



How to pay employees

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There are a number of ways employers can choose to pay their employees. Things to consider when deciding on the best method for your company include:

- Legislative minimums
- Market rates and economic trends
- Past custom and practice
- Contractual obligations
- Ease of payroll administration
- Attracting and retaining staff

Establish the minimum wage

Minimum wages are set by industrial tribunals and are prescribed in industrial instruments (i.e. awards and agreements). Minimum wages for award/ agreement free employees and award covered employees generally increase annually in July. The lowest wage payable to award and agreement free employees is the national or state minimum wage, whichever is applicable to a business. However, if an award applies to your employees it may prescribe higher minimum wages than the national or state minimum wage. Additionally, awards may prescribe penalties, loadings, allowances, overtime, annual leave loading, etc. which may also be payable to the employee.

A verbal or written contract of employment may guarantee a more beneficial financial entitlement than the statutory minimum. Any changes to contractual terms may only be actioned via mutual agreement between the parties and must not provide a less beneficial entitlement financially than the statutory minimum.

Paying a flat rate or annualised salary

Employers may simply pay against the statutory minimum. However, in some instances there may be alternative options around how an employer can structure wages (for example, combining the award minimum, penalties, loadings and allowances into a flat rate of pay or annualised salary).

If an employer decided to pay a flat rate or annualised salary, it is necessary to calculate all the separate monetary components from the underpinning award that would otherwise apply to the employee for the work they perform and ensure the flat rate or salary is sufficiently high to “off-set” the award entitlements. This should be mutually agreed to in writing, clearly stating each award entitlement that has been included

into the flat rate or salary (otherwise known as an “off-setting clause” in a contract of employment).

Some awards and agreements include specific instructions on how to calculate annualised salaries and employers should always review the applicable award or agreement before paying an annualised salary. For example, the Hospitality Industry (General) Award 2010 clarifies that to pay employees other than managerial staff an annualised salary they must be paid “at a rate equivalent to an annual salary of at least 25% or more above the rate prescribed in clause 20—Minimum wages, times 52 for the work being performed.”

Commission, bonuses and incentives

On top of ordinary wages, some employers choose to pay extra commission, bonuses or incentives. These should be clearly defined in an employment contract. The underlying minimum rates from the applicable industrial instrument will still apply. Only certain awards allow for payment by commission only.

Payment of wages

Pay cycles vary between companies (weekly, fortnightly or monthly). Payment is typically made in arrears. While some businesses choose to pay in advance, this option should be considered carefully before implementation as it can create issues upon termination of employment.

Modern awards or agreements may prescribe the pay period frequency, method of pay and sometime even the day of the week employees must be paid by, which must then be complied with. Additionally, some awards and agreements prescribed when final payment must be made upon termination of employment. Failure to comply with these provisions could render a business at risk of receiving infringement notices.

The maximum fines payable from an infringement notice are \$1,260 per contravention for an individual and \$6,300 per contravention for a body corporate.

Pay slips

The *Fair Work Act 2009* (Cth) requires hard copy or electronic pay slips to be provided to employees within one working day of the payment for that pay period being made. The *Fair Work Regulations 2009* prescribes what information must be included on the pay slip.



For more information, contact the Employee Relations Advice Centre on (08) 9365 7660 or email advice@cciwa.com

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