

## ***FWC Full Bench Decision – Wages and Conditions for Apprentices and Trainees***

### **Summary**

A Full Bench of the Fair Work Commission (FWC) has handed down a major decision on wage rates and conditions of employment for apprentices and trainees across numerous industries.

The award variations will operate from 1 January 2014. Ai Group will distribute a member advice on the variations in each individual award when the variations have been finalised by the FWC.

### **Overview**

On 22 August 2013, a Full Bench of the FWC handed down a major decision on wages and conditions of employment for apprentices and trainees. Ai Group took the leading role in representing employers' interests in the case.

The case was long and complex and the Full Bench's decision deals with a numerous issues. The key changes arising from the decision are set out below.

### **Wage rates for first year and second year apprentices (other than adult apprentices)**

Wages for first year and second year apprentices **who commence their apprenticeships on or after 1 January 2014** will be increased in over 30 modern awards, in most cases to the following rates:

1 <sup>st</sup> Year - without Year 12 of Schooling:	\$362.25
1 <sup>st</sup> Year - completed Year 12 of Schooling:	\$398.50
2 <sup>nd</sup> Year - without Year 12 of Schooling:	\$434.70
2 <sup>nd</sup> Year - completed Year 12 of Schooling:	\$470.93

The new rates will be phased-in over two increments between 1 January 2014 and 1 January 2015 (see phasing arrangements below). The rates for apprentices employed before 1 January 2014 will not be increased. Also, where the existing rates in an award are higher than the above rates, the rates will not be reduced.

### **Adult apprentice wage rates**

Adult apprentice wages rates will be included in over 30 modern awards, together with a requirement that where an existing employee becomes an adult apprentice he/she is entitled to be paid no less than the award rate applicable to the previous classification in which he/she was employed by the company. An adult apprentice is a person who is 21 years of age or over at the time of commencing the apprenticeship.

The minimum wage rate for first year adult apprentices will be 80% of the C10 or base trade rate unless the award already provides a higher rate. The minimum wage rate for a second year adult apprentice will be the National Minimum Wage (\$622.20) or the lowest classification rate in the award, whichever is the greater,

### **Competency based progression**

Competency based progression for apprentices will be introduced into the *Building and Construction – General On-site Award 2010*, the *Joinery and Building Trades Award 2010*, the *Airline Operations – Ground Staff Award 2010*, the *Sugar Industry Award 2010* and the *Graphic Arts, Printing and Publishing Award 2010*, based on existing provisions in the *Manufacturing and Associated Industries and Occupations Award 2010*.

### **Time spent in attendance at off the job training**

Awards will be varied to clarify that time spent in attendance at off the job training is to be counted as work time for the purposes of wages, ordinary hours and leave entitlements.

### **Excess travel costs for overnight stays**

Awards will be varied to give apprentices an entitlement to be paid for excess travel costs (i.e. travel costs which exceed those normally incurred in attending work) for attending block release training which requires an overnight stay.

### **Training fees and books**

Employers will be required to reimburse an apprentice for the cost of training fees and text books within 6 months of the commencement of each stage of the apprenticeship.

## Overtime and shift work

Awards will be varied to restrict the working of overtime and shift work by apprentices where this would prevent attendance at training.

## Notice of termination of employment

To ensure consistency with the National Employment Standards in the *Fair Work Act 2009*, award clauses which state that notice of termination does not apply to apprentices will be deleted.

## School-based apprenticeships

School-based apprenticeship provisions will be included in all modern awards which contain apprenticeship provisions.

## Lost time

The 'lost time' provision in the *Manufacturing and Associated Industries and Occupations Award 2010* (subclause 15.17) will be varied to provide that the taking of up to 10 days of personal/carer's leave in a year will not extend the nominal period of the apprenticeship.

## Numerous union claims rejected

The following union claims were rejected, consistent with the submissions of Ai Group:

- A claim for time spent travelling to off-the job training to be counted as work time;
- A claim for restrictions on the types of work (e.g. labouring work) to be carried out by apprentices;
- A claim for the definition of an adult apprentice to be changed to a person who is 20 years of age or over at the time of commencing their apprenticeship (rather than 21 years of age or over as currently applies);
- A claim for existing employees who become an apprentice to be paid no less than their pre-apprenticeship rate of pay (NB. this claim was rejected for apprentices other than adult apprentices);
- A claim for an employer to give notice prior to cancelling or suspending a training contract;
- A claim for previous service to be recognised for an apprentice terminated at the end of the apprenticeship and re-engaged within 6 months;
- A claim for limits to be placed on probationary periods in awards;
- A claim for specific supervision and mentoring requirements for apprentices;

- A claim to vary dispute resolution clauses to give the FWC more powers over apprentice matters.

## Operative dates and phasing arrangements

The changes to conditions of employment (other than wages) will apply from 1 January 2014. These changes will apply to existing and new apprentices.

The wage increases for first and second year apprentices (other than adult apprentices) who commence their apprenticeship on or after 1 January 2014 will be phased-in as follows:

- If the increase is equal to or less than a 5% increase in the relevant percentage of the award reference rate (e.g. the base trade rate), then the full increase will apply from 1 January 2014;
- If the increase is more than a 5% increase in the relevant percentage of the award reference rate, then the relevant percentage will be increased by 5% from 1 January 2014, with the remainder of the increase to take effect from 1 January 2015.

For awards which currently include adult apprentice wage rates (e.g. the *Manufacturing and Associated Industries and Occupations Award 2010*), the above phasing arrangements will apply to first year rates of pay for adults who commence their apprenticeship on or after 1 January 2014, with no phasing to apply to the increased second year wage rates.

For awards which do not currently include adult apprentice wage rates, the new rates will apply to apprentices who commence on or after 1 January 2014, without phasing.

## Next steps

The specific award variations to implement the FWC Full Bench decision have not yet been finalised. The parties, including Ai Group, are required to file draft variations with the FWC by 30 September 2013.

Ai Group will distribute a member advice on the variations in each individual award, when the variations have been finalised by the FWC.

## Further information and assistance

For further information or assistance please call Ai Group's **BIZassistInfoline** on **1300 78 38 44**.



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