

Record-keeping and pay slips

Overview

Employers who engage employees under relevant Commonwealth workplace laws are required to:

- make and keep accurate and complete records for all of their employees (eg. time worked and wages paid)
- issue pay slips to each employee.

These record-keeping and pay slip obligations are designed to ensure that employees receive their correct wages and entitlements.

What are the record-keeping obligations?

Employee records must:

- be in a form that is readily accessible to a Fair Work Inspector
- be in a legible form and in English (preferably in plain, simple English)
- be kept for seven years
- not be altered unless for the purposes of correcting an error
- not be false or misleading to the employer's knowledge.

Employee records are private and confidential. Generally, no one can access them other than the employee, their employer, and relevant payroll staff. Employers must make copies of an employee's records available at the request of an employee or former employee.

However, Fair Work Inspectors and organisation officials (such as a trade union) may access employee records (including personal information) to determine if there has been a contravention of relevant Commonwealth workplace laws.

For further information on the powers of Fair Work Inspectors entering premises and requiring the production of records or documents, please see the [Fair Work Ombudsman Fact Sheet - Powers of Fair Work Inspectors](#).

For further information on the rights of organisation officials relating to entering premises and requiring the production of records or documents, please see the [Fair Work Ombudsman Fact Sheet – Right of Entry](#).

What information must be made and kept in employee records?

A range of information must be made and kept for each employee as prescribed by the *Fair Work Act 2009* and *Fair Work Regulations 2009*.

General records

General employment records must include all of the following:

- the employer's name
- the employer's Australian Business Number (ABN) (if any)
- the employee's name
- the employee's commencement date
- the basis of the employee's employment (full or part-time and permanent, temporary or casual).

Pay records

Records of pay must include all of the following:

- the rate of pay paid to the employee
- the gross and net amounts paid and any deductions from the gross amount
- the details of any incentive-based payment, bonus, loading, penalty rate, or other monetary allowance or separately identifiable entitlement paid.

Hours of work records

Records relating to hours worked by employees are to include the following:

- In the case of a casual or irregular part-time employee who is guaranteed a pay rate set by reference to time worked, a record of the hours worked by that employee
- For any other type of employee, the record must specify the number of overtime hours worked each day, or when the employee started and finished working overtime hours (but only if a penalty rate or loading must be paid for overtime hours actually worked)
- A copy of the written agreement if the employer and employee have agreed to the employee taking time off instead of being paid for overtime worked
- A copy of the written agreement if the employer and employee have agreed to an averaging of the employee's work hours.

Leave records

If an employee is entitled to leave, the record must include both:

- leave taken, if any
- the balance of the employee's entitlement to that leave from time to time.

If an employer and an employee have agreed to the employee taking a period of annual leave in advance of an accrued

amount of leave, the employer must keep a copy of the agreement which:

- states the amount of leave to be taken in advance and the date on which the leave is to commence
- must be signed by the employer and the employee, and if the employee is under 18 years of age, by the employee's parent or guardian.

If an employer and employee have agreed to cash out an accrued amount of leave, the employer must keep:

- a copy of the agreement to cash out the amount of leave
- a record of the amount of leave to be cashed out and the payment to be made to the employee for it
- the date on which the payment is to be made.

Superannuation contributions records

If the employer is required to make superannuation contributions for the benefit of the employee, the record must include all of the following:

- the amount of the contributions made
- the dates on which each contribution was made
- the period over which the contributions were made
- the name of any fund to which a contribution was made
- the basis on which the employer became liable to make the contribution, including a record of any election made by the employee (including the date) to have their superannuation contributions paid into a particular fund.

Note: : Employers who contribute a defined benefit interest in a defined benefit fund do not have to include these contributions in the record.

Individual flexibility arrangement records

If an employer and employee agree in writing to an individual flexibility arrangement in relation to an award or registered agreement, a record must include both:

- a copy of the agreement
- a copy of any notice or agreement terminating the flexibility arrangement.

Guarantee of annual earnings records

If an employer gives a guarantee of annual earnings under the *Fair Work Act 2009*, the employer must make and keep a record of:

- the guarantee
- the date of any revocation of the guarantee (where applicable).

Termination records

Where the employment has been terminated, the records must include:

- whether the employment was terminated by consent, by notice, summarily, or in some other manner (specifying the manner)
- if notice was provided and, if so, how much
- the name of the person who terminated the employment.

Transfer of Business records

Where there has been a transfer of business under the *Fair Work Act 2009*, at the time of transfer, the old employer is required to transfer to the new employer each employee record concerning a transferring employee.

If the transferring employee becomes an employee of the new employer after the transfer, the new employer must ask the old employer to provide them with the employee's records. The old employer must give the records to the new employer.

For further information regarding transfer of business, please see the [Fair Work Ombudsman Fact Sheet - When businesses change hands](#).

What are the pay slip obligations?

Pay slips must be issued to each employee:

- within one working day of pay day, even if an employee is on leave
- in electronic form or hard copy.

It is best practice for pay slips to be written in plain and simple English.

What information must be included on the pay slip?

Pay slips must contain details of the payments, deductions, and superannuation contributions for each pay period. The following information must be included on all pay slips issued to each employee as prescribed by the *Fair Work Act 2009* and the *Fair Work Regulations 2009*.

A pay slip must include all of the following:

- the employer's name
- the employer's ABN (if any)
- the employee's name
- the date of payment
- the pay period
- the gross and net amount of payment
- any loadings (including casual loading), monetary allowances, bonuses, incentive-based payments, penalty rates, or other separately identifiable entitlement paid. For example, a note could be included on a pay slip that the hourly rate incorporates the relevant casual loading.

