

Factsheet Four

WHAT ABOUT MY PAY?

Your rate of pay should be set out in your agreement, Modern Award, or contract. If you are not covered by an agreement, Modern Award or contract, your pay is set at the National Minimum Wage.

National Minimum Wage

If you are not covered by an Modern Award, agreement or contract, then the National Minimum Wage applies to you as a minimum hourly payment. From 1 July 2016 the National Minimum Wage is \$672.70 per week (calculated on the basis of a week of 38 ordinary hours) or \$17.70 per hour. See factsheet 2 *Where do I find my conditions of employment?* for more information on the National Minimum Wage.

Casual employees are generally entitled to a casual loading on top of their basic hourly rate of pay, although there may be a few exceptions. Casuals should check their Modern Award, agreement or contract for their loading. Otherwise, as of 1 July 2016, the minimum casual loading is 25% on top of the basic rate of pay. This loading will be reviewed annually.

Annual Wage Reviews

An expert panel of the Fair Work Commission conducts annual wage reviews to apply for the first pay period on or after 1 July each year. In each annual wage review the expert panel of the Fair Work Commission reviews minimum wages in Modern Awards, the National Minimum Wage order, the casual loading (for Modern Award/agreement free employees) and special National Minimum Wages.

The pay rates in an agreement cannot fall below the Modern Award rate or a National Minimum Wage order at any time during the life of the agreement. This means that when the annual review takes place, any changes to pay rates in Modern Awards or to the National Minimum Wage flows through to those on agreements.

2016 NATIONAL MINIMUM WAGE ORDER – QUICK SUMMARY TABLE

National Minimum Wage	What does it all mean?	
When does this start?	The first full pay period on or after 1 July 2016.	
What is the National Minimum Wage?	\$672.70 per week, calculated on the basis of a week of 38 ordinary hours, or \$17.70 per hour.	
What is the minimum casual loading?	25%	
What if I have a disability?		
Special National Minimum Wage 1	For employees with a disability which does not affect their productivity: \$672.70 per week, calculated on the basis of a week of 38 ordinary hours, or \$17.70 per hour in the case of an adult. Different rates may apply to junior employees, apprentices, or employees to whom a training arrangement applies.	
Special National Minimum Wage 2	For employees with a disability which does affect the way they can do their job and who meet the impairment criteria for receipt of a Disability Support Pension (and who are not a junior employee, or an apprentice, or an employee to whom a training arrangement applies). Employees get a percentage of the National Minimum Wage. The percentage is based on the ‘assessed productive capacity’. For example, someone with a capacity of 70% would get 70% of the National Minimum Wage (ie. 70% of \$17.70 per hour). Employees must earn a minimum of \$80 per week.	
What if I am a junior?		
Special National Minimum Wage 3	A junior is an employee under 21 years of age. Juniors who are not covered by an award or agreement get paid a percentage of the national minimum wage as follows: Under 16 years 36.8% At 16 years 47.3% At 17 years 57.8% At 18 years 68.3% At 19 years 82.5% At 20 years 97.7% These junior rates do not apply in cases where:	
	<ul style="list-style-type: none"> • The employee is covered by an award, enterprise agreement or other registered agreement which contains junior rates, in which case these rates apply; • The employee is covered by an award, enterprise agreement or other registered agreement which 	

- does not contain junior rates, in which case the adult rates in the award or agreement apply;
- The employee has completed an apprenticeship and is trade qualified.

What if I am an apprentice?

Special National Minimum Wage 4	Apprentices who are not covered by a Modern Award or agreement are paid a percentage of the Miscellaneous Award 2010: Year 1 of apprenticeship 55% Year 2 of apprenticeship 65% Year 3 of apprenticeship 80% Year 4 of apprenticeship 95%
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What if I am trainee?

Special National Minimum Wage 5	Trainees should be paid at least the relevant wage from the Miscellaneous Award 2010 (Schedule E).
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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 will my pay go up?

Your minimum pay rates may go up:

- when you get a promotion;
- if you are a junior and turn a year older or you become an adult (usually 18 years old, but under some Modern Awards an adult is 21 years of age);
- if you are an apprentice, when you shift 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 the Fair Work Commission; 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 think 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 Modern Award, agreement or contract may provide for more frequent payment (e.g. weekly, or fortnightly). If your wages fall due on a public holiday, you must be paid before the public holiday.

Most employees are paid by electronic funds transfer (cash deposited electronically into your bank account), in cash or by cheque. Check your Modern Award, agreement or contract to see whether it says how you should be paid.

Can my employer make deductions from my pay?

Your employer will take money out of your pay for tax purposes. At the commencement of your employment you will be asked to supply your tax file number which is issued by the Australian Taxation Office. For all other deductions, your employer must get your written permission (including specification of the amount to be deducted) before taking money out and the deduction must be primarily for your benefit.

There may be some deductions authorised by your enterprise agreement or Modern Award, for which your employer does not require further written permission. However this should be clearly explained to you prior to the deductions being made. If you are unsure about whether or not the deductions are lawful, please seek advice from an external body such as the NT Working Women's Centre or the Fair Work Ombudsman.

