



**AtOne AGRI**  
HR & Compliance Solutions

# WAGE COMPLIANCE IN AUSTRALIAN AGRICULTURE:

What is the Minimum You Need to Do?

PART 2



# Wage Compliance In Australian Agriculture:

## What is the Minimum You Need to Do?

### What This Article Is About

The purpose of this article is to give Agribusiness Owners, Company Directors and Managers a clear and practical overview of **wage and employment compliance risks**, the potential financial and personal consequences if issues exist, and the minimum actions required to remain compliant.

Many agricultural businesses know that wages must be paid correctly, but are unsure:

- Which Modern Awards apply.
- How overtime, allowances and penalties operate in practice, and
- Where real exposure exists if an audit or complaint occurs.

This document explains what **minimum wage compliance looks like** and why structured systems matter.

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### Why Correct Pay Matters

Under the **Fair Work Act 2009**, all agribusinesses have a strict legal obligation to ensure employees are paid **correctly, in full and on time**, in accordance with applicable Modern Awards and employment contracts.

If workers are underpaid, even unintentionally agribusinesses must:

- Back pay the full shortfall.
- Pay outstanding superannuation.
- Pay interest on the underpayment.
  - Interest is calculated on the same basis as pre-judgment interest is calculated under the FW Act - which is currently an annual interest rate of 4% above the Reserve Bank of Australia (RBA) cash target rate at the relevant time of the payment.



In addition, the Fair Work Ombudsman (FWO) may pursue **civil penalties** for each breach.

Since **1 January 2025**, **deliberate wage underpayment became a criminal offence in Australia**, significantly raising the stakes for businesses and individual decision makers. Enforcement activity has increased significantly, particularly in agriculture and regional workforces where record-keeping and allowances are often inconsistently applied.

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## Common Compliance Trouble Spots

For agribusinesses, the most common wage compliance issues include:

- Incorrect or assumed Award coverage.
- Employees mis classified at the wrong Award level.
- Overtime and penalty rates not identified or understood.
- Weekend and public holiday penalties missed.
- Allowances overlooked (e.g. travel, meals, leading hand allowances etc.).
- Superannuation calculated incorrectly or not paid.
- Payslips missing required information.
- Hours worked not fully or accurately recorded.
- Employees paid a flat hourly or day rate without testing it against award entitlements.
- Annualised salary staff paid “above award” without reconciliation to actual hours.

These issues are common across agricultural businesses and rarely intentional, however intent is not required for penalties to apply.

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## What Fair Work Would do if they Reviewed Your Wages

If the Fair Work Ombudsman audited your payroll practices, they would typically:

- Review records including:
  - Payslips.
  - Time and wage records.
  - Rosters.
  - Super payments.
- Identify underpayments or record keeping failures.
- Issue a **Compliance Notice** requiring rectification by a set deadline.
- Require repayment of all entitlements, including super and interest.
- **Assess whether civil or criminal penalties** should apply.

Importantly, Fair Work no longer views record keeping failures as minor, they are now treated as **separate contraventions**.

## Civil Penalties & Financial Exposure

Civil penalties can be substantial, even for family-run or owner operated agribusinesses, because penalties can apply **per breach**, and breaches multiply quickly.

In general terms:

- Penalties apply separately to each employee, entitlement and pay period.
- Multiple small errors can escalate into large financial exposure.
- Penalties sit in addition to back-pay, super and interest.

### Maximum Civil Penalties (Current at 2026)

For standard contraventions under the Fair Work Act:

- **Businesses:** Up to \$187,800 per breach.
- **Individuals:** Up to \$37,560 per breach.

For serious contraventions (deliberate or systematic conduct):

- **Businesses:** Up to \$1,878,000 per breach.
- **Individuals:** Up to \$375,600 per breach.

These penalties apply **in addition to back pay, super and interest**.

### What This Means in Practice:

Civil penalties are rarely imposed as a single amount. Courts assess each failure separately, which means exposure can escalate rapidly.

- Multiple employees x multiple entitlements x multiple pay periods = rapid escalation.
- Incorrect payslips and missing records add additional penalty exposure.
- Long running issues significantly increase liability.

Civil wage penalties are not assessed based on business size or intent; they are assessed on:

- Number of breaches.
- Quality of records.
- Duration of non-compliance.

- Level of governance and oversight.

This is why wage compliance is now viewed as a strategic risk issue, not an administrative one.

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## Intentional Underpayment – Criminal Risk

From 1 January 2025, **intentional wage underpayment** became a criminal offence in Australia.

This applies where:

- An employer knew an entitlement was payable (wages, leave, super) and
- Intentionally acted (or failed to act) resulting in a way that resulted in underpayment.

Honest mistakes and inadvertent errors remain civil matters, however **systematic or knowing non-compliance** exposes companies and individuals to criminal investigation.

