



Australian Government

Fair Work OMBUDSMAN

NSW Snowfields Education & Compliance Campaign 2009 (State Campaign) Date 31 October 2009

Summary

The Canberra office of the Fair Work Ombudsman (FWO) conducted over 120 site visits between 22-26 June in the NSW snow fields area to improve employer awareness and compliance. A campaign was conducted in the Victorian snow fields in 2008 in response to employee complaints in the hospitality and service industries. The ACT inspectors targeted casual and short-term employees working mainly in Jindabyne, Perisher and Thredbo, NSW. This geographical area had seen little FWO targeted activity previously.

Inspectors found a high level of compliance. 60 employers had no contraventions, 4 employers had minor contraventions, and 5 employers are still under investigation. Employers had a strong understanding of the importance of paying at or above award entitlements. They reported this practice as a minimum requirement to attract and retain seasonal staff. It is recommended that information be provided to snow field employers on record keeping requirements when offsetting ski and lift passes against wage entitlements.

Results

126 site visits were conducted. Of those businesses captured within the scope of the audit, 57 were not audited as there were no employees or the employer did not fall under FWO jurisdiction. The remaining 69 were then subject to first phase triage in which 4 were found to have minor contraventions (i.e. contents of payslips not as per regulations). They did not require further action except for notification of audit findings.

5 employers are, as of 31 October, 2009, still under investigation. Contravention letters have been sent and the FWO is awaiting responses. It is envisaged the five employers will voluntarily rectify the alleged contraventions. These alleged contraventions relate to the underpayment of hourly rates and non payment of allowances and are in the Accommodation, Hospitality and Service industries. The likely underpayment in these audits is approximately \$10,000.00 for approximately 15 workers.

Outcome of Audit	
Employers compliant (within the parameters of the audit)	60
Employers found to be in contravention	4
Ongoing	5
Total	69

Anecdotal Findings

We identified two common practices which were prevalent throughout many of the ski field businesses which were audited. The first was that businesses would provide employees with ski & lift passes in addition to the employee's minimum entitlements.

We also noted that businesses, whilst they were aware of the required minimum pay rates and classifications, would pay above the classification (i.e. entitled to a level 1 but paid as a level 2) so as to attract and retain staff. The practice was found across the snow field employers.

Background

A targeted campaign was undertaken in the Victorian snow fields in 2008 in response to several complaints received from casual employees in the hospitality and service industries. As there had been little previous targeted activity in these geographical areas, an education and compliance campaign was recommended and approved for NSW. There were risks that employers in these areas may not have kept sufficient records from the 2008 ski season and subsequent off season, given the non-standard forms of work in the snow fields during this time.

Campaign aim and objectives

The primary aim of the campaign was to educate employers and raise awareness in relation to minimum wages and entitlements of casual and short-term employees (those engaged for the ski season from June to September).

A secondary aim was to increase employer awareness of the Federal Motels, Accommodation and Resorts Award 1998 and the Notional Agreements Preserving the Restaurants & Employees (State) Award, the Hotel Employees (State) Award, and the Motels, Accommodation and Resorts (State) Award in respect of casual and short-term employees working in the snow fields regions of New South Wales.

It was proposed that resorts, hotels, motels, pubs, bars, restaurants and ski fields be targeted with the specific objectives:

1. Increase employers' awareness of the correct hourly rates of pay including weekend penalties, shift penalties, public holiday loadings and allowances under the *Workplace Relations Act 1996* and relevant awards stated above;
2. Ensure compliance with the requirements of the *Workplace Relations Regulations 2006* in regards to the keeping of time and wage records and issuing of pay slips;
3. Provide information across the industry to assist employers to meet their obligations under federal legislation and to promote the role of the FWO;
4. Ensure that targeted employers comply with their minimum wage and entitlements obligations. This includes the requirement that employers pass on the wage increase effective from the pay period commencing on or after 1 October 2008 to their employees.

The scope was:

- Hospitality - bartending, waiting, housekeeping (chalet staff), room service, bellhops, drivers;

- Office - reception, reservations, word processing, payroll;
- Retail - sales assistants, cashiers;
- Ski rental - customer service; file, wax and mend skis;
- Other - ski-lift operators, attendants, technicians, ticket sellers, nannies, medical staff, public parking attendants, snowmakers, groomers and shovellers, rescuers;
- Ski and snowboard instructors.

Methodology

Three Fair Work Inspectors from the Canberra Regional Office attended the target area in the period 22 to 26 June 2009. 126 site visits were conducted.

- We held an information session for employers prior to the commencement of the audit phase of the campaign. This information session covered the parameters of FWO's audit campaign, some information regarding minimum entitlements under the most common industrial instruments, information regarding the new *Fair Work Act 2009* and a general Q&A on specific issues facing employers;
- We made site visits to the resorts, hotels and motels in Jindabyne, Perisher and Thredbo advising them of the campaign;
- Fact sheets detailing the requirements of the *Workplace Relations Regulations 2006* in regards to time and wage keeping requirements and pay slips were handed out during site visits. Copies of the latest pay scale summary for the Federal Motels, Accommodation and Resorts Award 1998 and the Notional Agreements Preserving the Restaurants & Employees (State) Award, the Hotel Employees (State) Award and the Motels, Accommodation and Resorts (State) Award were also distributed;
- We conducted targeted audits on site and requested further records as required;
- We monitored compliance activity and offered educational assistance at the target area;
- We consolidated documents and analysed against industrial instrument;
- We evaluated the campaign and developed the report.

Conclusion

The overall compliance of the target employers was high in terms of the parameters of the audit. There was a strong understanding by employers of the requirements to pay against, and in most cases above, award entitlements. This was reported as a minimum business requirement to attract and maintain seasonal staff. It is recommended that a follow up mail out campaign be conducted in regard to deductions and off setting of non cash benefits against wages. Further, it is recommended that this mail out target snow field employers, and that it refers specifically to the practice of portioning passes against wage entitlements, and the record keeping required.