

## JobSeekers

[Browse Job Ads](#)

[Job Alert](#)

[Register](#)

[Login](#)

[Float Me Service](#)

## Employers

[Overview](#)

[Targeted Search](#)

[Pay-on-placement Recruitment](#)

[Contractors](#)

[Unbundled Services](#)

[RPO Solutions](#)

[Top 5 Candidates Alert \(Free!\)](#)

[The HR Coach](#)

[- Hiring](#)

[- Firing](#)

[- Inspiring Staff](#)



## Modern Awards Explained

By Cassie Williams, Senior Associate, Employment & Workplace Relations Group, [Rigby Cooke Lawyers](#)

[Looking for an Inspiring Motivational Speaker for your next Staff event?](#)

### What are Modern Awards?

Modern awards will operate (together with the National Employment Standards) as the safety net underpinning relevant employees' employment.

Modern awards will replace all Notional Agreements Preserving State Awards (or NAPSAs) and Pre-Reform Federal Awards (**pre-modern award**) (with the exception of single business NAPSAs/Federal Awards).

Modern awards contain provisions relating to:

- minimum wages;
  - overtime and penalty rates;
  - types of employment;
  - work arrangements (eg. rosters, variation to working hours);
  - hours of work;
  - rest breaks;
  - classifications;
  - allowances;
  - leave and leave loadings;
  - superannuation; and
  - procedures for consultation, representation and dispute settlement.
- (Some modern awards may also contain terms about redundancy).

The modern awards will operate as common rule awards, ie. they will apply to all employers in a particular industry or sector and their employees who fall within a relevant classification or grade of that award.

### Who do the Modern Awards cover?

Modern awards will apply generally to employees falling within the scope of the awards who are not regulated by enterprise agreements (or pre-1 July 2009 statutory agreements).

However, employees who are otherwise covered by a modern award can be provided with a guarantee of annual earnings which if it exceeds \$108,300 per annum, excludes the application of the modern award.

### When do the Modern Awards apply from?

The modern awards have been in place since 1 January 2010 but not all provisions currently apply.

Between 1 January 2010 and 1 July 2010 pre-modern award conditions will continue to apply for:

- minimum wages;
- casual and part-time loadings;
- Saturday, Sunday, public holiday, evening and other penalties; and
- shift allowance / penalties (**four conditions**).

From 1 July 2010 onwards, the modern award provisions for the four conditions will be phased in.

### Why are the four conditions being phased-in from 1 July 2010?

The four conditions will be phased-in from 1 July 2010 to accommodate increases and decreases in loadings and penalties, so that there is less financial impact on employers in particular.

### Live Chat



Type your question here and click below...

Send

Live Chat by [LivePerson](#)

### **How will the four conditions of the Modern Awards be phased-in from 1 July 2010?**

The four conditions will be phased-in in five equal instalments of 20% between the first pay period on or after 1 July 2010 and the first pay period on or after 1 July 2014.

### **What happens if an enterprise agreement (or pre-1 July 2009 statutory agreement) is in place?**

All statutory agreements (whether made before or after 1 July 2009) will displace the terms and conditions of a modern award (if a modern award would otherwise cover an employee's employment) but all agreements must meet or exceed the base rate of pay of the modern award **throughout the life of the agreement.**

**This means that employers must monitor and adhere to any increases in the base rates of pay in the relevant modern awards to ensure that the statutory agreement provides at least the minimum base rate of pay to its employees at all times.**

### **What are the implications associated with the implementation of modern awards for my business?**

The implementation of modern awards will likely have cost and payroll implications associated with the phased-in provisions over a protracted period of five (5) years.

Modern awards cannot be disregarded (even if a statutory agreement is in place). Employers will need to monitor any phasing-in orders with respect to the four conditions and will need to assess whether the terms of the modern awards are more favourable than the employees' current terms and conditions. If the modern award terms are more favourable, employers may need to take certain measures to ensure compliance with the modern award provisions.

If an employer does not adhere to the modern award minimums, the employer may be liable for underpayment of wages and the imposition of penalties.

***A complimentary 30 minute consultation with Cassie Williams, Senior Associate of Rigby Cooke Lawyers can be provided to employers or senior executives on this and/or any other workplace or industrial relations issue. Please contact her on 03 9321 7867 for more information.***