

Article Information

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New financial year, new rates: Increases to award rates, penalty units and the High-Income Threshold are coming

With all of the uncertainty surrounding Australia's economy due to the impacts of COVID-19, the Fair Work Commission's 2020 annual wage review was always going to be a bit different. Businesses need to be prepared for what will, or will not, change post 1 July 2020.

A new financial year brings with it the chance to take stock of what happened in the previous year, and prepare for a new year, where economic uncertainty seems to be the "new normal".

With everything going on at the moment, some changes effective 1 July 2020 (and some effective later), may have gone unnoticed. So, what is changing?

Commonwealth Minimum Wage and Award-Rate Increases

The Fair Work Commission's Expert Panel released their Annual Wage Review decision on 19 June 2020.

In a rare development, it was not a unanimous decision, with Professor Wooden, an economist, dissenting by finding that there should be a freeze to wage increases due to the current economic circumstances.

The majority of the Expert Panel concluded that an increase of **1.75%** was appropriate.

In an even more unusual development, the increase will not take effect in every industry at the same time.

While the Commonwealth Minimum Wage increases from \$19.49 per hour (\$740.80 per week) to **\$19.84 per hour (\$753.80 per week)** on 1 July 2020, increases to Modern Awards will be staged between 1 July 2020 and 1 February 2021:

Group 1 - 1 July 2020: Industries and sectors "less affected" by the COVID-19 pandemic

- Aboriginal Community Controlled Health Services Award 2020
- Aged Care Award 2010
- Ambulance and Patient Transport Industry Award 2020
- Banking, Finance and Insurance Award 2020
- Cemetery Industry Award 2020
- Children's Services Award 2010
- Cleaning Services Award 2020
- Corrections and Detention (Private Sector) Award 2020
- Educational Services (Schools) General Staff Award 2020
- Educational Services (Teachers) Award 2010
- Electrical Power Industry Award 2020
- Fire Fighting Industry Award 2020
- Funeral Industry Award 2010
- Gas Industry Award 2020
- Health Professionals and Support Services Award 2020
- Medical Practitioners Award 2020
- Nurses Award 2010

- Pharmacy Industry Award 2020
- Social, Community, Home Care and Disability Services Industry Award 2010
- State Government Agencies Award 2020
- Water Industry Award 2020

Group 2 - 1 November 2020: Industries adversely impacted by the pandemic, but not to the same extent as others

- Aluminium Industry Award 2020
- Animal Care and Veterinary Services Award 2020
- Aquaculture Industry Award 2020
- Architects Award 2020
- Asphalt Industry Award 2020
- Australian Government Industry Award 2016
- Black Coal Mining Industry Award 2010
- Book Industry Award 2020
- Broadcasting, Recorded Entertainment and Cinemas Award 2010
- Building and Construction General On-site Award 2010
- Business Equipment Award 2010
- Car Parking Award 2020
- Cement, Lime and Quarrying Award 2020
- Clerks—Private Sector Award 2010
- Coal Export Terminals Award 2020
- Concrete Products Award 2020
- Contract Call Centres Award 2020
- Cotton Ginning Award 2020
- Dredging Industry Award 2020
- Educational Services (Post-Secondary Education) Award 2020
- Electrical, Electronic and Communications Contracting Award 2010
- Food, Beverage and Tobacco Manufacturing Award 2010
- Gardening and Landscaping Services Award 2020
- Graphic Arts, Printing and Publishing Award 2010
- Higher Education Industry-Academic Staff-Award 2020
- Higher Education Industry-General Staff-Award 2020
- Horticulture Award 2010
- Hydrocarbons Field Geologists Award 2020
- Hydrocarbons Industry (Upstream) Award 2020
- Joinery and Building Trades Award 2010
- Journalists Published Media Award 2010
- Labour Market Assistance Industry Award 2020
- Legal Services Award 2020
- Local Government Industry Award 2020
- Manufacturing and Associated Industries and Occupations Award 2020
- Marine Towage Award 2020
- Maritime Offshore Oil and Gas Award 2020
- Market and Social Research Award 2020
- Meat Industry Award 2020
- Mining Industry Award 2020
- Miscellaneous Award 2020
- Mobile Crane Hiring Award 2010
- Oil Refining and Manufacturing Award 2020
- Passenger Vehicle Transportation Award 2020
- Pastoral Award 2010
- Pest Control Industry Award 2020
- Pharmaceutical Industry Award 2010
- Plumbing and Fire Sprinklers Award 2010
- Port Authorities Award 2020
- Ports, Harbours and Enclosed Water Vessels Award 2020
- Poultry Processing Award 2020
- Premixed Concrete Award 2020
- Professional Diving Industry (Industrial) Award 2020

