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FACT SHEET

Annual Salaries

A GUIDE FOR EMPLOYERS



Fact Sheet: Annual Salaries & What Employers Need To Know

What's changed?

A recent Federal Court ruling involving Woolworths and Coles has clarified how annual salaries must be managed under the Fair Work Act.

While the case focused on the General Retail Industry Award, the findings are expected to have wide implications across all Modern Awards.

The Court made two key findings that every employer should be aware of.

Key finding 1: Accurate timekeeping is essential

Even if employees are paid an annual salary, employers must keep detailed records of:

- Hours worked
- Overtime
- Weekend and public holiday work
- Any penalty entitlements

This ensures you can demonstrate that salaries are meeting minimum Award obligations every pay period, not just on average across the year.

✓ Best practice:

- Have all employees (including salaried and senior staff) record their start, finish, and break times.
- Both electronic systems and manual timesheets are fine. What matters is that they're accurate and consistent.

Key finding 2: You can't "set off" underpayments

The Court ruled that employers **cannot use annual salaries to offset** underpayments in one pay period with overpayments in another.

In practice, this means:

- Each pay period must independently meet the Award's minimum entitlements.
- If a shortfall occurs, it must be corrected **in that pay cycle**.
- You can't balance it out later in the year.

This represents a major shift from how many employers have traditionally managed annual salaries.

Example - Under the Real Estate Industry Award (Level 2):

- Base rate: \$28.12 per hour
- Time and a half: \$42.18
- Double time: \$56.24

If an employee is paid **\$35 per hour (\$69,160 per year)**, that comfortably covers Award entitlements per pay period.

However, if they earn **\$29 per hour (\$57,304 per year)** and work five hours of overtime in a month, their salary wouldn't meet the minimum for that pay cycle – and the employer would need to **top up \$108.18** for that period.

What employers should do now

While Woolworths and Coles are expected to appeal, this decision currently stands and could apply broadly.

Here's what small business employers should do:



Review salaries. Check that each pay period meets Award minimums, including overtime and penalty rates.



Record hours worked. Ensure all employees, including salaried staff, record their hours accurately.



Review employment contracts. Confirm that contracts:

- Reference the correct Award (if applicable)
- Outline what the salary covers (ordinary and reasonable additional hours)
- Require employees to record hours worked



Avoid assumptions. Don't rely on yearly estimates to show compliance. Assess pay period by pay period.



Monitor updates. Stay across Fair Work announcements as more guidance is expected to come from them.

Key takeaway

Annual salaries are still lawful. However, employers must now be able to prove compliance **each pay period**, supported by accurate timekeeping.

Strong recordkeeping and clear contracts are key to meeting your obligations and avoiding underpayment risks.

Need help?

Now Actually can help you:

- Review salary structures and contracts
- Implement compliant timekeeping practices
- Ensure your pay processes meet Award requirements



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