

Northern Territory Hair & Beauty Follow-up Audit Program Report – June 2012

Summary

The Fair Work Ombudsman (FWO) recently completed an audit program in the Northern Territory's (NT) hair and beauty industry. The program was a follow-up to the National Hair and Beauty Campaign 2009 (Campaign 2009). The program assessed compliance with hourly rates of pay, tool allowances, minimum hours of engagement, payment for time worked, pay slip and record keeping practices.

Of the 13 audits that we completed, we found 6 (46%) employers to be compliant and 7 (54%) in contravention. Four of the non-compliant employers had contraventions resulting in underpayments for employees while 3 had contraventions related to payslip requirements. One business is being further investigated.

In Campaign 2009 we found 66% of the employers audited were in contravention. However when we compared the findings of nine of the employers audited in Campaign 2009 only three had shown an improvement in their compliance level. A total of \$4508 has been recovered for seven employees.

Background

This audit program was undertaken due to the high level of non-compliance in NT's hair and beauty industry.

- Between 2008 and 2009 we found that 64% of the NT's hair and beauty businesses we investigated following a complaint had contraventions resulting in underpayments. These underpayments totalled \$6,889.
- In 2009 we audited 18 hair and beauty businesses in NT and found that 7 (39%) were compliant; and 11 (61%) had contraventions. Of the 11 employers in contravention 6 had contraventions resulting in underpayments and \$6,953.00 was recovered for 21 employees.

In Campaign 2009 employers were assessed against the *Hairdressing and Beauty Industry (Northern Territory) Award 2002* and the *Workplace Relations Regulations 1996*. This recent program provided the opportunity to assess how effectively the hair and beauty industry has transitioned to the *Hair & Beauty Industry Award 2010* and *Fair Work Regulations 2009*.

Aim & objectives

The aim of the NT hair and beauty audit follow-up program was to assess current compliance with Australian workplace laws in the NT hair and beauty industry.

The objectives were to:

- Raise awareness of employer's obligations particularly in relation to the introduction of the *Fair Work Act 2009* and *Hair & Beauty Industry Award*.
- assess compliance of employers previously audited in 2009 to determine long term compliance
- assess compliance of employers not previously audited

Methodology

We selected employers for audit based on intelligence received and our complaint database. The list included majority selection of the employers we audited in Campaign 2009.

The selected employers were informed by letter of the program, their selection for audit and the requirement to provide employment records for assessment. Employers were also sent an education pack containing fact sheets on employer obligations.

We contacted employers in the Darwin area by phone to arrange a time to visit their business premises to assess their records.

During our visit, we checked the employer's records to ensure employees were being paid correctly and receiving their allowances. We also ensured the employer was keeping the correct records and providing their employees with correct payslips.

Compliant employers were immediately notified of the outcome of the assessment.

Where we identified contraventions, we took copies of their records back to our office and completed further assessments. We notified these employers of the outcome of the audit in writing.

Those employers who were located outside of Darwin were asked to provide us with their employment records by post. They were notified of the findings of the assessment in writing.

Results

We analysed the findings of our audits on 9 May 2012. This analysis showed we had completed 13 audits and found 6 (46%) employers to be compliant and 7 (54%) to be in contravention. One business is being further investigated for suspected contraventions.

At the time of writing this report we have recovered \$4,508 in entitlements for 7 employees.

Table 1: Overall results	
Audits finalised	13
<ul style="list-style-type: none"> Employers compliant 	6 (46%)
<ul style="list-style-type: none"> Employers in contravention 	7 (54%)
Total amount recovered	\$4,508
Number of employees paid	7

The 7 contraventions found were;

- 3 (43%) related to underpayment
- 1 (14%) related to tool allowance
- 3 (43%) related to pay slip requirements

Comparison of findings

Nine of the employers audited in this program were audited in 2009. The comparison showed the following:

- Three employers in contravention in 2009 were found to be compliant.
- One employer with contraventions related to underpayment in Campaign 2009 had a technical contravention.
- One employer compliant in 2009 was found to have an underpayment contravention.
- One employer had contraventions resulting in underpayments in both 2009 and this program
- Two employers had technical contraventions related to their record keeping and payslip requirements in both 2009 and this program
- One employer with technical contraventions in campaign 2009 had contraventions related to underpayments

Interestingly these results show that only three of the employers audited in campaign 2009 had showed improvement since Campaign 2009. However it should be noted that during this program employers were assessed against the *Hair & Beauty Industry Award 2010* and *Fair Work Regulations 2009*. In Campaign 2009 employers were assessed against the *Hairdressing and Beauty Industry (Northern Territory) Award 2002* and the *Workplace Relations Regulations 1996*.

Other findings

It was pleasing to find that the employers that we audited were positively engaged with the process. They willingly provided us with the records that we requested and were keen to discuss their workplace obligations with us.

Many of the employers were not members of an employer association and therefore were unsure where they could access information on their obligations. We directed these employers to our website and encouraged them to sign up to our e-newsletter so they kept up-to-date with workplace laws.

We found many businesses employed a mixture of full time, part time and casual staff.

Of the 7 employees underpaid, 6 were junior employees and 5 of these were apprentices. We also identified a small number of employees to be visa holders however, none of the visa holders were underpaid.

Transitional provisions under the *Hair & Beauty Industry Award 2010* provide for four different Saturday rates of pay. We found many employers were not aware of these different rates. We found employers paying a higher base rate of pay but no penalties. In some cases this did not result in financial disadvantage, but in other cases some employees were underpaid.

The 3 employers with contraventions related to payslips were not providing payslips with the content required by the Regulations.

Conclusion

Overall, we were encouraged by the number of employers willing to engage with us and discuss their workplace obligations.

The improvement on compliance levels between Campaign 2009 and this program were disappointing however it is noted that since Campaign 2009 new legislation has been introduced.

The high number of apprentices and junior employees we found that were not receiving their correct entitlements has highlighted the need to continue educating employers about junior and apprentice rates.

The results of this audit program shows there is a need for further intervention in this industry.

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