

# Article

Employment, Workplace Relations & Safety



## Landmark Decision: Fair Work Commission Implements Historic Minimum Wage Hike

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Last Friday, 2 June, the [Fair Work Commission \(FWC\)](#) announced its minimum wage review decision for 2022-23.<sup>1</sup>

A summary of the key wage increase that will apply from 1 July 2023 is as follows:

- The minimum modern award wage rates of pay will increase by 5.75%
- The national minimum hourly rate will be \$23.23, an increase of \$1.85 per hour
- The national minimum weekly wage will be \$882.80 per week, an increase of \$70.20 per week

We discuss some of the key aspects of the minimum wage review below.

**The statutory framework of the Fair Work Commission's (FWC) minimum wage review**

*The Fair Work Act 2009 (Cth)* (the **Act**) requires the FWC to conduct and complete a review of the national minimum wage rate and modern award minimum wage rates each financial year, which it does through a review panel. The panel focuses on two key determinations, setting the future amounts for the national minimum wage and modern award minimum wages.

The FWC conducts its review within the statutory framework of the Act, which includes consideration of the following:

- the object of the Act (section 3);
- the modern award objective (section 134); and
- the minimum wages objective (section 284).

In the context of a review, both the modern award objective and the minimum wage objective require the FWC to take into account a range of specific considerations, including;

- various economic considerations;
- relative living standards and the needs of the low-paid; and
- promoting social inclusion through increased workforce participation.

Significantly, the Act also incorporates provisions to ensure procedural fairness during the review. The provisions guarantee that all concerned parties have a fair and reasonable opportunity to contribute by submitting their views to the review panel.

**The views of concerned parties**

Several parties, including the [Albanese Federal Government](#) (the **Government**), employer and employee representative organisations such as the [Australian Council of Trade Unions \(ACTU\)](#) and the [Australian Chamber of Commerce and Industry \(ACCI\)](#), submitted their views to the review panel of the FWC.

<sup>1</sup> <https://www.fwc.gov.au/hearings-decisions/major-cases/annual-wage-reviews/annual-wage-review-2022-23>

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Overwhelmingly, the submissions from these parties proposed an increase to the national minimum wage rate and the modern award minimum wage rates.

In its submission, the ACTU proposed a 7% increase to the national minimum wage and modern award minimum wages, largely in line with the high rate of inflation in Australia at the moment.

The ACCI, Australian Industry Group and several other employer bodies proposed more moderate increases to minimum wages of up to 4%.<sup>2</sup>

In a submission from the Government, it emphasised the importance of ensuring the real wages of low-paid workers did not go backwards to assist with the increased cost of living brought on by the current challenging economic conditions. The Government did not suggest that wages should automatically increase with inflation, nor did it advocate for inflation to be the sole consideration in determining wages. Furthermore, the Government acknowledged the need for long-term productivity improvements to facilitate real wages growth.<sup>3</sup>

### The FWC's minimum wage review decision for 2022-23

The review panel of the FWC determined that it was appropriate to increase both the national minimum wage rate and the minimum modern award wage rates. Interestingly the panel decided to impose different increases to the national minimum wage rate and the minimum modern award wage rates.

In reaching this decision, the panel noted the “*current combination of economic circumstances, namely low unemployment, falling real wages and high inflation*” weighed in favour of increasing wages.

As part of its decision to increase both the national minimum wage rate and the minimum modern award wage rates, the panel noted the following factors:

- inflation had significantly increased since the last annual wage review;
- an increase in minimum wages went some way to addressing gender pay disparity, given that many women are award-reliant;

<sup>2</sup> 3.5% increase in minimum wages plus the legislated 0.5% increase in the Superannuation Guarantee.

<sup>3</sup> <https://www.fwc.gov.au/documents/wage-reviews/2022-23/c20231-sub-ag-310323.pdf>

- the level of wage increase is the maximum amount that can be reasonably justified given the current challenging economic conditions;
- a small percentage of Australian workers (approximately 0.7 per cent) are paid the national minimum wage, and therefore, the increase in this wage will not have discernible macro-economic effects;
- non-discretionary components of the CPI (such as goods or services purchased because they meet an essential need like food, shelter or healthcare) have increased to 7.2 per cent over the previous year; and
- the need to constrain inflationary pressures.

The panel also considered the following to be moderating factors:

- the scheduled 0.5 per cent increase to the Superannuation Guarantee rate;
- forecasts of continually low unemployment and high levels of participation;
- that a large proportion of modern award-reliant employees work in sectors which would likely be affected by a reduction in discretionary expenditure associated with an economic slowdown;
- a reluctance to adopt a wage indexation approach when it comes to assessing increases to the modern award minimum wage rates; and
- the fact that productivity performance in Australia remains poor.<sup>4</sup>

### Key takeaways for business

In response to the FWC significantly increasing the national minimum wage rate and the minimum modern award wage rates from 1 July 2023, businesses will need to review the current remuneration arrangements of their employees to ensure that they continue to comply with their obligations to pay minimum rates of pay (see table below). Businesses must also bear in mind the increase in the [Superannuation Guarantee](#) rate to 11%.

<sup>4</sup> <https://www.fwc.gov.au/documents/resources/annual-wage-review-2022-23-decision-announcement.pdf>

Group	Obligation
Award	All full-time employees not covered by a modern award or enterprise agreement will, from the first full pay period on or after 1 July 2023, be entitled to a minimum weekly wage of \$882.80 for 38 hours of work.
Modern Award employees	From 1 July 2023, any employees covered by a modern award must be paid no less than the new modern award wage in respect of the employee's classification under the modern award (this change also includes casual loading and other loadings, penalties, allowances or overtime, which are calculated by reference to the modern award minimum pay rates).
Annualised salary employee	The increase may impact whether the annualised salary remains adequate enough to compensate for all of the award entitlements covered by the salary.  Businesses should review the annual salary packages of employees who receive "annualised salaries".

If you require assistance to prepare for the wage variations that will apply to your business from the start of the new financial year, please get in touch with one of our employment law experts.



**MORE INFO**

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