

25 March 2020

Our ref: KB-ILC

Ms Sandra Parker
Fair Work Ombudsman
GPO Box 9887
BRISBANE QLD 4000

By email: [REDACTED]

Dear Ms Parker

New rules for annual wage arrangements

We refer to the recent decision of the Fair Work Commission to make new rules about annualised wage arrangements.

We also refer to your website publication of 21 February 2020 (updated on 28 February 2020), "New rules for annual wage arrangements" which provides information about this decision.¹

The publication states, under the heading, "Who do the new rules affect?":

Employers can still pay all employees an annual salary without using annual wage arrangements in an award, as long as it covers all of their minimum entitlements. Employers should consider getting independent advice to make sure they're paying their employees enough.

Members of our Industrial Law Committee are concerned that this statement could be misleading to employers and result in non-compliance (particularly in relation to record keeping requirements and the requirement to ensure that in each pay period an employee is paid at least what they are entitled to under the award).

To ensure that employers better understand their obligations, you may wish to consider amending the above paragraph to something along the lines of:

Employers can still pay all employees an annual salary without using annual wage arrangements in an award, as long as the salary is sufficient to cover all of their award entitlements in each individual pay period. Employers will need to undertake detailed calculations to ensure that this is the case and still need to keep records of start and finish times as per the regulations. Employers should consider getting independent advice to make sure they're paying their employees enough, are keeping the correct records, and that their offset clauses are effective.

We would be happy to discuss this proposed change further with you.

¹ <https://www.fairwork.gov.au/about-us/news-and-media-releases/website-news/new-rules-for-annualised-wage-arrangements>

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We would also like to extend an invitation to you to attend a meeting of our Industrial Law Committee. In the short term, these meetings will take place via telephone or Skype, however, we would be happy to work with you and your staff to make suitable arrangements.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on (07) 3842 5930.

Yours faithfully




Luke Murphy
President