

# Murray River Audit Program

Final report – May 2013

A report by the Fair Work Ombudsman under the *Fair Work Act 2009*  
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## Highlights

During the Fair Work Ombudsman's Murray River audit program:

- 91 employers were audited across eight Murray River towns in NSW and Victoria
- 59% of NSW employers were compliant
- 55% of Victorian employers were compliant
- \$18 136 was recovered for 18 employees.

## Summary

In late February 2013, the Fair Work Ombudsman (FWO) commenced the Murray River audit program (the program). Fair Work Inspectors visited employers in towns located either side of the Murray River Victoria / New South Wales border.

We conducted the program to promote and assess compliance with the requirements of Australia's workplace laws, particularly in relation to record-keeping and pay slip practices.

Of the 90 audits completed, we found 51 employers (57%) compliant with workplace laws, while 39 (43%) were in contravention.

Most of the contraventions related to record-keeping or issues with pay slips.

We recovered a total of \$18 136 for 18 employees.

## Why did we target this region?

In campaigns conducted in Victoria during recent years, we have identified significant rates of record-keeping and pay slip contraventions.

Keeping correct records and issuing pay slips in the correct form are important requirements of Australia's workplace laws. In addition, failure to issue compliant pay slips denies an employee the opportunity to check that they have received their correct entitlements, while inaccurate record-keeping impedes the ability of FWO to perform its function as a regulator.

We decided to conduct the program in Murray River towns bordering Victoria and NSW, as we have not conducted activity in this region since the Murray River Motels Campaign in 2010.

## Purpose of the audit program

The aim of the program was to promote and assess compliance with Australian workplace laws in towns either side of the Murray River border of NSW and Victoria.

In particular, our objectives were to:

- check that correct records were being kept and correct pay slips issued
- check that employees were receiving their correct monetary entitlements
- promote and demonstrate FWO's online tools during our visits.

## What did we do?

Between 25 February and 1 March 2013, we visited businesses in the Victorian towns of Rutherglen, Yarrawonga, Cobram, Tocumwal and Echuca. We also visited businesses in the New South Wales towns of Corowa, Mulwala and Moama.

At each business site visited we:

- inspected any relevant records that were available
- discussed the content of the records and pay slips with the owner/manager and employees, and
- checked the amount that employees were being paid.

Where we assessed employer records and found that these were compliant, we provided a written report to the employer confirming our finding.

When we identified record-keeping or pay slip contraventions, we provided the employer with information to help them understand correct record-keeping practices. We also required them to agree in writing that they would maintain compliant records and pay slips in future.

In cases where it appeared that employees were underpaid, we advised the employer of the contraventions and asked them to review their time and wage records to calculate total amounts owing. We worked with employers to confirm these amounts and to ensure that they repaid the affected employees. Once we had evidence that all employees had received the amounts owed, we wrote to the employer confirming the finalisation of the audit.

At some of the premises visited, there was insufficient information to complete an assessment while on site. In these cases, we served the employer with a formal notice requiring them to provide their records to our Bendigo office within two weeks of the visit.

When visiting employers, we took the opportunity to offer demonstrations of the use of FWO's online tools such as Pay Check Plus and templates for record-keeping and pay slips.

## What did we find?

Of the 90 audits completed, 51(57%) businesses were compliant, and 39 (43%) were in contravention. We have recovered \$18 136 on behalf of 18 employees.

