

Annualised wage arrangement provisions, which are contained in a number of modern awards, allow employees to be paid an “all-inclusive” annual wage in satisfaction of specified award entitlements, such as overtime rates, minimum weekly rates, weekend rates and annual leave loading.

From 1 March 2020, new annualised wage arrangement clauses will replace existing provisions in 18 modern awards, including the Banking, Finance and Insurance Award 2020, the Clerks – Private Sector Award 2010 and the Manufacturing and Associated Industries and Occupations Award 2010.

The complex new clauses mandate employers that utilise annualised wage arrangements to (at least) advise employees in writing on:

- The annualised wage payable
- The provisions of the award satisfied by the annualised wage
- How the annualised wage has been calculated (including specifying each separate component of the annualised wage and any overtime or penalty assumptions)
- The “outer limit” number of hours attracting award penalty rates and the outer limit number of overtime hours an employee may be required to work in a pay period, which are satisfied by the annualised wage

Certain modern awards will require employers to obtain employees’ written agreement to the terms of an annualised wage arrangement.

Employers must also:

- Keep detailed records of employee start/finish times and unpaid breaks. Employees must acknowledge the accuracy of these records for each pay period.
- Pay employees separately for any hours worked in excess of the “outer limits” specified above.
- Reconcile annualised wage arrangements with award entitlements at least every 12 months. An employee’s annualised wage must be no less than what they are entitled to receive under the award. If a discrepancy is identified, the employer must pay the outstanding amount within 14 days.

What You Need to Do

The growing number of underpayment revelations involving high-profile Australian corporations, and back payments of up to seven figures, is an important reminder that underpayment of award entitlements will not be tolerated and ignorance is no excuse for non-compliance. In anticipation of the incoming award variations, it is crucial that employers that use annualised wage arrangements ensure they understand their obligations and how they can comply. This may include:

- Ensuring you understand which (if any) modern awards apply to your employees
- Implementing procedures to ensure employee start, finish and unpaid break times are recorded
- Ensuring an appropriate system is in place to conduct annual reconciliation of annualised wages
- Where applicable, obtaining new employees’ agreement to the terms of an annualised wage arrangement
- Varying current employees’ contracts to ensure compliance with award terms
- Issuing employees with notification letters detailing the terms of an annualised wage arrangement

Should you wish to discuss any aspect of the above, please contact our Labour & Employment team.

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