## Minimum wage to increase The Fair Work Commission has announced a 3.0% increase to minimum by 3% on 1 July 2019

wages. The increase applies from the first pay period starting 1 July 2019. JULY U Subscribe to email updates and we'll let you know when the new minimum rates are available in our pay tools. You can find out more about the decision on the Fair Work Commission's website ₫ Most employees are covered by an award or registered agreement, but a few jobs and industries are not. When an employee is not covered by an award or agreement they are considered to be award and agreement free. Award and agreement free employees may have an employment contract. They are also entitled to at least the:

 national minimum wage National Employment Standards (NES). On this page find out: • how to check if an employee is award and agreement free: • Check if an employee is agreement free

· Check if an employee is award free.

• minimum wages and conditions for employees who are award and agreement free: Pay Hours of work, breaks and overtime

 Public holidays Leave Ending employment. Check if an employee is agreement free To find out if an employee is covered by a registered agreement:

ask the employer

covered by an award.

less.

**Example:** 

After checking relevant industry awards you should also check:

changes each year. From 1 July 2018, it is \$145,400.

• payments which can't be calculated in advance such as:

• incentive-based payments and bonuses

commissions

 find a registered agreement at the Fair Work Commission's website ₫. If there is an agreement, check the coverage and classification clauses to see if it covers the type of work the employee is doing. If there is no agreement that covers the employee's job, the employee is agreement free.

Back to top Check if an employee is award free To be covered by an award, an employee must: work in an industry or business covered by the award

 work in a job classification that is covered by the award not be in a job or industry that is excluded from the award. If there is no award that covers the employee's job the employee is award free. Get help figuring out what award applies on our Awards page. Example: When an employee is award and agreement free Nerida is employed as senior regional manager of three Lucky Hotels in Melbourne. Thomas is employed as a hotel manager at Lucky Hotel in Carlton.

Lucky Hotel doesn't have a registered agreement. The Hospitality Award covers hospitality employers and their employees who have jobs listed in the classification definitions of the award. The classifications cover some management staff, but not senior managers. Thomas is covered by the Hospitality Award because the duties of his role are covered in the classification definitions. Nerida isn't covered by the Hospitality Award. Even though it covers managers in the hospitality industry, it doesn't cover her particular job because it doesn't cover senior managers. She has checked that her job is not covered by any other award. Nerida's role is, therefore, award and agreement free. Her entitlements come from her employment contract and the Fair Work Act 2009 (FW Act), including the NES. Myth: all managers and professionals are award free Many managers and professionals have not traditionally been covered by awards. This includes accountants and finance, marketing, legal, human resources, public relations and information technology specialists.

 Professional Award 母 Miscellaneous Award ₫. If you need help understanding the classifications under these awards, Contact us. Myth: employees who sign a contract aren't covered by an award A contract can't make employees worse off than their minimum legal entitlements. This means that the entitlements in the

Check the industry definition and job classifications of each award carefully as some managers and professionals are

any other entitlements they get from their award. High income employees Awards don't apply to high income employees. A high income employee is an employee who: has accepted a written guarantee of annual earnings

• is guaranteed to earn an annual amount which is more than the high income threshold. The high income threshold

If an employee signs a contract that says they get 5 days of sick leave per year, they're still entitled to 10

days paid personal/carer's leave (which includes sick leave) from the National Employment Standards, plus

A guarantee of annual earnings can be accepted before an employee starts with an employer. To calculate an employee's earnings to see if they meet the threshold, include: the employee's wages the agreed value of non-monetary benefits. When calculating an employee's earnings to see if they meet the threshold don't include:

 overtime (unless the overtime is guaranteed) reimbursements statutory superannuation contributions. Pay The pay rate of an award and agreement free employee: must be at least equal to the national minimum wage may be set by an employment contract. From 1 July 2018 the national minimum wage for employees who are 21 years old and over is:

• \$18.93 per hour, or \$719.20 per week for full and part time workers

• \$23.66 an hour (this includes a casual loading of 25%) for casual workers.

Trainees and apprentices Pay rates for award and agreement free trainees and apprentices are based on the Miscellaneous Award. Other entitlements come from the FW Act, including the NES. To find pay rates for award and agreement free trainees and apprentices, use our Pay Calculator and select the Miscellaneous Award (noting that only the hourly pay rate applies and that other conditions set out in the award don't apply). Go to the Pay Calculator. **Juniors** Award and agreement free juniors get paid a percentage of the national minimum wage, using the aged-based percentage scale of the Miscellaneous Award. Other entitlements come from the FW Act, including the NES. To find pay rates for award and agreement free juniors, use our Pay Calculator and select the Miscellaneous Award

(noting that only the hourly pay rate applies and that other conditions set out in the award don't apply), followed by Classification 1 and then the age of the junior employee. Go to the Pay Calculator. **Employees with disability** There are 2 special national minimum wages for award and agreement free employees with disability. For details see Employees with disability pay rates. Piece rates and commission payments Award and agreement free employees can be paid piece rates or commission payments. They must still receive at least

the national minimum wage. For information about how to pay piece rates to an employee see Piece rates and commission payments. Back to top Hours of work, breaks and overtime Full-time, part-time and casual employees have different patterns of hours. For all employees, hours of work which are not overtime are called ordinary hours.

This section explains how ordinary hours are set for award and agreement free employees.

• 38 hours

dividing by 4.

• the employee's usual weekly hours of work.

adding up the total hours the employee has worked in the past 4 weeks

**Example: Averaging of hours over 4 weeks** 

An averaging of hours arrangement must:

Public holidays

take another paid day off instead.

Learn more about working on Public holidays.

**Annual leave for shiftworkers** 

• is regularly rostered to work those shifts

Taking annual leave

full pay.

