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The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Fair Work Amendment (A Living Wage)  
Bill 2018**

**No.     , 2018**

*(Mr Bandt)*

**A Bill for an Act to amend the *Fair Work Act 2009*,  
and for related purposes**



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**A Bill for an Act to amend the *Fair Work Act 2009*,  
and for related purposes**

The Parliament of Australia enacts:

**1 Short title**

This Act is the *Fair Work Amendment (A Living Wage) Act 2018*.

**2 Commencement**

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### **3 Schedules**

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### ***Fair Work Act 2009***

#### **1 Section 12**

Insert:

***median national hourly wage*** means the median weekly total cash earnings for all full-time employees paid at the adult rate of pay, most recently published by the Australian Statistician, divided by 38.

#### **2 After subsection 294(1)**

Insert:

(1A) The monetary amount per hour produced by the national minimum wage must at least equal 60% of the median national hourly wage.

Note: The national minimum wage must be expressed in a way that produces a monetary amount per hour (see section 295).

#### **3 In the appropriate position in Schedule 1**

Insert:

## **Part 9—Amendments made by the Fair Work Amendment (A Living Wage) Act 2018**

### **40 Definitions**

In this Part:

***amending Act*** means the *Fair Work Amendment (A Living Wage) Act 2018*.

***phase in period***: see paragraph 42(1)(a).

#### **41 Application of amendments—national minimum wage orders**

*Orders that come into operation after phase in period*

- (1) Subsection 294(1A) (as inserted by the amending Act) applies in relation to a national minimum wage order that comes into operation after the end of the phase in period.

*Orders made and that come into operation during phase in period*

- (2) If a national minimum wage order is made, and comes into operation, during the phase in period, the national minimum wage set by the order must reflect the phase in referred to in subclause 42(1).
- (3) Subclause (2) does not apply to the national minimum wage set by a national minimum wage order, if:
  - (a) FWC is satisfied that there are exceptional circumstances justifying the departure from the phase in, in relation to that particular national minimum wage order; and
  - (b) the national minimum wage order includes the FWC's reasons for the departure.

#### **42 FWC must phase in increases in national minimum wage**

*FWC must determine rate of phase in*

- (1) In the first national minimum wage order that comes into operation after the commencement of the amending Act, the FWC must set out:
  - (a) the period (the *phase in period*) during which the effect of any increases in the national minimum wage that will be required because of subsection 294(1A) (as inserted by the amending Act) are to be phased in; and
  - (b) the rate of the phase in during that period.
- (2) The phase in period must end no later than 6 years after the commencement of the amending Act.
- (3) In determining the rate of the phase in, FWC must have regard to the following matters:
  - (a) the need to reduce inequality;



- (b) the state of the economy;
- (c) the circumstances of particular industries and classes of employers;
- (d) any other matters the FWC considers relevant.

*Special rules if a national minimum wage order is made shortly before commencement*

- (4) If the first national minimum wage order that is to come into operation after the commencement of the amending Act is made before that commencement, the FWC must, after that commencement and before the national minimum wage order comes into operation, make a determination varying the order so that the order complies with subclauses (1) to (3).
- (5) To avoid doubt, subclause (4) applies despite paragraph 296(3)(a).  
Note: Paragraph 296(3)(a) restricts the grounds on which a national minimum wage order can be varied.
- (6) A determination made in accordance with subclause (4):
  - (a) comes into operation immediately after the order as unvaried comes into operation; and
  - (b) takes effect at the same time as the order.
- (7) The following provisions apply to a determination made in accordance with subclause (4) as if the determination was made under Part 2-6:
  - (a) subsection 296(2) (publication requirements);
  - (b) subsection 617(3) (determination must be made by Expert Panel).

### **43 Application of amendments—other Commonwealth laws**

- (1) This clause applies in relation to a payment if:
  - (a) the payment is of a kind that is payable by the Commonwealth under a law of the Commonwealth (other than this Act); and
  - (b) the law requires the payment to be calculated (however described) by reference to the national minimum wage set by a national minimum wage order.

## Schedule 1 Amendments

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Note: A kind of payment to which subclause (1) applies may be a kind of payment that is also payable by persons other than the Commonwealth (for example, parental leave pay under the *Paid Parental Leave Act 2010*).

- (2) A national minimum wage set by a national minimum wage order that comes into operation after the commencement of the amending Act does not apply for the purposes of the calculation of the payment.
- (3) Subclause (2) does not apply if the payment is prescribed by the regulations.