

Know Your Rights @ Aware Super: Annualised Salaries

For many employees of Aware Super, you have the modern award (called the *Banking, Finance and Insurance Award 2020*) for your industry operating as a minimum rates award, where your pay & conditions must be, at a minimum, as good as what is in the Award. Of course, you can (and should) get better pay & conditions than the minimum rates Award! But you cannot be provided with anything less than the Award.

For employees who are covered by the VicSuper Agreement or the First State Super Service Centre Agreement, the conditions in the Award are relevant for negotiating a new Agreement as each employee who would come under the Agreement must be better off overall than they would be under the Award.

For employees who are *not* covered by the VicSuper Agreement or the First State Super Service Centre Agreement, **this is for you!** Most employees not covered by either agreement would have the Award cover them. Contact your local HR in the first instance to check to see if the award does cover you. (If HR says the award doesn't cover you, please contact the CPSU immediately!)

Annualised Salaries under the Modern Award – Since March 2020

1. *Does Aware Super keep a record of the start and finish times, and any unpaid breaks, for each day you work?*
2. *Does Aware Super provide you with a copy of these records every fortnight for you to confirm in writing that they are an accurate record?*
3. *Has Aware Super provided with you the methodology for how your annualised salary was calculated?*
4. *Do you know what the maximum number of overtime hours, or penalty rate hours if doing shift work, you can be asked to do under your annualised salary arrangement?*

If you answered NO to ANY of these questions, then Aware Super has not been meeting their obligations under the award, the national minimum set of pay & conditions for any employee in your industry.

In addition to the four issues above, Aware Super is required to:

1. *Once a year, audit the actual hours that you work under your Annualised Salary arrangement,*
2. *calculate what you 'would have earned' under the Award without an annualised salary;*
3. *compare this to what you actually earned; and*
4. *if you would have been paid more without the annualised salary arrangement, Aware Super is required to pay you the difference.*

A copy of these requirements and relevant conditions can be found attached to this update. Please read it carefully, and ask your employer to implement anything they are not already doing.

If you would like any support in reviewing these please contact your Union at:

For employees in Victoria:	CPSU VIC Branch	www.cpsuVIC.org
	03 9639 1822	enquiries@cpsuVIC.org
For employees in NSW:	CPSU NSW Branch	www.cpsunsw.org.au
	1300 772 669	cpsu.nsw@psa.asn.au

BANKING, FINANCE AND INSURANCE AWARD 2020

17. Annualised wage arrangements

17.1 Annualised wage instead of award provisions

- (a) An employer may pay a full-time employee an annualised wage in satisfaction, subject to clause 17.1(c), of any or all of the following provisions of the award:
- (i) clause 15—Minimum rates ([see Minimum Rates summary](#)) employer
 - (ii) clause 18—Allowances ([see Allowances summary](#), attached);
 - (iii) clause 20—Overtime ([see Overtime summary](#), attached);
 - (iv) clause 21—Penalty rates ([see Public Holidays summary](#) and [see Shift Work summary](#) attached); and
 - (v) clause 22.3—Annual leave loading ([see Annual Leave Loading](#)), attached.
- (b) Where an annualised wage is paid the employer must advise the employee in writing, and keep a record of:
- (i) the annualised wage that is payable;
 - (ii) which of the provisions of this award will be satisfied by payment of the annualised wage;
 - (iii) the method by which the annualised wage has been calculated, including specification of each separate component of the annualised wage and any overtime or penalty assumptions used in the calculation; and
 - (iv) the outer limit number of ordinary hours which would attract the payment of a penalty rate under the award and the outer limit number of overtime hours which the employee may be required to work in a pay period or roster cycle without being entitled to an amount in excess of the annualised wage in accordance with clause 17.1(c).
- (c) If in a pay period or roster cycle an employee works any hours in excess of either of the outer limit amounts specified pursuant to clause 17.1(b)(iv), such hours will not be covered by the annualised wage and must separately be paid for in accordance with the applicable provisions of this award.

17.2 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 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 upon the termination of employment of the employee 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 for the purpose of undertaking the comparison required by clause 17.2(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.

17.3 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 15—Minimum rates and excludes any incentive-based payments, bonuses, loadings, monetary allowances, overtime and penalties.

