



**Industrial
Relations**

A division of the Department of Finance & Services

Fair Work For General Practice



**Industrial
Relations**

A division of the Department of Finance & Services

Disclaimer

It is important to note that this material has been prepared for educational purposes to encourage active participation and debate, and not for the purposes of providing legal advice.

NSW Industrial Relations, Department of Finance & Services, provides no warranty of accuracy, reliability or completeness regarding the information contained in the material, and accepts no responsibility for the information containing any errors or omissions, or for any loss or damage resulting from reliance (in whole or part) on that information.

NSW Industrial Relations recommends that this material be read in conjunction with an authorised copy of the relevant legislation and that no action should be taken on the basis of the information contained in the material without first obtaining independent advice from suitable advisors.

Copyright

This work is copyright. Apart from any use under the *Copyright Act 1968*, no part may be reproduced by any person/s without written permission from NSW Industrial Relations.



Topics Covered

- Timeline of key events
- National Employment Standards
- Modern award coverage
- Transitional provisions
- Record keeping and payslips
- Unfair dismissal
- Useful contacts and links



Timeline of Key Events

1 January 2010

- National Industrial Relations System commences
- Modern awards apply for employers in the federal system prior to this date
- 10 National Employment Standards commence for all National system employers and employees

1 February 2011

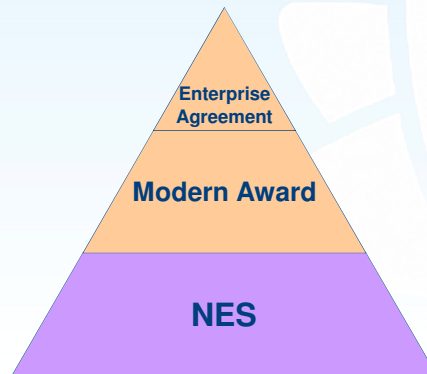
- Modern awards apply for employers who were in the NSW system prior to 1 Jan 2010 (Sole Traders, Partnerships & other non-constitutional entities)



Industrial Relations

Introduction to the NES

- 10 minimum conditions of employment
- Awards and other instruments build on the NES



Industrial Relations

National Employment Standards (NES)

1. Hours of work
2. Parental leave
3. Flexible work for parents
4. Annual leave
5. Personal / Carers and compassionate leave
6. Community Service Leave
7. Public Holidays
8. Fair Work Information Statement
9. Notice of termination and redundancy
10. Long Service Leave



Industrial
Relations

National Employment Standards (NES)

For additional information on the NES:

- Best Practice Guide on small business & the Fair Work Act – No. 7
www.fairwork.gov.au/resources
- Pre-recorded webinar on NSW Industrial Relations website
www.industrialrelations.nsw.gov.au/webinars



Industrial
Relations

Modern Awards (MA)

- Provide conditions equal to or more beneficial than NES
- Not all employees are covered by a modern award
- Both employer and employee must be covered by award to derive benefits from it
- An employer may still have multiple modern awards applying to their workforce



Modern Awards (cont.)

To determine which modern award applies check:

1. Name of the modern award
 - Industry award first, then occupational award
2. Definitions and Interpretation (Clause 3)
3. Coverage (Clause 4)
4. Classifications structure (usually Schedule B)



Modern Award Coverage

Clause 3. Definition and interpretations

Health industry – means employers whose business and/or activity is in the delivery of health care, medical services and dental services



Modern Award Coverage - (Clause 4)

- The Health Professionals and Support Services Award covers (cl 4.1):
 - employers in the health industry
 - employers engaging a health professional employee
 - “.....and their employees in the classifications listed in clauses 14 and 15 of the Modern Award.....”
- Refer to schedule B



Modern Awards (cont.)

