

NSW Real Estate Industry The national workplace relations system



What has happened?

All NSW real estate employees formerly working under the NSW *Industrial Relations Act 1996*, *NSW Real Estate Industry (State) Award* and the *Real Estate Industry (Clerical & Administrative Employees) (State) Award* have moved into the national workplace relations system. They are now covered by the national workplace relations system and the *Fair Work Act 2009*.

Federal and state awards have been streamlined into 122 modern awards covering all Australian workplaces. Your business is now required to use the appropriate modern award. The modern awards that would apply to real estate business are:

- the Real Estate Industry Award 2010 [MA000106]
- the Clerks - Private Sector Award 2010 [MA000002]

How are rates of pay affected?

The transitional rates in the new modern awards for employers in the previous NSW state award system commence from 1 February 2011. The rates of pay provided are the current minimum transitional rates that must be paid effective from the first pay period on or after 1 July 2011. Refer to the *pay rates table overleaf*.

If existing employees are currently receiving higher pay than prescribed in the modern awards, Fair Work Australia, in some cases, may order that these rates and entitlements be preserved under a Take Home Pay order.

What you need to know

If a person performs any work they should be paid for all hours they work, including:

- trial work or probation periods
- meetings or training
- opening and closing the business.

Employees are required to be given a pay slip every time they are paid.

What are the major changes?

The major changes to NSW workplaces which occurred from 1 January 2010 include:

Ten National Employment Standards: new minimum standards for ten common employment entitlements, including annual leave, sick leave and parental leave. All NSW employers must comply with these new laws.

Fair Work Information Statements: must be given to each new employee by their employer before, or as soon as possible after, the employee starts employment.

Fair Work Australia: the new independent tribunal which makes awards, approves enterprise agreements, deals with industrial disputes and resolves unfair dismissal claims.

General employment protections: new national laws protecting all workers from victimisation, adverse action and sham contracting now apply.

Unfair dismissal: the NSW unfair dismissal laws have been replaced. New rules exist for terminating employees, including a Fair Dismissal Code for small businesses.

Employment records: there are only slight changes to the requirements for keeping employment records and providing pay slips.

Fair Work Ombudsman: the national regulator for workplace issues.

Which NSW laws continue?

Not all NSW workplace laws have been replaced by the national system. NSW legislation still applying includes:

- anti-discrimination
- occupational health and safety
- shop trading
- gazetted public holidays
- long service leave
- workplace surveillance.

Useful websites and contacts

Fair Work Online www.fairwork.gov.au

Fair Work Infoline ☎ 13 13 94

Key information - Real Estate Industry Award 2010

- **Working hours:** all employee hours are based on a 38 hour week.
- **Part time:** no minimum hours.
- **Casual:** minimum of three hours per start plus 25% casual loading.
- **Commission-only:** provides a minimum income threshold test that must be satisfied to be commission only.
- **Overtime:** hours worked at the specific direction of the employer on an employees rostered days free of duty will be paid at time and a half for the first two hours and double time thereafter or taken as time off instead of payment for overtime.
- **Termination of employment:** workers are not required to give the same notice as the employer. A worker must give 1 week's notice to the employer or a greater period if agreed in writing. There is no requirement on the employee to give additional notice based on the age of the employee.
- **Annual leave loading:** 17.5% is payable on termination of an employee whether the employee resigns or is terminated. Not payable to commission-only employees.

Key information - Clerks - Private Sector Award 2010

- **Working hours:** all employee hours are based on a 38 hour week.
- **Part time:** no minimum hours except minimum of three consecutive hours on any shift.
- **Casual:** one-twelfth payment of holiday pay now included in the casual loading.
- **Overtime:** hours worked at the specific direction of the employer will be paid at time and a half for the first two hours and double time thereafter or taken as time off instead of payment for overtime.
- **Termination of employment:** workers are required to give the same notice as the employer. A worker must give 4 weeks of notice if employed for more than 5 years, except that there is no requirement on the employee to give additional notice based on the age of the employee.
- **Annual leave loading:** 17.5% is payable on termination of an employee whether the employee resigns or is terminated.

Real Estate Industry Award 2010 The minimum transitional Rates of Pay effective from 1 July 2011		
Modern award classification (new Classification)	Pre-modern award classification	Hourly base rate of pay
Property Sales Associate First 6 months of employment at this classification	Probationary salesperson	\$15.51
Property Sales Associate (after first 6 months of employment at this classification)	Salesperson	\$16.05
Property Sales Representative	Salesperson	\$16.44
Property Sales Supervisor	Salesperson	\$17.48
Property Sales Supervisor	Licensee-in-charge	\$18.92
Property Management Associate	Property officer, grade 3	\$16.33
Property Management Representative	Property officer, grade 2	\$16.98
Property Management Supervisor	Property manager	\$18.61
Property Management Supervisor	Property officer, grade 1	\$18.35
Property Management Supervisor	Licensee-in-charge	\$19.42
Strata/Community Title Management Associate	Property officer, grade 3	\$16.33
Strata/Community Title Management Associate	Property manager	\$18.61
Strata/Community Title Management Associate	Property officer, grade 1	\$18.35

The Clerks Private Sector Award 2010 The minimum transitional Rates of Pay effective from 1 July 2011		
Modern award classification (new classification)	Pre-modern award classification	Hourly base rate of pay
Level 1 – year 1	Grade 1	\$16.49
Level 1 – year 2	Grade 1	\$16.88
Level 1 – year 3	Grade 1	\$17.11
Level 2 – year 1	Grade 2	\$17.52
Level 2 – year 2	Grade 2	\$17.67
Level 3 – other than call centre principal customer contact specialist	Grade 3	\$18.48
Level 4	Grade 4	\$19.54
Level 5 – other than call centre principal customer contact specialist	Grade 5	\$20.76