

## Australian Fair Pay Commission Wage Decision July 2009

On Tuesday 7 July 2009, the Australian Fair Pay Commission ("**Commission**") published their fourth and final Wage Setting Decision ("**Decision**").

The Decision applies to all constitutional corporations. A constitutional corporation is a foreign corporation, a trading corporation or a financial corporation formed within Australia. If you are not a constitutional corporation then the Decision does not apply to you – other decisions will.

The Commission determined:

- "that minimum wages will **remain at their current levels** and not be increased"; and
- "to **adjust** the minimum weekly amount payable to employees with disability under the Supported Wage System to maintain its nexus with the income test free threshold for the Disability Support Pension ... to \$71 per week".

Therefore, the federal minimum wage for an adult remains at \$14.31 per hour and the minimum rates of pay under Pay Scales applicable to federal awards and NAPSAs do not change.

### Reasons for the Decision

In reaching its decision, the Commission received numerous submissions, conducted consultations in each State and Territory and relied on its continuing research program. With all of that in mind, the Commission found that:

*" Since the 2008 Decision, the economic outlook has changed markedly...*

*These are challenging times for the Australian labour market, and caution is warranted in the setting of minimum wages...*

*The Commission recognises that consumer prices continue to increase, putting some pressure on household disposable income. However, the Australian Government's changes to the tax/transfer system and its recent fiscal stimulus packages have provided real increases to disposable income for most households and have thus enabled the safety net to be maintained without the risk of increasing unemployment."*

and

*" The Commission maintains its view that the income safety net is provided by the combination of minimum wages and the tax/transfer system, with the Australian Government responsible for the latter..."*

*Over the past year, weekly disposable incomes of a range of illustrative households with one or two earners on the standard Federal Minimum Wage (FMW) increased by more than the current rate of inflation. Taking a longer-term view, since July 2006, the Commission's first three general Wage-Setting Decisions, in conjunction with tax/transfer changes, have increased the disposable incomes of all household types modelled, by around one and a half to two times the rate of inflation"*

## **What may happen now? What options are available to the union movement?**

The reaction from the union movement to the Decision has been predictably negative. The ACTU and other unions have condemned the Decision.

As a result of the commencement of the *Fair Work Act 2009* ("**FW Act**") on 1 July 2009, new provisions governing enterprise agreement bargaining have commenced – and one of those new provisions relates to "low paid bargaining".

Low paid bargaining has been designed to give those employees who are low paid (which is not defined) and who have traditionally been unable (for whatever reason) to bargain with their employer an opportunity through Fair Work Australia to bargain on an industry by industry basis.

It could be anticipated that the union movement (or parts of it) may, for those employees who fit the low paid bargaining criteria, seek to utilise the low paid bargaining system available under the FW Act.

However, it should be noted that the new bargaining system under the FW Act is not limited to low paid bargaining. The union movement may seek to bargain with employers on a more general basis.

Finally, employees individually, or collectively, may now be more inclined to initiate discussions with their employer about rates of pay.

In any of these situations the employer should plan to be in a position to respond to such a situation. This may require the employer developing a strategy as to how they will react should the union or the employees initiate contact with them, or alternatively to proactively manage its affairs.

## **Next National Wage Decision – 2010**

The next national wage decision will be handed down by Fair Work Australia, and this may occur as early as January 2010.

## **Australian Industrial Relations Commission/State based Industrial Relations Commission Decisions**

If you are not a constitutional corporation, but you were bound to observe a federal award, then you will be covered by the Australian Industrial Relations Commission decision which will be published in the next couple of months.

If you are not a constitutional corporation and you were not bound to observe a federal award, then you would be covered by the applicable State based Industrial Relations Commission decision.

## **Require further information/assistance?**

Contact your local EMA Consulting consultant at either our Adelaide Office or Melbourne Office on the phone numbers noted below.

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