### Criminal Penalties (Maximums):

- **Individuals:** Up to 10 years' imprisonment, fines, or both.
- **Businesses:** The greater of:
  - 3x the amount underpaid, or
  - 25,000 penalty units (currently \$7.8 million).

These sit **on top of civil penalties** and repayment obligations.

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## Why Recording Every Hour Matters

Under the Fair Work Act 2009 (Cth) and the Fair Work Regulations 2009, employers have long been required to keep accurate time and wages records. However, the obligation to record actual hours worked, including for salaried employees became significantly more explicit and enforceable **from 1 March 2020**.

### What Changed On 1 March 2020

From 1 March 2020, the Fair Work Commission introduced mandatory annualised wage clauses into many Modern Awards (including the agricultural awards (pastoral, horticulture) and many others).



These changes require employers who pay an annualised salary under an Award to:

- Keep records of start and finish times and unpaid breaks.
- Set and document “outer limits” on hours covered by the salary.
- Conduct regular reconciliations to prove the employee is better off overall.

This marked a clear shift away from the historical practice of “set and forget” salaries.

## What The Law Now Requires in Practice

As a result of the 2020 award changes and subsequent court decisions:

- All non exempt employees must have their hours recorded, regardless of whether they are paid hourly or by salary.
- Being paid a salary does not remove the obligation to record hours if the employee is covered by a Modern Award.
- If an employee is paid an annualised salary under an Award, the employer must be able to demonstrate each pay cycle that the salary satisfies award entitlements.
- Employers must keep time and wage records for 7 years, and they must be:
  - Accurate.
  - Legible.
  - In English.
  - Readily accessible to Fair Work Inspectors.

“Paying above award” is **not sufficient** unless supported by actual hours and reconciliation.

## Why This Matters

For the agricultural industry, accurate time recording is critical due to:

- Long and irregular hours worked by employees.
- Travel between sites.
- Seasonal peaks.
- Overtime worked outside standard rosters.

### Key Requirements Summary:

- Fair Work expects actual hours to be recorded.
- Time and wages records must be kept for 7 years.
- Records must accurately reflect hours worked and breaks taken.
- Employees paid salaries covered by awards must still have actual hours worked recorded.
- Employers must be able to demonstrate that wages paid meet award entitlements for each pay period.

Courts have made it clear that **over payments in one pay period cannot offset under payments in another**, reinforcing the need for accurate hours every pay cycle.

## Practical Wage & Record Keeping Checklist

Use this as a sense check. If items can't be confidently ticked, there is wage exposure.

### Employment Foundations

- Correct Award identified for each role (e.g. Pastoral, Horticulture, Clerks etc.).
- Classification level set based on duties, not job title.
- Written employment contracts issued and Award referenced.
- Annual salary roles reconciled to Award entitlements.
- Flat hourly rates and day rates tested against Award entitlements.

### Time & Attendance

- Hours are recorded for all staff, including salaried employees.
- Overtime and penalty rates clearly identifiable where it occurs.
- Records stored securely and accessible.

### Payroll Settings

- Base rates aligned to current Award minimums.
- Overtime, weekend and public holiday penalties applied correctly.
- Allowances configured and paid where applicable.

### Payslips & Records

- Payslips are accurate and issued on time.
- Records complete, compliant with Fair Work requirements, legible and retained for 7 years.

### Super & Leave Entitlements

- Super calculated correctly on Ordinary Time Earnings.
- Leave balances accurate and documented.

### Governance & Review

- Regular wage compliance reviews scheduled.
- Rectification process understood if issues are identified.

## This Article is Part of the Minimum Compliance Series

This article is one of a three-part **Minimum Compliance Series for Australian Agriculture**, designed to clearly explain the **baseline legal requirements** agribusinesses should meet.

Each article focuses on a specific area of regulatory risk where informal practices most commonly expose farms and agribusinesses to enforcement action:

- **WHS & Risk Compliance in Australian Agriculture.**
- **Wage Compliance in Australian Agriculture.**
- **Contractor Management Compliance in Australian Agriculture.**

The purpose of this series is not to promote unnecessary complexity. It is to help agribusiness operators understand **where the legal line sits**, and what regulators expect to see evidence of if that line is tested.

In an industry where practical realities often drive informal arrangements, **clarity, consistency and defensible records** are what separate compliant businesses from exposed ones.

### Final Thoughts

#### How AtOne AGRI Supports Farmers & Agribusinesses

AtOne AGRI supports farmers and agribusiness operators **by helping them meet minimum compliance requirements in a practical, agriculture focused way.** The emphasis is on visibility, consistency and defensible records, supporting agribusinesses to demonstrate compliance across Safety, Wages and Contractor Management without unnecessary complexity.

**That is where AtOne AGRI offers protection and peace of mind for Agribusiness Owners, Directors and Managers.**