

### SA Clipsal 500 Compliance Audit Report March 2011

#### Summary

The Clipsal 500 is a popular event on the South Australian calendar. Given the number of short term staff employed to work within the track, as well as the demand placed on cafes, restaurants and hotels on the outskirts of the track, South Australian Fair Work Inspectors undertook a compliance audit during the 2010 Clipsal 500. The audit assessed compliance with;

1. minimum hourly rates of pay and record keeping obligations of employers working within the race track; and
2. meal break and record keeping obligations of cafe, restaurant and hotel employers on the outskirt of the track.

Of the 58 audits undertaken, 18(31%) employers were found to be in contravention. The contraventions identified included the underpayment of wages, non payment of meal break penalties as well as contraventions of record and pay slip regulations. A total of \$1,782.00 was recovered for 34 employees. The majority of the contraventions identified were against employers operating within the track.

Further information regarding the campaign is detailed below.

#### Aim & objectives

The specific aim of the campaign was to assess compliance with minimum hourly rates of pay, meal break allowances and record keeping and pay slip obligations. The objectives were to:

- undertake meal break and record keeping compliance audit of hospitality businesses operating on the outskirts of the track
- undertake wage and record keeping audits of employers operating inside the track
- provide educational materials on the new legislation to employers
- Increase the awareness of FWO as a proactive regulator.

## **Stakeholder involvement**

Prior to Clipsal 500 event the FWO informed various stakeholders of the audit. Inside the track we notified Spotless of our intention to audit their sub-contractors.

We also contacted the Australian Hotels Association and Restaurant and Catering Association in relation to the audits being undertaken outside of the track.

These contractors and associations then undertook to notify their sub-contractors and members respectively.

## **Methodology**

Two different methodologies were adopted for this campaign;

### **1. Inside the Track**

Prior to the audits occurring, we attended and spoke at the Clipsal 500 pre-race contractor briefing. We advised the contractors of the campaign and provided information on the requirements of the audits. We also advised the contractors that prior to the audits Fair Work Inspector (FWI) would visit them to discuss any specific queries they had and provide them with an information pack.

We undertook the education visits during the first two days of the event. In the last two days of the event, we re-visited employers to complete the audit aspect of the campaign. Whilst we were able to undertake an assessment of record keeping obligations, we had to assess compliance with hourly rates of pay and pay slip obligations after the event, when the employees had been paid.

In order to do this we issued audited employers with a notice advising them of the need to forward wage records for assessment.

Employers were notified of the outcome of the audit by written correspondence.

### **2. Outside the Track**

We identified 24 hospitality businesses on Hutt Street, East Tce, Rundle St (Adelaide East End) suitable for audit using the Australian Business Register.

One week prior to the audits, we hand delivered these businesses a letter which advised them of their selection for audit, the documents we required for the audit and the date we would visit the business to undertake the audit.

Four FWI's conducted the audits between the 11 and 14 March 2010. Where we suspected meal break contraventions, the FWI obtained copies of records from the employer and returned to the office to conduct further investigation.

Employers received written notification of the outcome of the audit.

## Results

The results for audits inside and outside the track are detailed below;

### 1. Inside the Track

Status of audits	
Targeted	40
Unable to audit	6
Audits finalised	31
<i>Employers in contravention</i>	<i>16 (52%)</i>
<i>Employers compliant</i>	<i>15 (48%)</i>
Audits ongoing	3
Total Amount Recovered	
	\$1,677.00
Number of Employees Paid	
	29

Of the 31 audits completed 16 (52%) employers were found to have a total of 17 contraventions. Of the contraventions identified;

- 11 employers had record keeping contraventions
- 1 employer had pay slip contraventions
- 2 employers were identified as underpaying their staff

Two employers were identified as having both record keeping and underpayment of wages contraventions. In total 29 employees were back paid \$1677.00. All employers found to be in contravention voluntarily rectified the identified contraventions.

Currently there are 3 employers being further investigated for suspected contraventions.

In relation to these findings, it is of interest that there was over 50% non compliance level despite FWIs advising employers of the audits and providing educative materials on the record keeping and pay slip obligations as well as information on how to seek award advice.

## 2. Outside the Track

Audit Results – Outside the Track	
Employers Targeted	24
<i>Employers compliant</i>	22 (92%)
<i>Employers in contravention</i>	2 (8%)
Total contraventions	2
<i>Monetary contravention</i>	1
<i>Payslip contravention</i>	1
Total amount recovered	\$105.00
Number of employees paid	5

The above results indicate the majority of employers audited were aware of, and complying with, meal break entitlements under the relevant award. Overall 92% of the businesses audited were found to be compliant.

Of the two (8%) employers found to be in contravention;

- One employer was not providing meal breaks or payments of meal break allowances
- The other employer did not have the paid meal break allowance as a separately identifiable item on payslips, as per the requirements of the *Fair Work Regulations 2009*.

Both employers found in contravention voluntarily resolved their contravention.

Of interest, the employer found to have not met meal break obligations did provide a meal break to staff, however it was a considerable time after they had worked in excess of in this case, the 5 hour limit as specified in the applicable award. The employer had lost track of time due to the increased workload and we were advised this was an isolated incident.

During the audits we identified the majority of employers were members of one or more employer associations. A large number of targeted employers were aware of the new *Fair Work Act 2009* and modern awards as they and had attended seminars conducted by their association and, in some instances, by the unions.

### Conclusion

The campaign uncovered some interesting findings in terms of the different levels of compliance inside and outside the track. It is possible that the reasons why the employers, all in the hospitality industry, outside the track have a higher rate of compliance could be because they are members of an employer association and are consequently better informed on their obligations. Employers inside the track were transient employers in catering, however it should be noted that these employers received personalised educational visits where FWIs informed them of what employer obligations we would be assessing and providing them information on how to meet

these obligations. Despite this, it appears that some employers operating within the track did not take their obligations seriously or possibly believed that workplace laws did not apply to them.

It was encouraging to find that the majority of employers audited outside the track (92%) to be complying with meal break and record keeping obligations.

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