



# DETERMINATION

*Fair Work Act 2009*

s.156—4 yearly review of modern awards

## **4 yearly review of modern awards—Annualised Wage Arrangements** (AM2016/13)

### **HOSPITALITY INDUSTRY (GENERAL) AWARD 2020** [MA000009]

Hospitality industry

VICE PRESIDENT HATCHER  
DEPUTY PRESIDENT DEAN  
DEPUTY PRESIDENT SAUNDERS

SYDNEY, 5 MAY 2022

*Review of annualised salary provisions in modern awards – Hospitality Industry (General) Award 2020.*

A. Further to the decision [[2022] FWCFB 68] issued by the Full Bench of the Fair Work Commission on 5 May 2022, the above award is varied as follows:

1. By deleting clause 24 and inserting the following:

#### **24. Annualised wage arrangements**

**24.1** Clause 24 applies to all employees other than those within the Managerial Staff (Hotels) classification level as defined by Schedule A—Classification Structure and Definitions.

#### **24.2 Annualised wage instead of award provisions**

(a) An employer and a full-time employee may enter into a written agreement for the employee to be paid an annualised wage of an amount that is at least 25% more than the minimum wage prescribed in clause 18 multiplied by 52 for the work being performed in satisfaction, subject to clause 24.2(b), of any or all of the following provisions of the award:

(i) clause 18—Minimum rates;

(ii) clause 26—Allowances;



- (ii) at any time, by written agreement between the employer and the individual employee.

### **24.3 Annualised wage not to disadvantage employees**

- (a) The annualised wage must be no less than the amount the employee would have received under this award for the work performed over the year for which the wage is paid (or if the employment ceases or the agreement terminates earlier over such lesser period as has been worked).
- (b) The employer must each 12 months from the commencement of the annualised wage arrangement or, within any 12 month period upon the termination of employment of the employee or termination of the agreement, calculate the amount of remuneration that would have been payable to the employee under the provisions of this award over the relevant period and compare it to the amount of the annualised wage actually paid to the employee. Where the latter amount is less than the former amount, the employer shall pay the employee the amount of the shortfall within 14 days.
- (c) The employer must keep a record of the starting and finishing times of work, and any unpaid breaks taken, of each employee subject to an annualised wage arrangement agreement for the purpose of undertaking the comparison required by clause 24.3(b). This record must be signed by the employee, or acknowledged as correct in writing (including by electronic means) by the employee, each pay period or roster cycle.

### **24.4 Base rate of pay for employees on annualised wage arrangements**

For the purposes of the NES, the base rate of pay of an employee receiving an annualised wage under this clause comprises the portion of the annualised wage equivalent to the relevant rate of pay in clause 18 – Minimum rates and excludes any incentive-based payments, bonuses, loadings, monetary allowances, overtime and penalties.

2. By deleting the words “annualised salaried” and “annualised salary” wherever they appear in Schedule I—Part-day Public Holidays and inserting “annualised wage arrangement”.

3. By updating the table of contents and cross-references accordingly.

B. This determination comes into operation on 1 September 2022. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect in relation to a particular employee until the start of the employee's first full pay period that starts on or after 1 September 2022.



VICE PRESIDENT

Printed by authority of the Commonwealth Government Printer