



# The Real Estate Industry Award

College Chronicle  
Newsletter

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Australian College  
of Professionals

RTO 91513

# The Real Estate Industry Award

Welcome to 2024 – let's plan for a happy, healthy and successful year ahead.

I hope that everyone had some time away from the daily work activities and had an opportunity to share some time, love and laughter with your family and friends.

As it is January and as we kick off another year in the property industry, now is a great time to reassess many aspects of our lives. One of these is our remuneration, or if you are a business owner, then what you are paying your team members.

On a weekly basis, we receive many enquiries in relation to how agents are paid. This is a very individual negotiation for each person – however, guidance firstly comes from the NSW Real Estate Industry Award. As of 2 April 2018, there was a new award for people employed within the property industry. It is important that all people working within the industry are aware of the award and its requirements. Whether you are an employer or an employee, you should be knowledgeable about your rights and obligations. We have summarised below the main areas within the award that most agents ask questions about.

## Classification Structure

Employment in the property industry falls within four broad areas:

1. Associate level – employee level 1 (basically people who hold a Certificate of Registration).

There are two sub-levels for Associate level – one for the first 12 months of employment and one for after the first 12 months at this level

2. Representative level – employee level 2

(people who hold a full licence)

3. Supervisory level – employee level 3 (people holding management or supervisory positions in an organisation)
4. In-charge level – employee level 4 (Licensee-In-Charge responsibilities)

## Increase to Minimum Wage

As of 30 June 2023, the base wage for a full-time or part-time adult real estate salesperson (Level 1 in the first year of employment) is \$23.64 per hour. Remember that the Pay Guide is reviewed annually and you should always check at the beginning of July each year if there have been any amendments to pay rates.

## Additional Allowances

- Mobile Phone Allowance – an employer is responsible for paying 50% of an employee's mobile plan, up to the value of a \$100 plan. For example, this means that if an employee has an \$80 per month plan, the employer is required to pay \$40 per month
- Motorcycle Allowance – if an employee uses a motorcycle they will receive 32 cents per kilometre rather than the 95 cents per kilometre for a car – up to a maximum of 400km per week.
- Vehicle Allowance – when an employee is required to use their own vehicle, an allowance is paid based on the size of engine of the vehicle (ranging from 16 cents to 23 cents per kilometre), a lump sum, or a standing charge plus an amount per kilometre.

## Commission

There are specific guidelines in the Award in relation to commission payments and splits if an employee leaves their employment prior to the settlement of a property that they have

listed and/or sold. Briefly, if a salesperson leaves the employment of an agency and they have listed a property and it has exchanged, they are entitled to the commission when the property settles. In addition, if a property that they have listed has not exchanged when they leave employment of that agency, and then the property exchanges whilst it is still in the "exclusive listing period", then that salesperson is entitled to the listing component of that commission, as would be detailed in their employment agreement.

Naturally, if the salesperson is terminated for serious misconduct, the commission is limited to properties that have exchanged prior to their termination.

### Commission-Only Employees

As the property industry is the last remaining industry with commission-only employees, the Award has included some specific requirements around this category of employment. The core requirements for commission-only employment are:

- Commission-only employment is for either full-time or part-time employees.
- The person must be over 21 years of age and hold a real estate licence or certificate of registration and agree (in writing) to be employed on a commission-only basis.
- The person must have been working as a salesperson in the industry for at least 12 months during the past 3 years.
- The person must meet the MITA (Minimum Income Threshold Amount) test where they earn 125% of the award rate (\$61,483.50 per annum + allowances). This rate applies to both full-time and part-time employees, and is not pro-rated for part-time commission-only employees. The person must have met the MITA test in past 12 month employment

during the past 3 years.

- If the person falls short of meeting the MITA test, they are no longer eligible to be employed on a commission-only basis.
- The employer needs to withhold allowance for personal and recreation leave from each commission payment, and only pay this to the employee when they take that leave.
- The employer is responsible for the payment of superannuation in addition to the employee's salary.

These are significant changes for commission-only employees, and must be considered seriously by both employees and employers.

### Independent Contractors

Those persons who work as independent contractors in the property industry are NOT covered by the Award. An independent contractor should seek legal advice in terms of signing an agreement with their chosen agency. It is an expectation that independent contractors are employing other people to assist them in their own business, where these employees need to be active agents, not just people who assist with accounts or marketing. As a College, we refer agents to JemmesonFisher who specialise in supporting agents in all legal and accounting aspects of their business.

**MORE INFORMATION:** I highly recommend that you, whether you are an employer or an employee, visit the REEF (Real Estate Employers Federation) website at [www.reef.org.au](http://www.reef.org.au) and ensure that you have all the information you require to make sure that are complying with the Real Estate Industry Award.

Rosy Sullivan  
Director | College Principal

### Did you know???

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