

WORKERS' RIGHTS PAY



It's a good idea to keep your own record of pay received and hours worked. Keeping a log book of your hours worked and your pay slips, for example, will assist you if a dispute arises over pay or hours.

How do I know if I'm getting the right pay for my job?

Your rate of pay should be set out in your agreement, award, or contract.

If you are not covered by an award or agreement, then the Federal Minimum Wage applies to you as a minimum hourly payment. This does not apply if you are under 21 years old, an apprentice or a trainee. From the 1 July 2011 the Federal Minimum Wage is set at \$15.51 per hour, before tax. Casual adult employees are also entitled to a casual loading on top of their basic hourly rate of pay. The minimum casual loading is 22% on top of the basic rate of pay (previously it was 21%). To check your rate of pay, call the Fair Work Infoline on 13 13 94. You will need to give them details about the kind of work you do, including the hours you work and whether you are permanent or casual. Your inquiry will be kept confidential.

Annual Wage Reviews

Each year, Fair Work Australia (FWA) reviews the minimum wage in modern awards. The pay rates in an enterprise agreement cannot fall below the award rate or a National Minimum Wage Order. This means that when the annual review takes place, any changes to pay rates in awards or to the National Minimum Wage flows through to those on agreements.

How is my pay calculated?

The amount you should be paid may be affected by many things, including:

- the type of work you do
- the hours you work
- if you work weekends, public holidays, evenings, overtime
- meal breaks
- whether you are permanent, casual or a shift worker
- your age
- your experience and qualifications

- how long you have worked with your employer, and
- if you get an allowance, for example - meal, uniform, or tool allowances.

When should my pay go up?

Your pay may go up:

- when you get a promotion
- if you are a junior and turn a year older or you become an adult (usually 21 years old, but under some awards an adult is 18 years of age)
- if you are an apprentice, when you graduate from one year to the next
- after each year of service within a particular classification
- when an agreement says so
- if and when a pay increase is awarded by FWA, or
- when your contract says you have a salary or performance review where pay increases may be awarded.

If you do not get a pay increase to which you are entitled you may have been underpaid. When your pay goes up so should your employer's contribution to your superannuation.

How often should I be paid?

You must be paid at least monthly, although your award, agreement or contract may provide for more frequent payment (e.g. weekly, or fortnightly). If your pay day falls due on a public holiday, you must be paid at or before the public holiday, otherwise it would be a breach of the Fair Work Act 2009. Most employees are paid by electronic funds transfer (cash deposited electronically into your bank account), in cash or by cheque. Check your award, agreement or contract to see how you should be paid.

Deductions

Your employer must take money out of your pay for tax - but they must get your written permission before taking money out for any other reason. For example, your employer must have your written consent before deducting money for an accidental overpayment of wages. However, if your award or agreement allows, money can be deducted from your termination pay if you leave before working out your notice period. Your employer may also be required by law to take money out for child support or for other purposes if ordered to do so by a court.

In some cases, a deduction may be reasonably authorised under an enterprise agreement, award or contract. For example, if you used a corporate credit card for personal use, or made personal calls on a company mobile phone, or used petrol in a company vehicle for private use. In these cases, your employer will still need your written consent in order to make the authorised deduction.

Pay records are important

You should receive a written notice of how much you have been paid for each pay period and a payment summary (formerly known as a group certificate) for your tax return after 30 June each year. Each payslip should provide details of your gross pay, any allowances paid, and all deductions from your pay (including the amount of tax). When your employer makes a superannuation contribution on your behalf (on top of your ordinary pay) the amount must appear on your payslip.

It's a good idea to keep your own record of pay received and hours worked. Keeping a log book of your hours worked and your payslips, for example, will assist you if a dispute arises over pay or hours.

Underpayment of wages

If you think you have been underpaid, speak to your employer. If you are not satisfied with the result and need further assistance, contact the services below for help. If you are unable to reach a satisfactory conclusion you may lodge a complaint to the Fair Work Ombudsman. Under the Fair Work Act 2009, it is against the law for your employer to take or threaten to take 'adverse action' against you because you made a complaint or inquiry about your employment (including your pay). Adverse action includes sacking you, denying you access to training or promotions, demoting you, and changing your hours or status.

You can make a workplace complaint for unpaid wages with the Fair Work Ombudsman for up to six years after the wages became payable. You can also make a claim in the Industrial Relations Court of South Australia for money that is owed to you. Your employer is required to keep all your time and wage records but in order to prove that your claim is valid, it is advised to keep your own records of hours worked and amounts paid.



Probationary or trial periods

You should be paid for any work you do. Even if you begin as a trainee or on trial, you should still be paid for this time. Make sure you find out when you start whether you will be paid and how much.

Junior rates

If you are under 21 years of age (or sometimes under 18 years of age), you may receive a junior rate of pay. This is related to your age and is usually set at a percentage of the relevant adult rate of pay. Junior rates of pay can vary depending on the industry in which you work. The rates can be found in your relevant award, agreement or contract. If there is no mention of a junior rate, then you will usually be paid the adult rate instead.

Where can I get more help?

Your union

SA Unions
Ph: (08) 8279 2222
www.saunions.org.au

Working Women's Centre

Ph: 1800 652 697
www.wwc.org.au

1st Floor, Station Arcade
52 Hindley Street
Adelaide, SA, 5000

Legal Services Commission

Ph: 1300 366 424
www.lsc.sa.gov.au

82-98 Wakefield Street
Adelaide SA 5000

Young Workers Legal Service

Ph: (08) 8279 2233
www.ywls.org.au

Fair Work Australia (FWA)

Ph: 1300 799 675
www.fwa.gov.au

Level 6, Riverside Centre,
Nth Terrace, Adelaide, 5000

Fair Work Ombudsman (FWO)

Ph: 13 13 94
www.fairwork.gov.au

Level 2, 148 Frome St.
Adelaide SA, 5000

Industrial Relations Court of SA

Ph: 8207 0999

Level 6, Riverside Centre
North Terrace
Adelaide SA 5000

Telephone Interpreter Service

Ph: 13 14 50

Legal disclaimer: The Fair Work Ombudsman (FWO) is committed to providing useful, reliable information to help you understand your rights and obligations under workplace laws. The information contained in this publication within the FWO's jurisdiction as set out in the Fair Work Act 2009 is: general in nature and may not deal with all aspects of the law that are relevant to your specific situation; and not legal advice. Therefore, you may wish to seek independent professional advice to ensure all the factors relevant to your circumstances have been properly considered. This information was published on 8 June 2011. The FWO does not accept legal liability arising from or connected to the accuracy, reliability, currency or completeness of this information. This material has been funded by the Australian Government through a Fair Work Ombudsman initiative to produce educative materials on the Fair Work Act.