

10 February 2012

Dear Sir or Madam

Commencement of the *Fair Work (Transitional Provisions and Consequential Amendments) Amendment Regulation 2012 (No. 1)*

I am writing to you because you have been identified as an employer that may be covered by a new Regulation regarding pay rates in the social and community services (SACS) sector in Queensland.

This new Regulation, called the *Fair Work (Transitional Provisions and Consequential Amendments) Amendment Regulation 2012 (No. 1)* (the Regulation), was made on 9 February 2012.

The Regulation commences on 1 March 2012 and requires certain employers in the Queensland SACS sector to pay their employees a base rate of pay that is no less than the base rate of pay determined by the Queensland *Community Services and Crisis Assistance Award – State 2008* (the State award) as in effect on 1 September 2011.

The Regulation also requires those employers to back pay their employees for the period from 27 March 2011 to 29 February 2012. These back payments can be made in accordance with a timetable set out in the Regulation.

To assist you I have attached a copy of the Regulation, together with an Explanatory Statement and a Fact Sheet explaining the effect of the Regulation.

Who is covered by the Regulation?

The Regulation covers employers which:

- immediately before 1 January 2010, were not constitutional corporations (essentially in this sector this means that they were not “trading” corporations); and
- immediately before 1 January 2010, were covered by a relevant federal transitional award; and
- on or after 1 January 2010, were employers to whom the Social, Community Home Care and Disability Services Industry Award 2010 (the modern award) applied; and
- received budget supplementation from the Queensland Government following the QIRC Order of 12 June 2009 in relation to employees in the SACS sector.

However, the Regulation does not apply to employees to whom an enterprise agreement or certain industrial instruments applied on 1 January 2010.

The Explanatory Statement that I have enclosed includes a list of the 316 employers who may be covered by the Regulation. This list is for guidance purposes only. It reflects advice from the Queensland Government and the Australian Services Union that each of these employers received budget supplementation following the QIRC Order and were respondent to a relevant federal transitional award immediately before 1 January 2010.

How do I know if my organisation is covered by the Regulation?

To be covered by the Regulation your organisation will need to meet all four conditions set out above.

The Fair Work Ombudsman can provide general guidance to organisations on these matters and on the rates of pay applicable in your workplace. If you would like more information or require assistance regarding whether the Regulation applies to your organisation please contact our Fair Work Infoline on 1300 734 322.



Australian Government

Fair Work

OMBUDSMAN

Alternatively, you can access information about the Regulation and the factors that indicate whether an organisation is a constitutional corporation on our website www.fairwork.gov.au.

Will the Australian Government provide funding in relation to the Regulation?

The Australian Government has announced that it will commit \$30 million to help eligible Queensland SACS employers to meet back pay obligations provided for in the regulations.

The Department of Education, Employment and Workplace Relations (DEEWR) has prepared an information sheet about this commitment, which is attached for your reference.

To assist the Commonwealth in the allocation of funding, could you please complete the enclosed form and return it to DEEWR by **24 February 2012**. If you would like to contact DEEWR regarding funding issues please contact Michelle Boundy on (02) 6121 3334 or at michelle.boundy@deewr.gov.au.

How can the Fair Work Ombudsman help you and your employees?

As mentioned above, the Fair Work Infoline can provide advice on rates of pay and other employment conditions. The service is available from 9am to 5pm Monday to Friday.

We will also be developing wage sheets and a tool to assist you with calculating back payment amounts for your employees.

Our website also contains a wide range of helpful information for employers and employees. This can be accessed at www.fairwork.gov.au. If you consider that the Regulation applies to you, then you should advise your employees.

Yours sincerely

Naomi Bleeser | Executive Director | Process Innovation and Knowledge Services Branch

GPO Box 9887, Canberra ACT 2601