Additionally, where relevant, a pay slip must include any of the following:

- If the employee is paid an hourly pay rate, the ordinary

hourly pay rate and the number of hours worked at that rate and the amount of payment made at that rate

- If the employee is paid an annual rate of pay (salary), the rate as at the last day in the pay period
- Any deductions made, including the name, or the name and number, of the fund or the account of each deduction
- If the employer is required to make superannuation contributions for the benefit of the employee:
 - the amount of each contribution the employer made or is required to make during the pay period
 - the name, or name and number, of any superannuation fund into which the contributions were made or will be made.

What deductions may be made from an employee's pay?

Under the *Fair Work Act 2009*, an employer is allowed to make a deduction from an employee's pay if one of the following applies:

- the employee has authorised the deduction in writing (which must specify the amount) and the deduction is principally for the employee's benefit
- the deduction is authorised by the employee in accordance with a registered agreement (e.g. an award or agreement made under the former *Workplace Relations Act 1996*)
- the deduction is authorised by or under an award or order of the Fair Work Commission
- the deduction is authorised by or under a law or an order of a court.

Deductions that are commonly authorised include income tax deductions, superannuation or health insurance contributions, and trade union dues.

A term in a registered agreement, an award, industrial instrument, or contract of employment that allows for deductions has no effect if:

- the deduction is directly or indirectly for the benefit of the employer and is unreasonable
- the employee is under the age of 18 and the employee's parent or guardian has not authorised the deduction in writing.

The *Fair Work Regulations 2009* provides that certain deductions are to be treated as reasonable. These include, for example, the recovery of costs incurred through private use by the employee of a credit card, mobile phone, or petrol for a vehicle that have been provided by the employer.

Best practice guidelines for issuing electronic pay slips

Electronic pay slips must be provided to an employee (unless issued a hard copy) and include the same information as hard copy pay slips.

Employers should:

- give electronic pay slips to each worker, such as via email or into an electronic personal account (employers should not simply store them on a database)
- issue electronic pay slips in an easily printable format.

By way of best practice, employers should:

- issue electronic pay slips to employees securely and confidentially
- ensure that employees can access and print their electronic pay slips in private (e.g. it would be inappropriate to issue an electronic pay slip to an employee who doesn't have access to a computer terminal to privately read and print their pay slip).

Contravention of record-keeping and pay slip obligations

The Fair Work Ombudsman may pursue a number of enforcement actions in relation to contraventions of record-keeping and pay slip obligations.

Fair Work Inspectors may issue an employer with an infringement notice for failing to meet their record-keeping and pay slip obligations under the *Fair Work Act 2009*.

An infringement notice is similar to an on-the-spot fine and is an alternative to taking matters to court. An infringement notice can be issued within 12 months after the day on which the contravention(s) is alleged to have occurred. Generally, an employer has 28 days to pay the penalty in the infringement notice.

The maximum fines payable in an infringement notice are:

- \$1,260 per contravention for an individual
- \$6,300 per contravention for a company

For further information on Infringement Notices, including their payment, please see the [Fair Work Ombudsman Fact Sheet - Infringement Notices](#)

If an employer's failure to meet their record-keeping obligations is serious, wilful or repetitive, Fair Work Inspectors may recommend the matter be taken to court.

The maximum penalties a court may impose for record-keeping and pay slip contraventions are:

- \$12,600 per contravention for an individual
- \$63,000 per contravention for a corporation

A court may find that record-keeping contraventions are 'serious contraventions' if they occurred knowingly and as part of a systematic pattern of conduct. The maximum penalties for serious contraventions are:

- \$126,000 per contravention for an individual

- \$630,000 per contravention for a corporation

Making, keeping or providing false or misleading records or information

The *Fair Work Act 2009* prohibits a person from making or keeping employee records, or giving pay slips, which they know are false or misleading. It also prohibits a person from knowingly or recklessly providing false or misleading information or documents to the Fair Work Ombudsman, a Fair Work Inspector, or a FWO officer exercising certain powers. This includes omitting something from information that makes it false or misleading.

Where the false or misleading nature of the employee record, pay slip or information is material (e.g. it is not trivial), the maximum civil penalties are \$12,600 per breach for an individual or \$63,000 per breach for a corporation.

In some cases, knowingly giving or producing false or misleading information or documents to officials may also be a criminal offence.

Other consequences of not meeting record-keeping or pay slip requirements

In addition to penalties for not keeping records, the *Fair Work Act 2009* includes a presumption in favour of a person who makes wage-related allegations in a court proceeding, where the employer has:

- failed to meet their record-keeping and pay slip obligations, or
- failed to make records available for inspection.

If the person bringing the claim shows the employer didn't comply with the record-keeping and/or pay slip requirement, the employer will be required to disprove the person's wage-related allegation in court.

This onus of disproving the allegation will not apply if the employer can show they had a reasonable excuse for not meeting the record-keeping, pay slip or record inspection obligation.

Record-keeping and pay slip templates for employers

The Fair Work Ombudsman has created various templates to help employers meet their record-keeping and pay slip obligations. You can download these templates at www.fairwork.gov.au.

Record-keeping and pay slip obligations are provided for by sections 535 & 536 of the *Fair Work Act 2009* and regulations 3.31 to 3.46 of the *Fair Work Regulations 2009*. See also section 718A of the *Fair Work Act 2009* regarding false or misleading information or documents.

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: **13 13 94**

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Call through the National Relay Service (NRS):

For TTY: **13 36 77**. Ask for the Fair Work Infoline **13 13 94**

Speak & Listen: **1300 555 727**. Ask for the Fair Work Infoline **13 13 94**