Even if the employer is authorised to make the deduction under an enterprise agreement, Modern Award or contract of employment, the employer can only deduct money directly or indirectly for the benefit of the employer or a party related to the employer if this is reasonable in the circumstances. A deduction might be reasonable if, for example, 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. Sometimes money can also be deducted from your termination pay if you leave before working out your notice period.

Your employer cannot directly or indirectly require you to spend any part of your pay in a particular way.

Court ordered deductions

Your employer may be able to make some deductions without your permission where authorised to do

so by a law, an order made by a Court or the Fair Work Commission. For example, your employer may be required by law to take money out for child support or for other purposes if ordered to do so by a court. See the overpayment of wages section below for more relevant information.

Payslips

Every time you are paid, you should also receive a payslip. Under the *Fair Work Act 2009*, employers are required to provide payslips to employees within 1 working day of them receiving their pay (even if the worker is on leave at the time). There is certain information that **must** be included on every payslip:

- your name;
- the name of your employer and their ABN if they have one;
- the date of payment, and the period covered by the payment;
- your ordinary hourly rate, and the number of hours worked and the amount paid at that rate;
- the gross and net amounts paid to you;
- any amounts paid that are bonuses, loadings, allowances, penalty rates or other separately identifiable entitlements;
- amounts deducted from your gross pay (such as tax and superannuation), and the name of the fund or account into which the deduction was paid;
- if the employee is paid an annual rate of pay (salary), the rate as at the last day in the pay period.

You should also get a Payment Summary (or group certificate) for your tax return by 14 July each year. It's a good idea to keep your own record of pay received and hours worked. Keeping a time book and pay slips, for example, will help 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 NT Working Women's Centre. If you are unable to reach a satisfactory conclusion you may lodge a complaint to the Fair Work Ombudsman within 6 years.

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.

Overpayment of wages

From time to time, employees are overpaid entitlements during their employment or at the finalisation of their employment. The overpayment of entitlements such as leave or wages is not a clear cut issue. Generally it is accepted that in circumstances where an overpayment is made, the employer and employee come to an agreement to repay the overpayment either in one instalment or in several instalments over a period of time. If an employee refuses to repay the amount owed, the only method by which an employer can recover an overpayment of wages made to an employee is by a Court order.

Over time, the courts have determined the circumstances in which an employer can recover an overpayment made to an employee. An employer must demonstrate a genuine mistake that gave rise to the payment made in error. The most common cause of overpaying an employee by an employer is due to clerical or computer input error, e.g. incorrect information put into the payroll system. In most circumstances, such a clerical error is recoverable through the courts. If the overpayment to a staff member was made voluntarily and then an employer changed his or her mind, the money cannot be recovered unless the employee agrees.

Trial periods

You should be paid for any work you do. Whether work as a trainee, an employee attending training, or are on a 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

While all workers must receive at least the minimum hourly rate, if you are under 21 years of age, you may receive a junior rate of pay. This is related to your age and is 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 Modern Award, agreement or contract. If there is no mention of a junior rate, then you will be paid the adult rate. The expert panel of the Fair Work Commission reviews junior wages each year for employees who are not covered by a Modern Award or agreement. See the table at the beginning of this factsheet for more information.

Trainees and apprentices

Trainees and apprentices are employed under a contract of training for a fixed period of 6 to 48 months (full-time duration), with a probation period of up to 6 months, depending on the

vocation. Contracts of training may be part-time, full-time or school based. The employer must allow trainees and apprentices to undertake training, which can be on or off the job and forms part of the contract of training obligations. Trainees and apprentices cannot be employed on a casual basis and unless stated otherwise by a Modern Award, are paid for time spent at training.

See the table at the beginning of this factsheet for more information.

Wages for people with a disability

In the federal workplace relations system, employees must qualify for the Disability Support Pension from Centrelink to be eligible to be paid disability wages. Disability wages are usually calculated by multiplying the relevant minimum wage with a percentage that reflects the employee's assessed productive capacity. The resulting wage is commonly known as a 'productivity-based wage' or a 'pro-rata disability wage'. The expert panel of the Fair Work Commission reviews disability wages each year for employees who are not covered by a Modern Award or agreement.

See the table at the beginning of this factsheet for more information.

Where can I get more help?

NT Working Women's Centre

Freecall: 1800 817 055

Web: www.ntwwc.com.au

Your Union

Unions NT

Ph: 8941 0001

Web: www.unionsnt.com.au

The Fair Work Ombudsman

Fair Work Info line: 13 13 94

Web: www.fairwork.gov.au

The Fair Work Commission

Ph: 08 8936 2800

Local call: 1300 799 675

Web: www.fwc.gov.au

To access an interpreter

Interpreting and Translating Service NT

Ph: 1800 676 254

Web: www.itsnt.nt.gov.au/

Aboriginal Interpreter Service

Ph: 8999 8353

Web: www.ais.nt.gov.au/

For people with a hearing and/or speech impairment

National Relay Service

Ph: 133 677

Freecall: 1800 555 677

The NT Working Women's Centre provides free and confidential information, advice and assistance to women about work related matters.

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NT Working Women's Centre 1800 817 055

www.ntwwc.com.au