



# STATEMENT

*Fair Work Act 2009*

s.157 - FWC may vary etc. modern awards if necessary to achieve modern awards objective

## **Expense-related allowances 2021**

(AM2021/60)

JUSTICE ROSS, PRESIDENT  
VICE PRESIDENT CATANZARITI  
COMMISSIONER HAMPTON

MELBOURNE, 17 JUNE 2021

*Adjustment of expense-related allowances.*

[1] On 16 June 2021, the Expert Panel (the Panel) for the Annual Wage Review 2020-21 issued its decision to increase the National Minimum Wage and modern award minimum wages by 2.5%.

[2] The Panel determined that exceptional circumstances warranted different operative dates for different groups of modern awards. The variation determination in respect of the *General Retail Industry Award 2020* (Retail Award) will come into operation on 1 September 2021.

[3] The variation determinations in respect of the following awards will come into operation on 1 November 2021:

- *Air Pilots Award 2020*
- *Aircraft Cabin Crew Award 2020*
- *Airline Operations – Ground Staff Award 2020*
- *Airport Employees Award 2020*
- *Airservices Australia Enterprise Award 2016*
- *Alpine Resorts Award 2020*
- *Amusement, Events and Recreation Award 2020*
- *Dry Cleaning and Laundry Industry Award 2020*
- *Fitness Industry Award 2020*
- *Hair and Beauty Industry Award 2010*

- *Hospitality Industry (General) Award 2020*
- *Live Performance Award 2020*
- *Mannequins and Models Award 2020*
- *Marine Tourism and Charter Vessels Award 2020*
- *Nursery Award 2020*
- *Racing Clubs Events Award 2020*
- *Racing Industry Ground Maintenance Award 2020*
- *Registered and Licensed Clubs Award 2020*
- *Restaurant Industry Award 2020*
- *Sporting Organisations Award 2020*
- *Travelling Shows Award 2020*
- *Wine Industry Award 2020.*

[4] The variation determinations for all other modern awards will come into operation on 1 July 2021.

[5] Section 292(1) of the *Fair Work Act 2009 (Cth)* (the Act) requires that the variation determinations giving effect to any adjustment of ‘modern award minimum wages’ be published before 1 July in the next financial year. Accordingly, the wage determinations for all awards will be published before 1 July 2021, irrespective of their operative date.

[6] There are no similar requirements under the Act for the publication of allowance determinations (the instruments giving effect to the adjustment of the expense-related allowances of an award), which the Commission publishes separately.<sup>1</sup> However, s. 149 of the Act provides for the automatic variation of allowances to coincide with the variation in modern award minimum wages.

[7] Consistent with s.149 the method of adjustment of expense-related allowances is provided for in a standard clause incorporated into most modern awards.<sup>2</sup> Clause C.2.2 of the Retail Award at is a typical example of the standard clause:

**‘C.2.2 Adjustment of expense-related allowances**

(a) At the time of any adjustment to the standard rate, each expense-related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.’

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<sup>1</sup> The Commission issues the determinations varying the expense-related allowance of modern awards as a result of annual wage reviews under the powers of s.157(1) of the Act.

<sup>2</sup> Some of the enterprise and State reference public sector modern awards may not have the standard clause incorporated, however, their expense-related allowances are adjusted in the same manner nonetheless. The standard clause is also not contained in modern awards which do not have an expense-related allowance.

[8] The standard clause provides that the expense-related allowances are adjusted by positive movements in the applicable CPI figure between its most recent figure and when the allowance was last adjusted. This adjustment is triggered when an award's standard rate is varied, through an annual wage review or otherwise.<sup>3</sup>

[9] A [Statement](#) issued by the President of Fair Work Australia in May 2010 formally outlined the process for adjusting expense-related allowances in modern awards for the Annual Wage Review 2009–10, referring to the standard clause above.<sup>4</sup> It also indicated that draft variations to the expense-related allowances would be published in advance of 1 July for the parties to consider.<sup>5</sup>

[10] Subsequent Annual Wage Reviews have largely followed the same process, however, the adjustment of expense-related allowances in the 2019–20 Review departed from previous reviews in terms of their update and when the expense determinations were published.

[11] In the 2019–20 Review, a majority of the Panel determined that exceptional circumstances warranted a different operative date for the modern award wage increase across 3 groups of awards.<sup>6</sup> The Panel decided that the increase to the Group 1 Awards would commence on 1 July 2020, while the operative date for the Group 2 and Group 3 Awards was delayed to 1 November 2020 and 1 February 2021, respectively.<sup>7</sup>

[12] The methodology and timing for the adjustment of the expense-related allowances for the Group 2 and Group 3 awards were outlined in an [information note](#) published on 21 July 2020. The expense-related allowances of the Group 2 awards were adjusted by the September quarter 2020 CPI and the Group 3 awards were adjusted by the December quarter 2020 CPI. The expense determinations for these groups were published on 31 October 2020 and 30 January 2021, respectively.

[13] We have decided to follow the same approach this year for the awards at [2] and [3] above.

[14] The expense-related allowances in those modern awards subject to the 1 July 2021 wage adjustment will be adjusted using the March 2021 quarter CPI data. Draft expense-related allowance determinations will be published shortly.

[15] The expense-related allowances in the Retail Award will be adjusted using the June 2021 quarter CPI data. This data is due to be released on 28 July 2021. A draft expense-related allowance determination will be published shortly after the data is released to allow interested parties time to comment on the draft.

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<sup>3</sup> Also see [\[2010\] FWA 3857](#) at paras 1, 3–4

<sup>4</sup> [2010] FWA 3857 at paras 1, 3.

<sup>5</sup> [2010] FWA 3857 at paras 6–7.

<sup>6</sup> [2020] FWCFB 3500 at para. 466.

<sup>7</sup> [2020] FWCFB 3500 at para. 161.

**[16]** The expense-related allowances for the awards set out at [3] will be adjusted using the September 2021 quarter CPI data. This data is due to be released on 27 October 2021. Draft expense-related allowances will be published on 28 October 2021 and interested parties will have until 29 October 2021 to comment on the drafts.

PRESIDENT

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