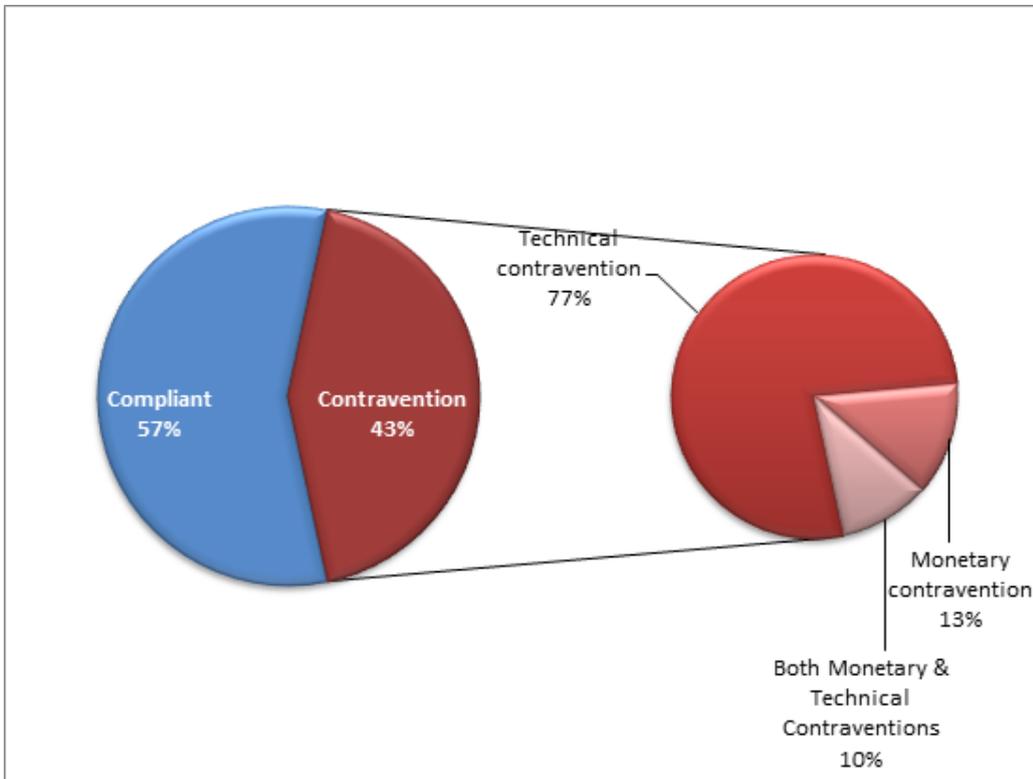
At the time of writing, one audit remains ongoing.

<b>Table 1: Audit Results</b>	
Number of audits completed	90
• Employers compliant	51 (57%)
• Employers in contravention	39 (43%)
Ongoing Investigations	1
Total amount recovered	\$18 136
Number of employees paid	18

## Types of contraventions identified

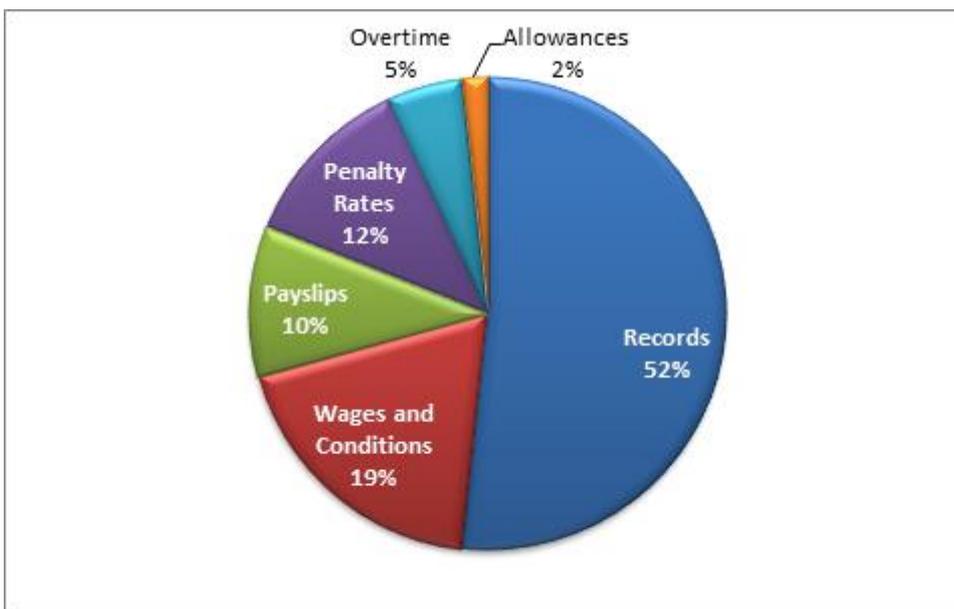
Of the 39 businesses found in contravention, 5 (13%) had monetary contraventions affecting employees' pay, 30 (77%) had technical contraventions related to their record-keeping and pay slips, and 4 (10%) had both monetary and technical contraventions.

