

# ALERT

1 JULY 2010

## High Income Threshold for Unfair Dismissals Increased

From 1 July 2010, the high income threshold for determining eligibility to make unfair dismissal claims will rise from \$108,300 to \$113,800. The high income threshold amount is calculated and indexed annually, thus employers can expect changes to this figure again in 2011.

Employees who earn over the high income threshold are prohibited from making an unfair dismissal claim against an employer. There are, however, some notable exceptions to this exclusion. For instance, an employee who earns in excess of the threshold *will not* be precluded from lodging an unfair dismissal claim if that employee is covered by an award or an enterprise agreement.

Employers should note that, as of 1 July 2010, the maximum compensation available for an unfair dismissal will also increase to \$56,900 (this figure amounts to half of the high income threshold).

### Useful information for employers

In assessing whether an employee is earning above this threshold, the following are to be included in any calculation:

- wages;
- amounts applied or dealt with in any way on the employee's behalf or as the employee directs (eg superannuation top-ups, salary sacrifice);
- the agreed monetary value of non-monetary benefits (eg personal use of a company car, mobile phone or laptop).

The following are *not* included in the calculation:

- payments where the amount cannot be determined in advance (eg commissions, bonuses, overtime (except guaranteed overtime));
- reimbursements;
- employer contributions to superannuation.



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## Conclusion

Along with knowing whether your employees are covered by a modern award or an enterprise agreement, understanding how to calculate an employee's "earnings" is vital in assessing whether a former employee can bring an unfair dismissal application against your company. We recommend advice be sought whenever a claim is made by an employee who is paid an amount close to the threshold.

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