



Australian Government

WorkChoices

Victorian employees covered by the federal system

Most Victorian employers and employees will be covered under the WorkChoices system where they are employed by:

- trading, financial and foreign corporations (constitutional corporations);
- the Commonwealth;
- a Commonwealth authority;
- an employer who employs an individual as a flight crew officer, a maritime employee, or a waterside worker.

These groups of employees are collectively referred to here as 'constitutional corporation employees'.

Victorian employees may also be covered by WorkChoices because of Victoria's referral of its legislative powers to the Commonwealth for particular workplace relations matters. In this fact sheet these employees are referred to as 'Victorian referral employees'.

In some cases, Victorian referral employees will have different entitlements from constitutional corporation employees

Minimum wages and conditions

The Australian Fair Pay and Conditions Standard (the Standard) will apply to constitutional corporation employees in Victoria. The Australian Fair Pay Commission (Fair Pay Commission) can set Victorian minimum wages for employees of constitutional corporations in the same way as it does for employees of constitutional corporations in all states and territories.



WorkChoices and Victoria

Victorian referral employees covered by an award will continue to be covered by these awards over a transitional period although their award conditions will be underpinned by the Standard, (except for wages). Wages will be included in 'transitional' awards, and adjusted by the Australian Industrial Relations Commission (AIRC).

For more information on transitional award arrangements, see the 'WorkChoices and federal awards and agreements' fact sheet.

Victorian referral employees covered by a workplace agreement will have their wages and casual loadings guaranteed by two mandatory provisions under WorkChoices, (see below).

For award-free and agreement-free Victorian referral employees the Fair Pay Commission will be able to adjust employees' wages. However, for Victorian referral employees, only wages provided for in an industry sector and work classification that existed under Victoria's Employee Relations Act 1992 will be dealt with by the Fair Pay Commission.

Agreement making

Victorian referral and constitutional corporation employees and employers will be able to enter a workplace agreement under the Workplace Relations Act.

Employees of constitutional corporations will need to meet the same agreement making requirements as all other constitutional corporations (as specified in the Workplace Relations Act).

For more information on agreement making, visit the Office of the Employment Advocate website at www.oea.gov.au.

Workplace agreements for Victorian referral employees made after the commencement of the WorkChoices must include clauses that guarantee employees covered by the agreement will receive at least:

- the relevant wage rate that would apply under the Standard if the employee was not covered by an award or workplace agreement*; and
- the casual loading (if applicable) provided by the Standard.

These clauses are mandatory. The workplace agreement will have no effect without these clauses.

* Please note: Employees should seek advice about the precise form of words required to ensure the agreement is valid.

Awards

Federal awards will bind constitutional corporations in Victoria in the same way as they bind constitutional corporation employers in other states.

Where a federal award binds a Victorian referral employer, the employer will continue to be bound by that award for a transitional period of five years. This is the same arrangement as in the other states. However, in Victoria these awards will be underpinned by the Standard (except for wages).

Awards which were declared to have common rule effect in Victoria before WorkChoices commenced will continue to apply to Victorian referral employers for a transitional period of five years.

New Victorian referral employers will become bound by existing common rule awards, but no new common rule awards will be made during the transitional period. These common rule awards will also be underpinned by the Standard (except for wages).

At the end of transitional period, Victorian referral employers will revert to the Standard unless they have entered into a workplace agreement.

WorkChoices is a new system of workplace relations legislation that covers up to 85 per cent of Australian employees. This series of fact sheets is available to assist workers and employers to understand their rights and obligations under the legislation.

For more information call the **WorkChoices Infoline** on **1300 363 264** or visit the **WorkChoices** website **www.workchoices.gov.au**



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