



**Australian Government**

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**Submission to the  
Australian Industrial Relations Commission**

**Wages and Allowances  
Review 2008**

**7 August 2008**

## Overview

1. The Australian Council of Trade Unions (ACTU), on behalf of member unions, currently has applications before the Australian Industrial Relations Commission (AIRC) to adjust wage rates and wage-related allowances in transitional awards and allowances in awards.
2. The applications seek to flow-on the recent decision of the Australian Fair Pay Commission (AFPC) to wage rates in transitional awards with commensurate adjustment to wage-related allowances in both awards and transitional awards. The applications seek an operative date of the first pay period on or after 1 October 2008.
3. The Australian Government encourages the AIRC to give effect to the flow-on of the AFPC's decision. The Government supports both the quantum of the flow-on and the proposed operative date.
4. Consistent with the AFPC's decision, the Australian Government also encourages the AIRC to cease the deferral of the general Wage-Setting Decision 2007 for employees of employers in the agricultural industry receiving the Exceptional Circumstances Interest Rate Subsidy (ECIRS), from 1 October 2008.

## Adjustment of wage rates in transitional awards

5. The AFPC has responsibility for conducting wage reviews and for setting and adjusting minimum and classification wages, predominantly for employees of constitutional corporations and employees of businesses in Victoria and the Territories (refer to s.5 and s.6 of the *Workplace Relations Act 1996* (WR Act)). The AFPC is the body primarily responsible for the adjustment of minimum wages for employees covered by the federal workplace relations system.
6. However, the federal system maintains a transitional system for employers and their employees who were covered by federal awards on 26 March 2006 but who are not working in constitutional corporations, (that is covered by s.5 and s.6 of the WR Act). These employees, referred to as 'transitional employees' fall within the jurisdiction of the AIRC.

7. When adjusting the minimum wages of transitional employees, the AIRC must have regard to the AFPC's decisions and the desirability of consistency with those decisions.
8. Clause 8 of Schedule 6 of the WR Act sets out these considerations as follows:

*“(1) The Commission must perform its functions under this Schedule in a way that furthers the objects of this Schedule.*

*(2) In performing its functions under this Schedule, the Commission must ensure that minimum safety net entitlements are maintained for wages and other specified monetary entitlements, having regard to:*

- (a) the desirability of high levels of productivity, low inflation, creation of jobs and high levels of employment; and*
- (b) the principle that the wages and other monetary entitlements of transitional employees should not place them at a disadvantage compared with the entitlements of employees (within the meaning of subsection 5(1)); and*
- (c) the principle that the costs to transitional employers of wages and other monetary entitlements should not place them at a competitive disadvantage in relation to employers (within the meaning of subsection 6(1)).*

*(3) In having regard to the factors referred to in paragraph (2)(a), the Commission must have regard to:*

- (a) wage-setting decisions of the AFPC; and*
- (b) in particular, any statements by the AFPC about the effect of wage increases on productivity, inflation and levels of employment.*

*(4) In performing its functions under this Schedule, the Commission must have regard to:*

- (a) the desirability of its decisions being consistent with wage-setting decisions of the AFPC; and*
- (b) the importance of providing minimum safety net entitlements that act as an incentive to bargaining at the workplace level.”*

9. In summary, the AIRC is obliged (among other things) to have regard to the principle that the wages of transitional employees should not place them at a disadvantage compared with employees within the rest of the federal system, and that the costs to transitional employers of wages should not place them at a disadvantage in relation to employers in the rest of the federal system.
10. The AIRC is also required to have regard to the wage-setting decisions of the AFPC and any relevant economic statements by that body.

### **AFPC's general Wage-Setting Decision 2008**

11. The AFPC handed down its general Wage-Setting Decision 2008 on 8 July 2008. The decision, which takes effect from the first pay period on or after 1 October 2008, has two main elements:
  - an increase of \$21.66 per week (\$0.57 per hour) to the standard Federal Minimum Wage (FMW) bringing the weekly rate to \$543.75. The standard FMW increases from \$13.74 per hour to \$14.31 per hour; and
  - an increase of approximately \$21.66 per week (\$0.57 per hour) for adult<sup>1</sup> rates of pay in Australian Pay and Classification Scales (Pay Scales).
12. The increases flow-on to junior employees, employees to whom training arrangements apply, employees with a disability, casual employees and employees receiving basic piece rates of pay.
13. Given the legislative requirement that the AIRC have regard to ensuring consistency with the wage-setting decisions of the AFPC in exercising its own wage-setting powers with regard to transitional awards, the Australian Government supports the flow-on of the AFPC's decision to the wage rates and allowances contained in transitional awards.

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<sup>1</sup> Where adult means a basic periodic rate of pay that does not explicitly apply to a class of employees with a disability or employees to whom a training arrangement applies or junior employees.

## Monetary allowances in transitional awards

14. Paragraph 17(1)(j) of Schedule 6 makes allowable in transitional awards monetary allowances that provide for:
- (i) *expenses incurred in the course of employment - for example, travel, accommodation, uniform, motor vehicle, meal or telephone expenses incurred in the course of employment;*
  - (ii) *responsibilities or skills that are not taken into account in rates of pay for employees – for example, a monetary allowance for the performance of additional duties at a higher level or for holding a particular qualification; or,*
  - (iii) *disabilities associated with the performance of particular tasks (for example handling hazardous materials) or work in particular conditions (for example work in cold rooms) or locations (for example work in remote locations).*
15. The Australian Government supports the adjustment of wage-related allowances in a manner consistent with the AIRC's approach with its 2007 decision.

## Operative date

16. The ACTU is seeking an operative date consistent with the AFPC decision of the first pay period on or after 1 October 2008 for each of its applications currently before the AIRC.
17. The Australian Government supports this operative date on the grounds that it would be consistent with the AIRC's decision in its Wages and Allowance Review 2007. Moreover, it is desirable that businesses in the federal workplace relations system pay the increases from the same date and that transitional employees are not disadvantaged compared with others in the federal system. The Australian Government considers that the operative date should be implemented in a manner consistent with the AIRC's decision in its 2007 Wages and Allowances Review.<sup>2</sup>

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<sup>2</sup> Australian Industrial Relations Commission, Wages and Allowances Review 2007, Decision, Print PR002007.

## **Deferral for farm businesses of the AFPC's general Wage-Setting decision 2007**

18. In its general Wage-Setting Decision 2007, the AFPC deferred the 2007 general wage increase for farm businesses most severely affected by drought and that were in receipt of an ECIRS. The deferral applied only to classification minimum wages above the standard FMW and was limited to a maximum of 12 months to ensure employees affected by the decision were not unreasonably disadvantaged.
19. In its Wages and Allowances Review 2007, the AIRC followed the AFPC's approach, permitting employers in receipt of an ECIRS to defer increases in transitional award wage rates while also extending the same principle to wage-related allowances.
20. In handing down its general Wage-Setting Decision 2008, the AFPC noted that the need for a continued deferral of wage increases for employees of employers in the agricultural industry receiving ECIRS has declined to the extent that no further deferral is necessary. Accordingly, it determined that this deferral will cease on 1 October 2008. Those farm businesses that elected to implement the deferral are therefore required to pay the 2007 and 2008 increases from 1 October 2008.
21. The Australian Government encourages the AIRC to cease the deferral of the general Wage-Setting Decision 2007 for employees of employers in the agricultural industry receiving the ECIRS, from 1 October 2008.