- When covered by more than one award, the award usually gives direction on how to resolve the issue.
- Copy of modern award must be made available to employees - Noticeboard or electronic.
- To find your Modern Award go to: www.fairwork.gov.au
- Most Modern Awards contain a pay and conditions guide: **Award Finder / Pay and Conditions Guides**
<http://awardfinder.fwo.gov.au/default.aspx>



Transitional provisions

- Entitlements to **wages, penalties and loadings** may be different to those in pre-modern award
- Transitional provisions allow for these to be progressively phased in over a number of years
- Not all modern awards contain transitional provisions
- Some use AIRC model phasing schedule, others their own



Pre Modern Award instruments

PMA instruments include the following:

- Clerical and Administrative Employees (State) Award – [AN120664]
- Charitable, Aged and Disability Care Services (State) Award - [AN120118]
- Private Hospital Employees (State) Award – [AN120434]
- Dental Assistants and Secretaries (State) Award – [AN120179]



Transitional provisions (cont.)

What do transitional provisions phase 'from' and 'to'?

	From...	To...
Entitlements	<ul style="list-style-type: none"> • Minimum wages • Penalties • Loadings 	<ul style="list-style-type: none"> • Minimum wages • Penalties • Loadings
Instrument	<ul style="list-style-type: none"> • APCS (Pay Scale) • Federal minimum wage • Award-based transitional instrument (eg. NAPSA) 	<ul style="list-style-type: none"> • Modern Award



Employment Records (s535 & regs)

- Date of commencement
- Full-time, part-time, casual, permanent, temporary
- Overtime hours (quantum, or start and finish times)
- Hours worked by casual or irregular part-timers
- Any agreement to average hours
- Any agreement to an individual flexibility arrangement
- Any agreement to a guarantee of annual earnings
- Leave information
 - Leave taken and balance remaining
 - Any agreement to cash out leave



Industrial
Relations

Employment Records (cont.)

- superannuation details
- termination of employment details
- pay slip details (see pay slip requirements)

Records must be:

- legible and in English
- in a form readily accessible to an inspector
- given to new employer on transfer of business
- made available to employee or former employee on request
- kept for at least 7 years



Industrial
Relations

Pay slips (s536 & regs)

- Employer's name
- ABN (if any)
- Employee's name
- Date of payment
- Pay period (e.g. 22/3/10 to 28/3/10)
- All components of pay – e.g. loadings, allowances, bonuses, incentive-based payments, penalty rates
- Gross and net amount of pay



Industrial
Relations

Payslips (cont.)

- If paid hourly rate:
 - pay rate
 - hours worked at that rate
 - amount of pay at that rate
- If paid annual salary
 - their current annual salary
- Superannuation contributions – amount and fund
- Deductions made – amount and details



Industrial
Relations

Unfair Dismissal

Employee may only make claim if they have completed minimum employment period of:

- 6 months, or
- 12 months (if less than 15 employees) Small Business Fair Dismissal Code

and they are

- covered by a modern award or EA, **or**
- earning < high-income threshold (\$118,100)



Industrial
Relations

NSW IR Services & Contacts

NSW IR is able to provide partnership arrangements with stakeholders in NSW to deliver education and information services on IR/HR topics

NSW IR Advisers

- **Toni Minovski - 02 4298 8511**
 - Wollongong, Southern, Central and Southwest NSWToni.Minovski@services.nsw.gov.au
- **Daniel Kensey- 02 9020 5030**
 - Sydney Metropolitan areaDaniel.Kensey@services.nsw.gov.au
- **David Madden - 02 4915 5506**
 - Central coast, Hunter, Central, Northern and Northwest NSWDavid.Madden@services.nsw.gov.au



Industrial
Relations

Useful Contact & Links

- **NSW Industrial Relations - 02 9020 4612**
 - Employment Records and Payslips webinar
 - National Employment Standards (NES) webinarwww.industrialrelations.nsw.gov.au
- **Fair Work Ombudsman - 13 13 94**
 - RSS alerts – Really Simple Syndication
 - Award Finder / Pay and Conditions Guides
 - Fact Sheets, templates, pay tools and other resources for employers
 - Guidance Note – Transitional Arrangementswww.fairwork.gov.au
- **Fair Work Australia – 1300 799 675**
 - Modern awards
 - Fair Work Act 2009www.fwa.gov.au