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Welcome to the NSW Industrial Relations webinar on Transitional Arrangements in Modern Awards.

We hope you enjoy this webinar.

Thank you

Transitional Arrangements in Modern Awards

- ❑ Modern Awards
- ❑ Transitional Provisions
- ❑ Transitional Wages
- ❑ Transitional Penalty Rates
- ❑ Useful Links and Contacts



Making the pieces of the IR puzzle fit

- Employers in NSW



Modern Awards

- ❑ Replace thousands of state and federal awards
- ❑ Created by Fair Work Australia (FWA)
- ❑ 122 modern awards (“MAs”)
- ❑ Cover various industries and occupations
- ❑ Can be found at www.fwa.gov.au



Commenced operation:

- ❑ 1 January 2010 - for most incorporated employers
- ❑ 1 February 2011 - for most sole traders and partnerships, and some incorporated employers



Most entitlements in the MA commenced in full on these dates, EXCEPT for...

- Wages
- Penalty rates
- Loadings

... which were phased in (if the MA contains transitional provisions) from 1 July 2010 or 1 February 2011



What does “phased in” mean?

- ❑ Any increase or decrease in wages, penalties and loadings under the MA are not immediately effective
- ❑ Changes are being gradually introduced over four years, finishing on 1 July 2014
- ❑ On 1 July 2014 those MA entitlements apply in full
 - Check the MA to see what, if any, transitional provisions apply (generally Schedule A in the MA)
 - Allowances and overtime are generally not subject to phasing

Transitional Wages

How to work out the transitional wage rate?

1. What was the PMA (Pre-Modern Award) instrument and classification?
2. What is the appropriate MA and classification?
3. What was the minimum PMA and MA wage for that classification immediately prior to 1 July 2010?
4. Apply the transitional provisions....
 - Sole traders, partnerships and non-constitutional corporations who were not employing staff immediately prior to 1 Jan 2010 pay the modern award wage in full (ie. no phasing of wages)

Assuming that immediately prior to 1 July 2010...

- Pre-modern award - Grade 1 = \$20 per hour
- Modern Award - Level 1, Year 2 = \$21 per hour

Date	% of TA	Wage in MA	Wage to pay
1 July 2010 (or 1 Feb 2011)	80% of \$1 = \$0.80	\$21.68 (\$0.68 FWA increase)	\$21.68 - \$0.80 = \$20.88
1 July 2011	60% of \$1 = \$0.60	\$22.42 (3.4% FWA increase)	\$22.42 - \$0.60 = \$21.82
1 July 2012	40% of \$1 = \$0.40	\$23 (FWA???)	\$23 - \$0.40 = \$22.60
1 July 2013	20% of \$1 = \$0.20	\$24 (FWA???)	\$24 - \$0.20 = \$23.80
1 July 2014		\$24.50 (FWA???)	\$24.50

Assuming immediately prior to 1 July 2010...

- Pre-modern award - Sunday loading = 75%
- Modern Award - Sunday loading = 50%

Date	Loading
Pre-1 July 2010	75%
1 July 2010 (or 1/2/11)	70%
1 July 2011	65%
1 July 2012	60%
1 July 2013	55%
1 July 2014	50%

This method only appropriate when the PMA and MA loadings are equivalent
ie. same in every respect other than the penalty amount



Transitional Penalty rates

For the following employers...

- ❑ Constitutional corporations who were not employing staff immediately prior to 27 March 2006, and
 - ❑ Sole traders, partnerships and non-constitutional corporations who were not employing staff immediately prior to 1 January 2010
- penalty rates are phased in from zero. ie. the pre-1 July 2010 penalty in the example on the previous page will be "0%"

Joe works on a Tuesday from 1pm – 9pm...

- Pre-Modern award - 10% for the whole shift
- Modern Award - 15% loading for all work performed after 6pm
ie. the PMA and MA penalty rates are NOT equivalent

Date	PMA penalty rate	MA penalty rate
Pre-1 July 2010	100%	0%
1 July 2010 (or 1/2/11)	80% of 10% = <u>8%</u>	20% of 15% = <u>3%</u>
1 July 2011	60% of 10% = <u>6%</u>	40% of 15% = <u>6%</u>
1 July 2012	40% of 10% = <u>4%</u>	60% of 15% = <u>9%</u>
1 July 2013	20% of 10% = <u>2%</u>	80% of 15% = <u>12%</u>
1 July 2014	0% of 10% = <u>0%</u>	100% of 15% = <u>15%</u>
	Applied to whole shift	Applied to work after 6pm



- ❑ NSW Industrial Relations - 9020 4612
 - Workshops / Seminars

www.industrialrelations.nsw.gov.au

- ❑ Fair Work Ombudsman - 13 13 94
 - Award Finder / Pay and Conditions Guides
 - Fact Sheets, templates, pay tools and other resources for employers
 - Guidance Note - Transitional Arrangements

www.fairwork.gov.au

- ❑ Fair Work Australia - 1300 799 675
 - Modern awards

www.fwa.gov.au