



QUEENSLAND PAY EQUITY REGULATION

Overview

The *Fair Work (Transitional Provisions and Consequential Amendments) Amendment Regulation 2012 (No.1)* was made on 9 February 2012.

The Regulation affects certain employers and employees in the Queensland social and community ("SACS") sector.

The Regulation has two main effects:

1. Minimum rate of pay from 1 March 2012

From 1 March 2012, certain Queensland SACS employers must pay certain employees the base rate of pay that applied under the Queensland Community Services and Crisis Assistance Award – State 2008 (the State Award) as at 1 September 2011.

2. Back pay for employees employed between 27 March 2011 and 1 March 2012

Employers must also back pay these employees the difference between the amount paid to them in this period and the amount that would have been payable under the State award for the same period.

Background

On 12 June 2009, the Queensland Industrial Relations Commission (QIRC) made an order regarding pay equity in the SACS sector. The order applied to certain SACS employers in Queensland.

The QIRC order did not apply to some employers (who would have been affected had they been in the state system) because they were covered by certain Federal transitional awards.

The Regulation commences on 1 March 2012. It extends the effect of the QIRC order to employers covered by the Regulation.

Which employers are affected?

The Regulation will apply to an employer if *all* of the following apply:

1. The employer was not a constitutional corporation (essentially in this sector that means a "trading" corporation) immediately before 1 January 2010

2. One of the following Federal transitional awards applied to the employer immediately before 1 January 2010:
 - the Social and Community Services (Queensland) Award 2001; *or*
 - the Crisis Assistance Supported Housing (Queensland) Award 1999.
3. The Social, Community, Home Care and Disability Services Industry Award 2010 (the SACS modern award) applied to the employer on or after 1 January 2010
4. The employer received supplementary funding from the Queensland Government in relation to the QIRC order.

Which employees are affected?

The Regulation applies to an employee if *all* of the following apply:

1. The employee is employed by an employer described above
2. The employee performs the type of work that is set out in the QIRC order of 12 June 2009 and at a classification level within the order. The types of employees covered by this order are community services workers and crisis accommodation workers
3. None of the following applied to the employee immediately before 1 January 2010:
 - an enterprise agreement
 - a workplace agreement
 - a workplace determination
 - a preserved State agreement
 - an Australian Workplace Agreement, or
 - a pre-reform Australian Workplace Agreement.

What do employers have to do?

If the Regulation applies to an employer and one or more of their employees, the employer is required to:

1. Pay those employees the applicable minimum rate from 1 March 2012

From 1 March 2012, the employer must pay those employees a base rate of pay that is at least equal to the relevant base rate of pay in the State award as at 1 September 2011. This rate must be paid until the SACS modern award rate of pay 'catches up'.

The relevant rates are set out in the Schedule of the Regulation. The rates are calculated by reference to the rates in the QIRC order. The rates include:

- A 1% 'equal remuneration component' for the period up to and including 1 July 2015
- State Wage Case increases awarded by the QIRC between 12 June 2009 and 1 September 2011.

2. Back pay employees employed between 27 March 2011 and 1 March 2012

If the employee was employed between 27 March 2011 and 1 March 2012, they must be back paid the difference between the amount paid to them and the amount that would have been payable under the rates in the Schedule of the Regulation.

The back pay is payable to both current and former employees and must be paid over a three year period as follows:

Date	Percentage of total back pay due which must be paid by this date
1 July 2012	35%
1 July 2013	70%
1 July 2014	100%

An employer can pay their back pay obligations in a different way, as long as the minimum amounts are paid by the 1 July anniversary each year. For example, an employer could pay the total amount prior to 1 July 2012; or pay two instalments of 50% of the total payment, one before 1 July 2012 and the next one before 1 July 2013.

What about future wage increases?

Future annual wage case decisions by the QIRC or Fair Work Australia will **not** apply to the base rates payable under the Regulation as they are set out in the Schedule of the Regulation.

Are there penalties for non-compliance with the Regulation?

Yes. From 1 March 2012, employers must ensure that they pay employees the correct rates of pay under the Regulation, if the Regulation applies to them. If these amounts are not paid there is a maximum penalty of \$6,600 for each contravention of the Regulation. There is also a maximum penalty of \$6,600 for each contravention of the back pay timetable set out above.

Where can I get further information?

The Fair Work Ombudsman has established a special information service through our Fair Work Infoline on 1300 734 322. This service is available from 9am to 5pm.

In addition there is information about the Regulation and other helpful information for employers and employees on www.fairwork.gov.au.

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: **13 13 94**

Monday to Friday, between 8.00am–6.00pm

Fair Work Australia website: www.fwa.gov.au

FWA Help Line: **1300 799 675**

Monday to Friday, between 9.00am–5.00pm

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

- For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94
- Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

Fair Work Infoline: 13 13 94 www.fairwork.gov.au