Chart 1: Contravention categories



The 39 businesses found to be in contravention had a collective 58 individual contraventions, as outlined in the following chart:

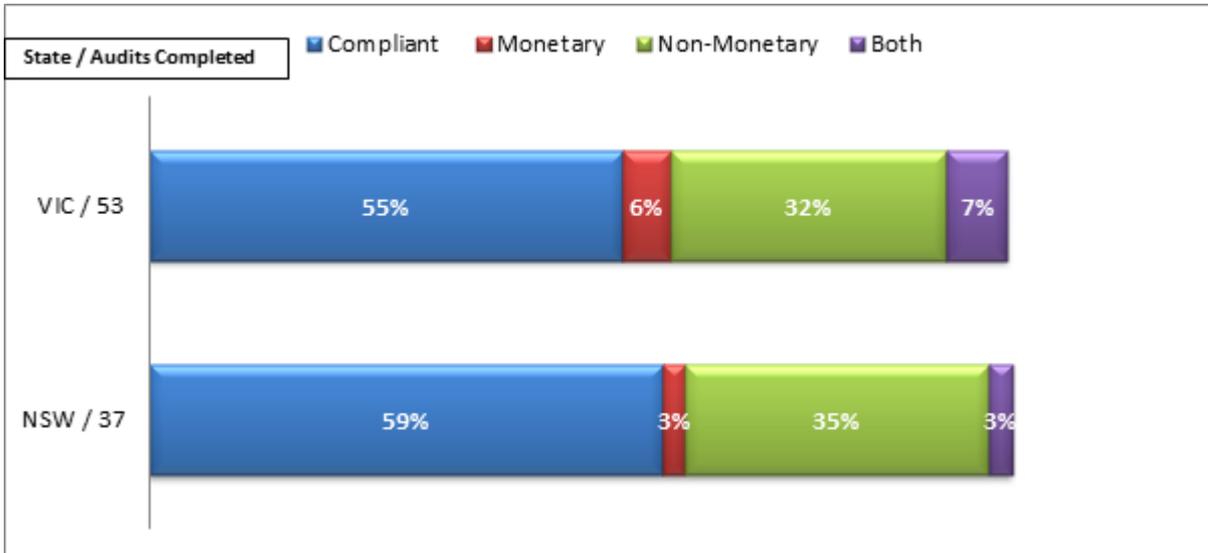
Chart 2: Contravention types



## Results by state

As shown in the chart below, the variation between NSW and Victoria was small, with NSW businesses found to be 59% compliant and Victoria 55% compliant. Victoria had a higher number of monetary contraventions (13% in total) compared with NSW (6%). More audits were undertaken in Victoria (53) compared with NSW (37).

