Minimum Wage Rise 2025:

What Agricultural Employers Must Do to Stay Compliant

The Fair Work Commission (FWC) has announced a 3.5% increase to the National Minimum Wage and minimum award wages, effective from 1 July 2025. This decision will raise the national minimum wage to $24.95 per hour or $948 per week for a full-time 38-hour week. This change is particularly significant for agricultural businesses, many of which rely on award-covered employees and seasonal workers. In addition to this increase, the current superannuation guarantee (SG) of 11.5% will increase to 12% on 1 July 2025.

Agribusiness must act now to ensure compliance with the new wage rates and avoid potential penalties.

Key Implications for Agricultural Employers

1. **Review Pay Structures**
   Ensure all employees are paid at least the new minimum rates from the first full pay period on or after 1 July 2025.

2. **Award Coverage**
   Many agricultural workers are covered by awards such as the Horticulture Award or Pastoral Award, which will also increase by 3.5%.

3. **Enterprise & Common Law Agreements and the BOOT**
   If your agribusiness operates under an enterprise agreement or utilises common law agreements, now is a critical time to conduct a Better Off Overall Test (BOOT) to ensure employees remain better off than under the relevant award.

4. **Budgeting and Workforce Planning**
   The wage increase may impact operating costs, especially for businesses with large casual or seasonal workforces.

What is the BOOT?

The Better Off Overall Test (BOOT) is a legal requirement under the Fair Work Act. It compares the terms of a registered enterprise agreement against the relevant modern award to ensure that each employee is better off overall. The test is not a line-by-line comparison but a holistic assessment of whether employees benefit more under the agreement than they would under the award.

Penalties for Failing the BOOT

Failing to meet BOOT requirements can have serious legal and financial consequences:

1. **Enterprise Agreement Rejection**
   The Fair Work Commission will not approve an enterprise agreement that fails the BOOT.

2. **Civil Penalties**
   Employers may face civil penalties for underpayments or breaches of the Fair Work Act.

3. **Criminal Penalties for Intentional Underpayment**
   From 1 January 2025, intentional underpayment of wages or entitlements—including those resulting from non-compliant agreements—can be a criminal offence.

4. **Maximum Penalties**
   For serious contraventions, companies may face penalties of up to 15,000 penalty units or three times the value of the underpayment, whichever is greater.

What About Common Law Employment Agreements?

Many agricultural employers use common law employment agreements—individual contracts that set out terms and conditions of employment. While these agreements are legally binding, they must not undercut minimum entitlements set by the relevant modern award or the National Employment Standards (NES).

Although ‘common law agreements’ don’t have to be formally registered with the Fair Work Commission, employers must still conduct a test to ensure the employee is ‘Better off Overall’ under the common law agreement than they otherwise would be under the applicable award.

Employers must ensure that:

- The employee is not worse off than they would be under the applicable award.
- All minimum pay rates, penalty rates, allowances, and conditions are met or exceeded.
- The agreement does not misrepresent or exclude award entitlements.

Failing to meet these standards can result in:

- Underpayment claims and orders for back pay.
- Civil penalties for breaches of the Fair Work Act.
- Criminal penalties for intentional underpayment from 1 January 2025.

Paying a Flat Hourly Rate? Here's What You Must Know

Many agricultural employers pay workers a flat hourly rate to simplify payroll. While this approach can be lawful, it comes with strict conditions: The flat rate must be high enough to cover all award entitlements, including:

- Ordinary hourly rates
- Overtime
- Penalty rates (e.g. weekends, public holidays)
- Allowances (e.g. for travel, tools, or working in harsh conditions)
- With the impending minimum wage increase (1 July 2025), employers who use flat hourly rates must recalculate to ensure the rate still covers all applicable entitlements under the relevant award.

Key Compliance Risks

1. **Underpayment**
   If the flat rate does not adequately compensate for overtime or penalty rates, the employer may be liable for back pay and penalties.

2. **Record-Keeping**
   Employers must keep accurate records of hours worked, including when overtime or penalty rates apply.

3. **No Offsetting**
   You cannot simply argue that a flat rate "averages out" over time. Each pay period must meet minimum entitlements.

Example

If an employee works 45 hours in a week, and the award sets ordinary hours at 38 per week, the additional 7 hours are calculated as overtime. Even if paid a flat rate, the employee must receive at least what they would have been paid had they received overtime for those hours.

Next Steps for Compliance

1. **Review Employee Pay Rates**
   - Compare current pay rates against the new minimum wage and relevant award rates.
   - Adjust wages for all employees earning below the new thresholds.

2. **Audit Employment Agreements**
   - Review all enterprise agreements to ensure they still pass the BOOT.
   - Examine common law agreements to confirm they meet or exceed award entitlements.

3. **Update Payroll Systems**
   - Ensure payroll software is updated to reflect new rates and superannuation entitlements from 1 July 2025.
   - Check that penalty rates, allowances, and overtime calculations are accurate.

4. **Communicate with Employees**
   - Inform staff of any changes to their pay or conditions.
   - Provide updated contracts or pay slips where necessary.

5. **Seek Professional Advice**
   - Consult with a HR Company who specialise in working with Agribusinesses to review agreements and ensure compliance.
   - Consider engaging an employment lawyer for complex enterprise agreements.

6. **Train Managers and Supervisors**
   - Educate those responsible for rostering, hiring, and payroll on the new wage obligations.
   - Ensure they understand the risks of non-compliance.

7. **Document Everything**
   - Keep records of wage reviews, communications, and updated agreements.
   - Maintain clear documentation in case of audits or disputes.

8. **Monitor for Future Changes**
   - Subscribe to updates from the Fair Work Ombudsman or industry associations.
   - Set reminders for annual wage reviews and compliance checks.

Conclusion

With the Fair Work Commission’s recent announcement of a 3.5% increase to minimum wages, agribusinesses must act swiftly to ensure compliance by 1 July 2025. Whether operating under modern awards, enterprise agreements, or common law contracts, employers have a legal and ethical responsibility to ensure their workers are not disadvantaged.

While enterprise agreements must pass the formal BOOT, common law agreements must also be carefully assessed to ensure they do not fall below award standards. The risks of non-compliance—including civil penalties, back pay liabilities, and even criminal charges for intentional underpayment— all of which are too significant to ignore!

Now is the time for agribusiness employers to review their employment arrangements, update pay structures and seek professional advice if needed. Taking proactive steps today will not only ensure legal compliance but also support a fair and sustainable workforce for the future.