



Small Business Assistance & Advisory Service

Fair Work Act - Modern Awards

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[Modern awards](#) are legal instruments which set out minimum conditions of employment for industries and occupations and regulate how employers and employees interact.

Some 122 modern awards cover particular industries or occupations (or both) prescribing minimum conditions in areas of work classifications, wage rates, allowances, penalties, loadings, working hours, rostering, consultation, superannuation and other matters.

Modern awards will not ordinarily deal with a matter dealt with under the NES. A modern award cannot exclude any provision of the NES. However, a modern award can provide ancillary or incidental detail in relation to the operation of an entitlement under the NES, but only to the extent that the term is not detrimental in any respect, when compared to the NES.

A modern award may include industry-specific detail about matters in the NES. It may also supplement the NES.

The NES provides that particular types of provisions are able to be included in modern awards even though they might otherwise be inconsistent with the NES. Modern awards may include provisions dealing with these issues. For instance, the NES allows, but does not require, modern awards to include terms that:

- provide for loadings to be paid to school-based trainees and school-based apprentices in lieu of certain entitlements;
- enable the averaging of hours of work over a specified period; or
- provide for the cashing out of paid annual leave by an employee, provided that certain conditions are met.

Determining Modern Award Coverage

The following is a guideline to assist employers in determining whether their employees are covered by a modern award or not.

Step 1: [Click here](#) and follow the instructions to find the relevant award. This will provide various options to identify an award covering employees in your business.

Step 2: Take note of the coverage, definitions and classifications clauses of awards. This will assist in determining whether your employees are covered by the award or not. Generally, the industry type will be canvassed in the coverage clause and defined further in the definitions clause. The classification clause (sometimes called Schedule B or otherwise) sets out the common duties, responsibilities and levels of employees who are employed under the award. It is useful to compare these against your employee's position description to determine the appropriate level and coverage.

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Step 3: If you are still confused [contact us](#) for guidance.

Please note: You may need to pay different employees under different awards. For example: if you own a construction company, your trades people are likely to be covered by the Building and Construction Award, whilst your office staff are likely to be covered by the Clerks Award.