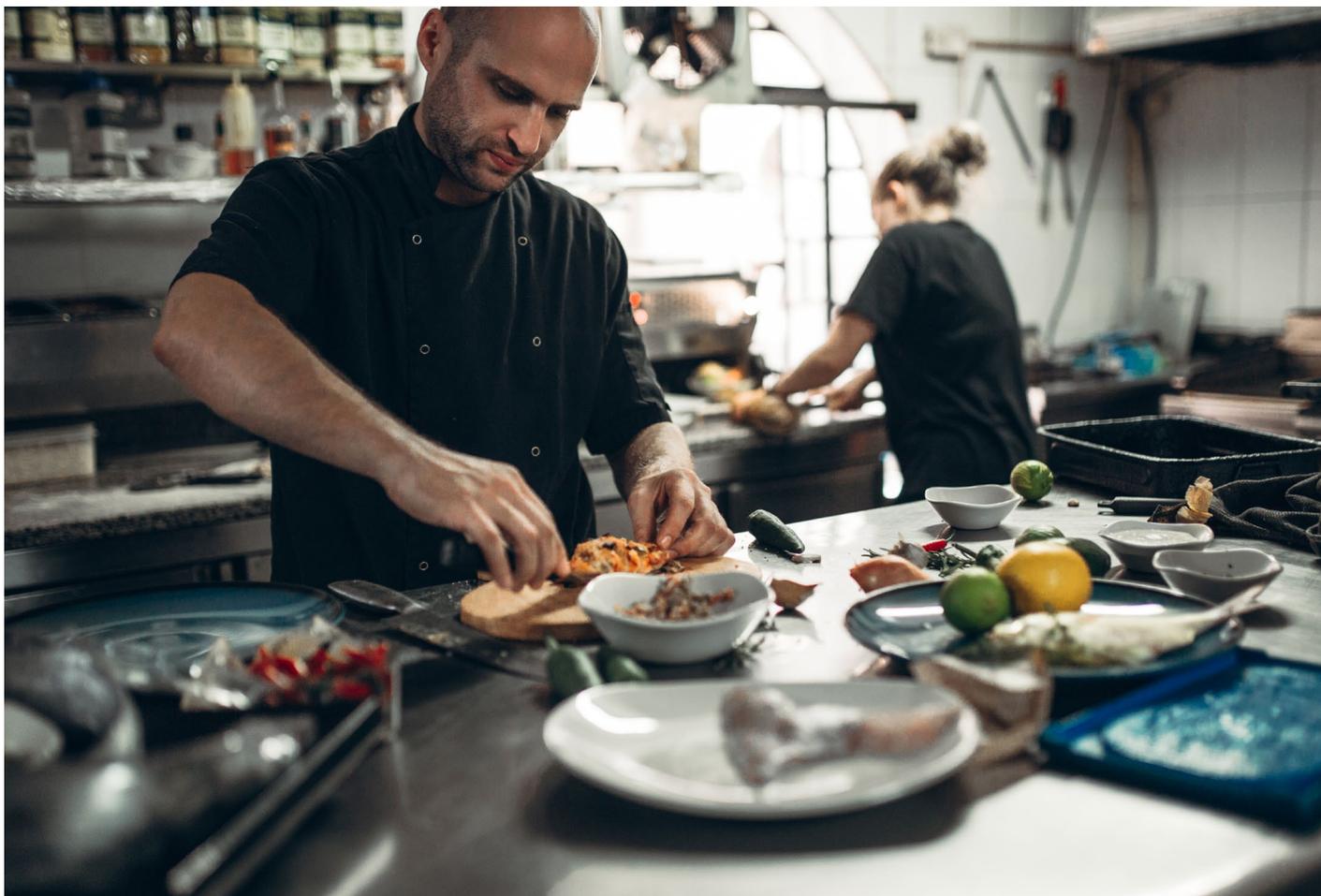


award or court order) is to fix up a mistake or overpayment. In this case, you need to discuss and agree on a written repayment arrangement with your employee first. Another common reason is when an employee damages company property. In these situations, it is much safer to seek advice than to go ahead and deduct pay.

**DID YOU
KNOW?**

You **cannot deduct pay** from employees **under 18** unless their parent or guardian has agreed in writing.

Expenses, Deductions and Overpayments



Understanding Overpayments.

Getting your money back if you happen to overpay an employee is not always easy. Even if you made a simple clerical error, or misinterpreted an award or agreement, there is a legal process to follow.

You can deduct pay if an agreement, award, law, court order, or the Fair Work Commission allows it. But if the deductions are for your benefit, they may be unlawful. If your employee then

refuses to agree to repay the money, you would have to get a court order.

The courts usually say recovery is available if you can show a mistake was made that led to overpayment. Recovery is not possible if the payment was intentionally made or the employee has already used the money in good faith. Your best option to get the money back is to make an arrangement acceptable to you and your employee where you deduct small amounts from their pay over time.



Wage Guarantee.

How the EmploySURE Wage Guarantee can help.

Understanding wages and applying them correctly can be a challenge for small business owners. We can help.

The EmploySURE Wage Guarantee

- ✓ An audit of your pay records.
- ✓ A report outlining any identified underpayment risks.
- ✓ Advice on the correct pay rates for your business.
- ✓ Peace of mind that by following our advice, you're getting wages right.

Our Commitment

If you seek and follow our Advice and are still found to be underpaying, we'll cover the underpayment bill.

Wage Guarantee is not, and is not intended to be, regulated as a financial product under the Corporations Act 2001 (Cth) or the Australian Securities and Investments Commission Act 2001 (Cth).

Full Terms and Conditions can be found at employSURE.com.au/employSURE-terms-and-conditions.

EmploySURE is the largest provider of employment relations and workplace health and safety services in Australia - servicing over 24,000 clients nationally.

Why EmploySURE?

At EmploySURE, we believe all Australian employers, no matter the size, deserve access to comprehensive, quality, honest advice and support that is scalable to the needs of their business.

Since the introduction of the Fair Work Act in 2009, workplace obligations have become more complex and difficult to manage, especially for overstretched small business owners.

EmploySURE was established in response to these challenges. It is our aim to ensure Australian business owners have access to cost-effective, professional advice on all employment relations and work health and safety matters.

What we offer

EmploySURE provides customised documentation, unlimited advice, policy and procedure review, insurance and legal representation for small business owners.

Being an EmploySURE client means no surprises – we keep our clients updated on Award changes, wage updates and essential compliance issues. Our expert advisers are available 24 hours a day to guide employers through any difficulties they may face.

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employsure.com.au



EmploySURE has given me the freedom to run my business in a way that I need to. It's given me the time and it's actually taken away a lot of worry that I previously had.

Kieran Syme | DentFree AutoTree



Google can only help you so far. Sooner or later you need to actually talk to somebody who is an expert in the field and that's where I found EmploySURE.

Ursula Zajaczkowski | The Source Bulk Foods



Biggest thing from EmploySURE, it gives us certainty. Where we have guidance and help of what we need in place, how to put it in place, and how to implement the systems for HR.

Jonathon Grealy | Niche Reform