- Professional Employees Award 2020
- Rail Industry Award 2020
- Real Estate Industry Award 2020
- Road Transport (Long Distance Operations) Award 2020
- Road Transport and Distribution Award 2020
- Salt Industry Award 2010
- Seafood Processing Award 2020
- Seagoing Industry Award 2010
- Security Services Award 2020
- Silviculture Award 2020
- Stevedoring Industry Award 2020
- Storage Services and Wholesale Award 2020
- Sugar Industry Award 2020
- Supported Employment Services Award 2020
- Surveying Award 2020
- Telecommunications Services Award 2010
- Textile, Clothing, Footwear and Associated Industries Award 2010
- Timber Industry Award 2010
- Transport (Cash in Transit) Award 2020
- Waste Management Award 2020
- Wool Storage, Sampling and Testing Award 2010

Group 3 - 1 February 2021: Industries “most adversely impacted” by the pandemic

- Air Pilots Award 2020
- Aircraft Cabin Crew Award 2020
- Airline Operations-Ground Staff Award 2020
- Airport Employees Award 2020
- Alpine Resorts Award 2020
- Amusement, Events and Recreation Award 2020
- Commercial Sales Award 2020
- Dry Cleaning and Laundry Industry Award 2020
- Fast Food Industry Award 2010
- Fitness Industry Award 2010
- General Retail Industry Award 2010
- Hair and Beauty Industry Award 2010
- Horse and Greyhound Training Award 2020
- Hospitality Industry (General) Award 2020
- Live Performance Award 2010
- Mannequins and Models Award 2020
- Marine Tourism and Charter Vessels Award 2020
- Nursery Award 2020
- Professional Diving Industry (Recreational) Award 2020
- Racing Clubs Events Award 2010
- Racing Industry Ground Maintenance Award 2020
- Registered and Licensed Clubs Award 2010
- Restaurant Industry Award 2020
- Sporting Organisations Award 2020
- Travelling Shows Award 2020
- Vehicle Repair, Services and Retail Award 2020
- Wine Industry Award 2010

(NB. This table excludes Modern Enterprise Awards. For more information, the Commissions’ determination will set out the specific implementation dates).

Organisations will need to be careful to ensure that they confirm which of the three groups they fall into, and that any increases are passed on at the correct time. The delay in the increases may also have impacts on enterprise bargaining (in particular the test time for the Better Off Overall Test), and general budgeting for businesses.

Commonwealth Penalty Units

Civil remedy provisions contained in the *Fair Work Act 2009* (Cth) are expressed in “Commonwealth Penalty Units”,

meaning the maximum penalty that can be set by a Court is calculated by reference to the number of penalty units.

The value of a Commonwealth Penalty Unit is determined by the *Crimes Act 1914* (Cth). Following a statutory amendment in 2017, the next due date for indexation of the unit rate was set for 1 July 2020.

The Commonwealth Attorney General has advised that from 1 July 2020 the value of a penalty unit will increase from \$210 to **\$222**.

Many of the civil remedy provisions provide for maximum penalties of either 60 or 300 penalty units, depending on whether the contravention is engaged in by an individual or a corporation. This means that the maximum penalties for breaches of the *Fair Work Act 2009* (Cth), including underpayment claims, will increase as follows:

Type of Contravention	Number of Penalty Units	Current Monetary Value	Monetary Value from 1 July 2020
Contravention by individual	60	\$12,600	\$13,320
Contravention by individual - serious contravention	600	\$126,000	\$133,200
Contravention by Corporation	5x the individual rate =300	\$63,000	\$66,600
Contravention by corporation - serious contravention	5x the individual rate = 3,000	\$630,000	\$666,000

High Income Threshold

One of the jurisdictional barriers for non-Award or Enterprise Agreement-covered employees to make an unfair dismissal claim is whether or not their remuneration exceeds the high income threshold. The amount is indexed every financial year.

For terminations occurring on or after 1 July 2020, the new threshold will be **\$153,600**, an increase from \$148,700.

The high income threshold is also the determinant of the maximum compensation an employee can receive in the event that the Fair Work Commission determines that their dismissal was “unfair”. Compensation is limited to either six months’ pay or half the income threshold, if that exceeds six months’ pay. With the indexation, the maximum compensation that the Fair Work Commission can award in cases with a dismissal date post 1 July 2020 will be **\$76,800**.

Organisations need to be aware of these increases and, particularly with the increases to the minimum wage and Awards being staggered, ensure their payroll systems are updated to implement the changes.

If your organisation has any questions about the impact these changes may have on your operations, please contact a member of Piper Alderman’s Employment Relations division for assistance.