



Small Business Assistance & Advisory Service

Fair Work - Guarantee of Annual Earnings

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Guarantees of annual earnings are arrangements to prevent modern awards from applying to high income employees by agreement between employers and employees, provided certain requirements are met.

Employers can put in place arrangements to prevent a modern award from applying to high income employees. A high-income employee is an employee earning above the high-income threshold. The high-income threshold is generally adjusted 1 July each year and is currently \$148,700 for full-time employees (pro rata for part time or casual employees).

In calculating whether an employee's earnings exceed the high-income threshold, an employer should include wages, salary sacrifice benefits and other payments which are guaranteed or determined in advance, but exclude compulsory superannuation contributions, commissions, incentive-based payments, bonuses and overtime payments.

An employer may implement this arrangement by guaranteeing payment to the employee of a certain level of earnings over a period of 12 months or more.

The guarantee must be in writing and include a statement that the award will not apply to the employee whilst they are subject to the guarantee.

In the case of new employees, the guarantee must be signed by the employee within 14 days of the employee commencing employment. In the case of existing employees, it must be signed by the employee within 14 days of the employee's terms and conditions of employment being varied (for example, after receiving a pay increase).

While a guarantee is in operation, modern awards will not apply to the employee. However, the NES and other FW Act provisions, including unfair dismissal laws will still apply (s 330 of Fair Work Act).

Please note: An employee covered by an Enterprise Agreement cannot enter a guarantee of annual earnings.