

## INCREASES TO MINIMUM WAGES AND THE HIGH INCOME THRESHOLD

### IMPORTANT CHANGES RE WAGES TAKE EFFECT FROM 1 JULY 2018

#### 1. MINIMUM WAGES

From 1 July 2018, Australia's national minimum wage for adult employees increased by 3.5% from \$694.90 per 38 hour week (or \$18.29 per hour) to \$719.20 per 38 hour week (or \$18.93 per hour).

Similarly, minimum rates under Modern Awards also increased by 3.5% for the first full pay period on or after 1 July 2018.

For junior employees who are Modern Award-free and Enterprise Agreement-free, the percentage scale set out in the Miscellaneous Award 2010 is applied to the national minimum wage to determine their applicable minimum rate of pay.

The minimum casual loading for Modern Award-free and Enterprise Agreement-free employees remains at 25%.

While not all wages will rise as a result of the national minimum wage increase, employers should nonetheless review wage rates to avoid any risk of accidental underpayment.

The National Minimum Wage Order 2018 can be viewed on the Fair Work Commission's website via this link: <https://www.fwc.gov.au/documents/sites/wagereview2018/decisions/c20181-order.pdf>

Please contact Harmers Workplace Lawyers if you would like further information or assistance with calculating revised rates.

#### 2. HIGH INCOME THRESHOLD

From 1 July 2018, the "high income threshold" for the purposes of the *Fair Work Act 2009* (Cth) increased from \$142,000 p.a. to \$145,400 p.a. This increase affects employers in a number of ways:

- for the purposes of unfair dismissal claims, employees who are not covered by either a Modern Award or Enterprise Agreement and who now earn more than \$145,400 p.a. will be excluded from bringing a claim;
- it increases the maximum compensation for unfair dismissal to half of that threshold, i.e. \$72,700 (or six months remuneration, whichever is less); and

- it increases the "guaranteed earnings" that need to be paid to Modern Award-covered employees under a written "Guarantee of Annual Earnings" clause to ensure the Modern Award no longer applies to the employee.

Whether an employee reaches the high income threshold is determined by a calculation of their annual "earnings". In this respect, employers should note that the *Fair Work Act 2009* (Cth) contains a special definition of "earnings".

#### "Earnings" do not include:

- payments that cannot be determined in advance - such as commissions, incentive-based payments, bonuses, and overtime (unless the amount is guaranteed);
- reimbursements; and
- ordinary contributions to superannuation (i.e. compulsory superannuation payments).

#### "Earnings" do include:

- wages;
- amounts paid on the employee's behalf or as the employee directs - this will cover additional, voluntary superannuation contributions paid at the direction of the employee; and
- the agreed value of non-monetary benefits such as a car, phone or laptop.

Employers need to take care in assessing earnings – for example, providing an employee with a company car will not take an employee over the high income threshold unless there is a prior agreed value assigned to the use of the vehicle.

Employers with senior employees under Guarantees of Earnings should check their contracts and the written Guarantee to ensure they continue to comply.



**SYDNEY OFFICE**  
Level 27 St Martins Tower  
31 Market Street  
Sydney NSW 2000  
Tel: +61 2 9267 4322  
Fax: +61 2 9264 4295

**BRISBANE OFFICE**  
Level 19  
10 Eagle Street  
Brisbane QLD 4000  
Tel: +61 7 3016 8000  
Fax: + 61 7 3016 8001

**MELBOURNE OFFICE**  
Level 40  
140 William Street  
Melbourne VIC 3000  
Tel: +61 3 9612 2300  
Fax: +61 3 9612 2301