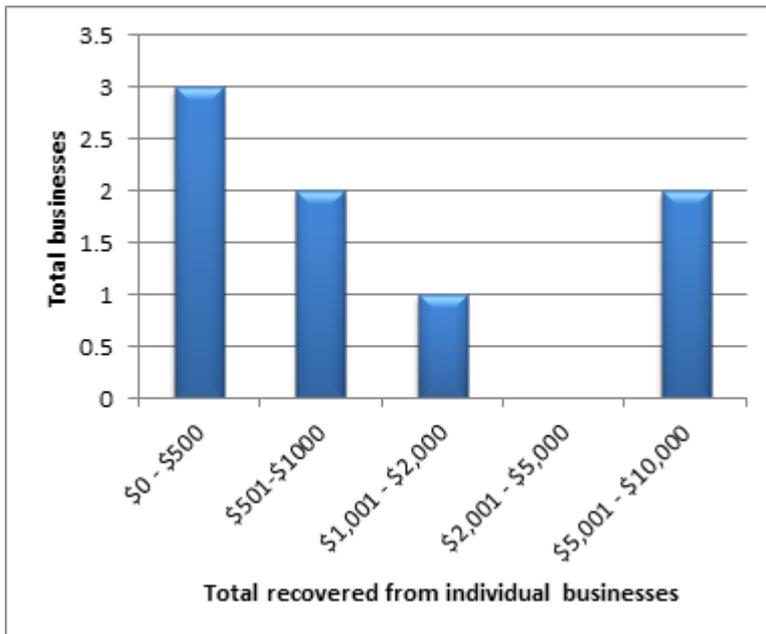
Chart 3: Results by states



## Underpayments

We recovered a total of \$18 136 from eight businesses on behalf of 18 employees. The amounts recovered from individual businesses ranged from \$13 to over \$8500.

Chart 4: Money recovered



## Other findings

Fair Work Inspectors reported two common errors they found in relation to record-keeping practices:

- A number of employers had recorded the number of hours worked but had not kept records of start and finish times when their employees were working at times attracting penalty rates. The regulations require that start and finish times are recorded when penalty rates are payable.
- Several employers had records, such as a time sheet or a roster, but did not keep these records after they paid their employees. The regulations require that employers keep records for seven years.

### *Case study: Agreements cannot undercut the award*

*James\* operated a retail business in NSW and employed Bill\*, a semi-retired casual employee. Bill usually worked one and sometimes two days a week. James and Bill agreed on a flat rate of pay for all hours worked. However, this rate was below the Retail Industry Award 2010 minimum rate and did not take into account weekend or public holiday penalty rates. James believed that, if both parties were happy with the agreed rate, he did not need to worry about award conditions.*

*We advised James of the provisions of the award and the appropriate minimum rates of pay. He then reviewed Bill's entitlements over the 12 months prior to the audit and repaid him \$6400 gross.*

*Employers need to be aware of minimum award obligations. While the awards provide some scope for agreement, an agreement cannot undercut minimum award conditions.*

### *Case study: Check your revised agreement meets the award requirements*

*Craig\* operates a retail/transport business in Victoria and pays his transport employees a flat rate of pay for all hours worked. The rates he pays are well above the Road Transport and Distribution Award 2010 minimum base rate and are sufficient to cover employee entitlements for their normal pattern of work, including regular overtime.*

*When two employees had extended periods of leave, Craig asked his other employees if they wanted to work extra hours to cover the work normally completed by the absent employees. A number of employees agreed to work extra hours and Craig paid them their normal agreed rate.*

*However, because these employees had significantly increased their hours of work they were entitled to additional penalty rates for weekend work, overtime and meal allowance payments.*

*When we advised Craig of this, he reviewed his employees' entitlements and back paid four employees a total of \$8800 gross.*

*\*Not the employers real name*

## Concluding remarks

We found that most of the employers we audited were genuinely trying to comply with their obligations. However, we found some misunderstood what was required of them, particularly in relation to agreement making and the detail required in records and pay slips.

The results demonstrate the value of Fair Work Inspectors visiting workplaces in person, so that they can speak directly with employers and assist them to meet their obligations, as well as demonstrate our website pay tools.

## About the Fair Work Ombudsman

The Fair Work Ombudsman is an independent agency created by the *Fair Work Act 2009* on 1 July 2009.

Our vision is fair Australian workplaces, and our mission is to work with Australians to educate, promote fairness and ensure justice in the workplace.

Our education and compliance campaigns target specific industries to assist them achieve compliance with national workplace laws. Our focus is usually industries that need assistance with compliance and employ vulnerable workers.

We like to work with relevant industry associations and unions to deliver our campaigns. We rely upon their 'real world' knowledge and communication channels to design and deliver our education activities and products.

This report covers the background, method and findings of the Murray River record keeping audit program.

Media enquiries can be directed to the media team at [media@fwo.gov.au](mailto:media@fwo.gov.au) If you would like further information about the Fair Work Ombudsman's targeted campaigns please contact, Steve Ronson, Acting Group Manager – Operations ([steven.ronson@fwo.gov.au](mailto:steven.ronson@fwo.gov.au)).

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