

## **REIA Guidelines**

### **New Australian Pay & Classification Scale**

*The determination of a New Pay & Classification Scale for commission only real estate salespersons*

#### **Background**

1. The introduction of WorkChoices effectively removed the flexibility for employment on a commission only basis, as there is no preserved piece rate in the real estate profession. In May 2007, the Real Estate Institute of Australia (REIA) tendered a submission to the Australian Fair Pay Commission (AFPC) on minimum wage arrangements in the real estate industry, in conjunction with a comprehensive submission tendered by the Real Estate Industrial Group (REIG). The REIG is led by REEFNSW, comprising both real estate employer and employee organisations).

2. On 16 August 2007, the AFPC announced the determination of a new Australian Pay and Classification Scale for commission only real estate agents to be known as the Real Estate Agents' (Commission Only) Australian Pay and Classification Scale, [2007] APCS 3.

#### **The establishment of a minimum piece rate (commission)**

3. Prior to the AFPC decision, all real estate salespeople covered by WorkChoices were subject to a minimum hourly wage which applied regardless of performance. With the introduction of the new Pay Scale, eligible agents now attract a minimum 'piece rate' of pay, which is 35% of the net agency commission for sales transactions completed by the employee. The net agency commission is calculated as the gross agency commission minus:

- a. any portion of the employer's gross commission paid to a conjunction agent;
- b. any applicable GST on the employer's gross commission; and
- c. 10% of the amount remaining after the above amounts have been subtracted.

4. Employees may of course be paid in excess of the minimum piece rate (by agreement) and must be remunerated no later than 30 days after the agency becomes entitled to receive payment in relation to a completed sales transaction.

5. The establishment of a minimum piece rate largely restores the remuneration flexibility previously applicable to the industry prior to WorkChoices.

6. The Pay Scale will commence from 1 October 2007.

#### **Application of the Federal Pay and Classification Scale**

7. The Federal Real Estate Agents' (Commission Only) Australian Pay and Classification Scale, [2007] APCS 3 applies nationally to all employees who are:

- a. covered by the Federal workplace relations system; and
- b. employed as a real estate agent undertaking sales transactions involving an agency relationship.

8. The Pay Scale does not apply to agents who are:

- a. engaged solely in undertaking commercial leasing transactions;
- b. operating outside of an agency relationship (e.g. developers);
- c. under 21 years of age;
- d. engaged as a casual employee; or
- e. trainees.

9. To address concerns about the potential application of inappropriate minimum wage arrangements to inexperienced or underperforming employees, the new Pay Scale will also be limited to employees who:

- a. hold relevant qualifications and/or are properly registered as real estate agents;
- b. have been working as a real estate agent for at least 12 months;
- c. agree in writing to be paid by commission-only; and
- d. have shown that they are capable, based on previous sales performance, of earning in excess of the FMW or Pay Scale that would otherwise apply.

**Further information**

10. An AFPC fact sheet summarising the determination is at Attachment 1.

11. The full AFPC determination can be found at: [www.fairpay.gov.au](http://www.fairpay.gov.au)