15. Minimum rates

15.1 Adult employees

(a) An employer must pay adult employees the following minimum rates for ordinary hours worked by the employee for their classification:

Employee classification	Minimum annual rate (full-time employees)	Minimum weekly rate (full-time employees)	Minimum hourly rate
	\$	\$	\$
Level 1	41,673	801.40	21.09
Level 2	45,635	877.60	23.09
Level 3	48,199	926.90	24.39
Level 4	50,617	973.40	25.62
Level 5	52,671	1012.90	26.66
Level 6	58,994	1134.50	29.86

(b) The minimum annual rate is calculated by multiplying the weekly rate by 52 and rounding to the nearest dollar.

(c) The minimum hourly rate is calculated by dividing the minimum weekly rate by 38 and rounding to the nearest cent.

27. Public holidays

27.4 Work on a public holiday or a substituted day must be paid at **250%** of the minimum hourly rate. Where both a public holiday and substitute day are worked, public holiday penalty rates are payable on one of those days at the election of the employee. An employee required to work on a public holiday is entitled to not less than 4 hours' pay at the rates prescribed by clause 27.4, provided the employee is available to work for 4 hours.

13.7 Shiftwork

Full time, casual and part time employees who work ordinary hours up to 9.00 pm *on any one night* between Monday to Friday inclusive, and casual and part time employees who are employed between 7.00am and 7.00pm, will not be considered shiftworkers for the purposes of this award.

(d) Shiftwork penalty rates

The following shiftwork penalty rates will apply in relation to the working of shiftwork on Monday to Friday and on Saturday between 8.00 am and 12.00 pm:

	% of minimum hourly rate	
Early morning shift	112.5	Starts between 4am-7am
Afternoon shift ¹	120	Finishes between 6pm-12am
Night shift ¹	125	Finishes between 12am-8am

¹ Employees who permanently work afternoon or night shift or a combination thereof will be paid an additional **5%** loading.

22. Annual leave loading

22.3 Annual leave loading

(a) During a period of annual leave an employee will receive a loading calculated on the rate of wage prescribed in clause 15—Minimum rates. Annual leave loading payment is payable on leave accrued.

(b) The loading is as follows:

(i) **Day work - 17.5%** or the relevant weekend penalty rates, whichever is the greater but not both.

(ii) **Shiftwork - 17.5%** or the shift loadings and relevant weekend penalty rates, whichever is the greater but not both.

Schedule C - Summary of Monetary Allowances

C.1 Wage-related allowances

C.1.1 The wage-related allowances in this award are based on the standard rate as defined in clause 2—Definitions as the minimum weekly rate for a Level 2 employee in clause 15.1 = **\$877.60**.

Allowance	Clause	% of <u>standard rate</u>	\$	Payable
First aid allowance	18.3(a)	1.84	16.15	per week
Stand-by and call-back allowance—Monday to Friday	18.3(b)(i)	2.12	18.61	per day
Stand-by and call-back allowance—Saturday, Sunday and public holidays	18.3(b)(i)	4.33	38.00	per day

C.2 Expense-related allowances

C.2.1 The following expense-related allowances will be payable to employees in accordance with clause 18.4:

Allowance	Clause	\$	Payable
Meal allowance—Overtime of 1.5 hours which extends beyond 6.00 pm	18.4(a)	17.35	per occasion
Meal allowance—Further meal allowance if overtime exceeds 5.5 hours	18.4(a)	14.27	per occasion
Vehicle allowance—1500cc and under	18.4(b)(iii)	104.02	per week
Vehicle allowance—Over 1500cc	18.4(b)(iii)	128.31	per week
Casual or incidental use	18.4(b)(iv)	0.80	per km

20. Overtime

20.1 Payment for overtime

All time worked at the direction of the employer outside ordinary hours of work prescribed by this award, will be paid for at the rate of:

			% of minimum hourly rate
Monday - Saturday outside ordinary hours of work in clause 13.1	First hours	3	150
	After hours	3	200
Saturday - outside employee's weekly hours			200
Sunday			200

20.2 In computing overtime each day's work will stand alone.

20.3 An employer may require any employee to work reasonable overtime at overtime rates and such employee will work overtime in accordance with such requirement.