

*Although the modern award, which covers you, is in operation, it does not apply to your employment for the period of the income guarantee.*

(Fair Work Act 2009)

#### **47 When a modern award *applies* to an employer, employee, organisation or outworker entity**

*Modern awards do not apply to high income employees*

- (2) However, a modern award does not apply to an employee (or to an employer, or an employee organisation, in relation to the employee) at a time when the employee is a high income employee.

(Fair Work Act 2009)

#### **47 When a modern award *applies* to an employer, employee, organisation or outworker entity**

*When a modern award **applies** to an employee, employer, organisation or outworker entity*

- (1) A modern award **applies** to an employee, employer, organisation or outworker entity if:
- (a) the modern award covers the employee, employer, organisation or outworker entity; and
  - (b) the modern award is in operation; and
  - (c) no other provision of this Act provides, or has the effect, that the modern award does not apply to the employee, employer, organisation or outworker entity.

Note 1: Section 57 provides that a modern award does not apply to an employee (or to an employer, or an employee organisation, in relation to the employee) in relation to particular employment at a time when an enterprise agreement applies to the employee in relation to that employment.

Note 2: In a modern award, coverage of an outworker entity must be expressed to relate only to outworker terms: see subsection 143(4).

*Modern awards do not apply to high income employees*

- (2) However, a modern award does not apply to an employee (or to an employer, or an employee organisation, in relation to the employee) at a time when the employee is a high income employee.

*Modern awards apply to employees in relation to particular employment*

- (3) A reference in this Act to a modern award applying to an employee is a reference to the award applying to the employee in relation to particular employment.

(Fair Work Act 2009)

## **48 When a modern award *covers* an employer, employee, organisation or outworker entity**

*When a modern award **covers** an employee, employer, organisation or outworker entity*

- (1) A modern award **covers** an employee, employer, organisation or outworker entity if the award is expressed to cover the employee, employer, organisation or outworker entity.

Note: In a modern award, coverage of an outworker entity must be expressed to relate only to outworker terms: see subsection 143(4).

*Effect of other provisions of this Act, FWC orders or court orders on coverage*

- (2) A modern award also **covers** an employee, employer, organisation or outworker entity if any of the following provides, or has the effect, that the award covers the employee, employer, organisation or outworker entity:
- (a) a provision of this Act or of the Registered Organisations Act;
  - (b) an FWC order made under a provision of this Act;
  - (c) an order of a court.
- (3) Despite subsections (1) and (2), a modern award does not **cover** an employee, employer, organisation or outworker entity if any of the following provides, or has the effect, that the award does not cover the employee, employer or organisation or outworker entity:
- (a) a provision of this Act;
  - (b) an FWC order made under a provision of this Act;
  - (c) an order of a court.

*Modern awards that have ceased to operate*

- (4) Despite subsections (1) and (2), a modern award that has ceased to operate does not **cover** an employee, employer, organisation or outworker entity.

*Modern awards cover employees in relation to particular employment*

- (5) A reference to a modern award covering an employee is a reference to the award covering the employee in relation to particular employment.

## **49 When a modern award is in operation**

*When a modern award comes into operation*

- (1) A modern award comes into operation:
- (a) on 1 July in the next financial year after it is made; or
  - (b) if it is made on 1 July in a financial year—on that day.
- (2) However, if the FWC specifies another day as the day on which the modern award comes into operation, it comes into operation on that other day. The FWC must not specify another day unless it is satisfied that it is appropriate to do so.
- (3) The specified day must not be earlier than the day on which the modern award is made.

Note: For when a State reference public sector modern award comes into operation, see section 168J.

*When a determination revoking a modern award comes into operation*

- (4) A determination revoking a modern award comes into operation on the day specified in the determination.
- (5) The specified day must not be earlier than the day on which the determination is made.

*Modern awards and revocation determinations take effect from first full pay period*

- (6) A modern award, or a determination revoking a modern award, does not take effect in relation to a particular employee until the start of the employee's first full pay period that starts on or after the day the award or determination comes into operation.

*Modern awards operate until revoked*

- (7) A modern award continues in operation until it is revoked.