• regularly works on Sundays and public holidays.

by the employee. They can agree, for example, that:

Direction to take annual leave

agreement is in writing

**Ending employment** 

Period of continuous service

At least 1 year but less than 2 years

At least 2 years but less than 3 years

At least 3 years but less than 4 years

At least 4 years but less than 5 years

At least 5 years but less than 6 years

At least 6 years but less than 7 years

hasn't taken.

Source reference:

contract may require an employee to give notice.

Other leave

**Notice** 

Shiftworkers (other than casuals) get 5 weeks of paid annual leave each year.

Often these agreements are set out in company policies or an employment contract.

• is employed in a business where shifts are continuously rostered 24 hours a day, 7 days a week

An award and agreement free employee is a shiftworker if the employee:

• be agreed to by the employer and employee

average the hours over no more than 26 weeks

• agree that the employee's average weekly hours will be no more than:

Agreed ordinary hours of work The ordinary hours of work for an award and agreement free employee are: • no more than an average of 38 hours per week otherwise open to agreement between the employer and employee. If an employee is not full-time and usually works less hours than the hours they have agreed to, their ordinary weekly hours are the lesser of:

When there are no agreed ordinary hours of work If there is no agreement, the ordinary weekly hours are: • full-time employees – 38 hours • all other employees – their usual weekly hours of work or 38 hours (whichever is less). If an employee doesn't have usual weekly hours and isn't a full-time employee work out their ordinary weekly hours by:

If the employee has worked for less than 4 weeks: add up the total hours the employee has worked divide by the number of completed weeks. Averaging of hours An averaging of hours arrangement means that the actual hours worked each week can be different and can include additional hours, provided the additional hours are reasonable.

Find out what factors need to be considered when deciding whether additional hours are reasonable in When overtime

Mai agrees with her employer to work an average of 20 ordinary hours each week over a period of 4 weeks. She actually works: 15 hours in week 1 25 hours in week 2 10 hours in week 3 30 hours in week 4 15 + 25 + 10 + 30 / 4 weeks = 20 hours per week on average.

• full-time employees – 38 hours • all other employees – their usual weekly hours of work or 38 hours (whichever is less). When overtime applies Award and agreement free employees don't get a higher pay rate when they work overtime hours, unless their employment contract says so. Meal and rest breaks Award and agreement free employees don't have any set meal and rest breaks. Meal and rest breaks may be provided for in: an employment contract workplace health and safety legislation. Workplace health and safety legislation generally says that an employer must provide a safe work environment for employees. This may include giving employees meal and rest breaks.

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Back to top Leave Annual leave Full-time and part-time award and agreement free employees get 4 weeks annual leave each year.

An employer and an award and agreement free employee can agree that the employee will work on a public holiday and

Check Safework Australia der for guidance on taking breaks to manage the risk of fatigue at work.

 it may be taken before it has been accrued • it must be taken within a fixed period of time after it is accrued a certain period of notice must be given before taking leave

• extra time on leave can be taken for the same overall pay, eg. 4 weeks leave at half-pay instead of 2 weeks leave at

An employer and an award and agreement free employee may agree on when and how paid annual leave may be taken

An employer can require an award and agreement free employee to take paid annual leave if the requirement is reasonable. Examples when it may be reasonable include: • the employee's leave balance is excessive • the employer's business is being shut down temporarily (eg. between Christmas and New Year). Cashing out annual leave An award and agreement free employee can make an agreement with their employer to get an extra payment instead of taking leave (called 'cashing out') if the:

• employer pays the employee the same amount the employee would get if they had taken the leave

• employee has at least 4 weeks left in their leave balance after the rest is cashed out.

Find out how much notice an employer needs to give to an employee and what must be included in an employee's final pay on our Notice and final pay page. Redundancy

When calculating the amount of redundancy pay, an award and agreement free employee's service before 1 January

2010 will only be counted if the employment contract provided for redundancy pay before then.

4 weeks

6 weeks

7 weeks

8 weeks

10 weeks

11 weeks

To find out when an employee must be paid redundancy pay, visit our Redundancy page.

Redundancy pay

An employer has to pay out at least the following minimum redundancy pay.

At least 7 years but less than 8 years 13 weeks At least 8 years but less than 9 years 14 weeks At least 9 years but less than 10 years | 16 weeks 12 weeks At least 10 years Redundancy pay is paid at the employee's base pay rate for their ordinary hours of work, but doesn't include: • incentive-based payments and bonuses loadings monetary allowances overtime or penalty rates • any other separately identifiable amounts.

lieu), s.119 (Redundancy pay) ₫ Fair Work Regulations 2009 r.1.11 (meaning of ordinary hours) 

 Think a mistake might have been made? Mistakes can happen. The best way to fix them usually starts with talking. Check out our Help resolving workplace issues section for practical advice on:

Fair Work Act 2009 s.20 (Ordinary hours), s.328 - 333 (High income employees), s.64

(Averaging of hours), ss.87(3) (Annual leave for shiftworkers), s.94 (Cashing out and

taking paid annual leave) s.117 (Requirement for notice of termination or payment in

• figuring out if a mistake has been made talking to your employer or employee about fixing it • getting help from us if you can't resolve it. Help for small business • Find tools, resources and information you might need on our Small business page.

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· Find out more about how Employment contracts interact with the NES · Visit our Online learning centre to find a free short course to help you Use our Leave Calculator to

calculate an employee's leave entitlement

award that applies to them, and the entitlements in the NES, keep applying, even if they sign a contract that gives them

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Learn more about other Leave, including personal, maternity, parental, compassionate and community service leave. Back to top An award and agreement free employee doesn't have to give notice to an employer before resigning. An employment

Any outstanding entitlements also need to be paid out including annual leave and long service leave that the employee

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