



Mediation and Employment Relations Service

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UPDATE- FEBRUARY 2020

AWARD VARIATION – ANNUALISED WAGES FROM 1ST MARCH 2020.

The Horticulture Award has been amended to reflect annualised salaries in a new sub-clause 15. The Award can be accessed at

https://www.fwc.gov.au/documents/documents/modern_awards/award/ma000028/default.htm

Salaries have been paid on farms for some time but now these salaries must conform to the new provisions of the Award. In the past, any salary arrangement for an employee covered by duties within the Award was to meet the Better Off Overall Test (“BOOT”). Wages can still only be paid weekly or fortnightly (CI 16.1).

Some of the new provisions include the following:

1. A written Agreement between an employer and a full-time employee.
2. Agreement must show how the annualised wage is made up.
3. The Agreement can be terminated by giving 12 months’ notice.
4. The annualised wage is to include any or all of the following:

Horticulture

- a. Minimum wages clause 14
- b. Allowances clause 18;
- c. Ordinary hours of work and rostering – shiftworkers working afternoon and night shifts clause 23.3(d);
- d. Overtime clause 25
- e. Annual Leave loading clause 26.7; and
- f. Public Holiday rates of pay other than casual employees clause 29.3.

The benefits of annualised wages is primarily to minimise paperwork each pay day for the employer. It may assist employees with budgeting as they receive the same amount of wages each pay day regardless of the number of hours worked.

The disadvantage in annualised wages and salaries is that superannuation is payable on the total amount including compensation for overtime and allowances etc.

Superannuation is not paid on overtime but annualised salaries may include overtime and superannuation is then calculated on the total amount.

ALL employees (annualised or otherwise) must complete and sign a timebook showing commencement and finishing time and unpaid breaks as required by the Fair Work Act 2019. Timebooks should be signed at the end of the pay period by the employer.

The new provisions also may be cumbersome because at the end of each year and on termination of employment, the amount paid to the employee must be checked to meet the BOOT and corrective action is to be taken when the BOOT is not met.

There is also some uncertainty as to how to calculate leave entitlements. It is unclear if leave is to be based on 38 hours per week or the average weekly hours worked. When this issue becomes clearer, which may include testing in the Commission, we will provide an update.

The change to the Award comes into effect on the first full pay period commencing on or after 1 March 2020.

Annual Wage Review 2020

The Fair Work Commission Review into the Minimum Wage has begun. Over the next few months, submissions from Employer Associations, unions and, interested parties will also be submitted. If as can be expected, an increase is expected to come into effect on 1st July 2020.

If you have any queries, please do not hesitate to contact me.

Yours sincerely

**CHAS CINI
PRINCIPAL**