



Australian Government

Fair Work

OMBUDSMAN

SA / NT – Fair Work Information Statement Audit Program 2011

Final Report July 2011

Summary

In February 2011 the Fair Work Ombudsman (FWO) conducted the SA/NT Fair Work Information Statement Audit Program. The Fair Work Information Statement forms part of the National Employment Standards (NES), which came into effect on 1 January 2010. The NES requires employers to provide all new employees with a Fair Work Information Statement (the statement) before, or as soon as possible after, each employee commences employment.

A total of 172 businesses were audited as part of this audit program. This audit program aimed to ensure employers were issuing Fair Work Information Statements to new employees who commenced employment after 1 January 2010. This audit program provided a valuable opportunity to educate employers about the National Employment Standards (NES), which underpin the employment conditions for all national system employees under the *Fair Work Act 2009*.

In South Australia, 138 businesses were audited from suburbs including Adelaide, Kilkenny, Marion, Mount Barker and the township of Port Augusta. Of the 138 businesses audited in South Australia, 78 employers (57%) were assessed to be in contravention of s125 of the *Fair Work Act 2009*, which requires employers to provide new employees with a Fair Work Information Statement.

In the Northern Territory, 34 businesses were audited from suburbs including Berrimah, Casuarina and Darwin. Of the 34 businesses audited, 20 employers (59%) were assessed to be in contravention of s125 of the *Fair Work Act 2009*, which requires employers to provide new employees with a Fair Work Information Statement.

The final results of this audit program indicate a lack of awareness of an employer's obligation to provide the Fair Work Information Statement to new employees. Overall, from the 172 businesses audited, 98 employers (57%) did not issue Fair Work Information Statements to new employees. This audit program provided an opportunity for Fair Work Inspectors to educate employers about the NES and the requirement to provide new employees with a Statement before, or as soon as practicable after, the employee starts employment.

Further details about this audit program are contained in the body of this report.

Background

The National Employment Standards (NES) came into effect on the 1 January 2010 as part of *Fair Work Act 2009* (the Act). The NES comprises ten new minimum standards which apply to the employment of all employees. One of the new minimum standards introduced as part of the NES is the requirement that employers provide all new employees with a statement before, or as soon as possible after, each employee commences employment. The statement contains important information about such things as modern awards, individual flexibility arrangements, the role of the FWO and the NES.

Provision of the statement to new employees is an important new minimum employment standard. FWO needs to ensure that employers do not see this particular provision as being less significant than other minimum employment standards which govern employee entitlements.

The campaign will also provide an opportunity for Fair Work Inspectors to educate employers about best practice record keeping that indicates the statement has been supplied to new employees.

Audit program aim & objectives

This audit program aimed to promote and ensure compliance with section 125 of the *Fair Work Act 2009*, which requires employers to provide employees with a Fair Work Information Statement before, or as soon as practicable after, they commence employment.

The specific objectives of the audit program were:

- To undertake field audits within pre-determined geographical areas across SA and NT between 28 Feb 2011 to 4 March 2011
- To educate employers about their obligations under Section 125 of the *Fair Work Act 2009* regarding the provision of Fair Work Information Statements to new employees.
- To raise the profile of the FWO as a regulator in SA and NT.

Methodology

Employers were randomly selected for field audits within specific geographical areas across SA/NT. Fair Work Inspectors then visited businesses and employers were asked whether they had employed any new staff since 1 January 2010.

If an employer had employed new staff since the introduction of the NES on 1 January 2010 we requested to see evidence that those new staff members were provided with the statement. Where possible, we also spoke with employees to confirm they received a statement.

Employers who did not issue new employees with a Fair Work Information Statement were issued with a compliance commitment form and advised to ensure future compliance.

Where we identified an employer had not employed new staff since 1 January 2010 we conducted a record-keeping and payslip audit. Non compliant employers were issued a compliance commitment form and required to rectify the record keeping and/or payslip issues.

Site visit forms were completed by the Fair Work Inspector and signed by the employer or a representative of the employer at the conclusion of the site visit.

In addition each employer visited was provided with an information pack outlining the National Employment Standards (NES) and other employer obligations under *the Fair Work Act 2009* and *Fair Work Regulations 2009*.

Results

The table below shows the statistical findings of the audit program at 22 July 2011 when the results were compiled:

SA / NT Fair Work Information Statement Audit Program 2011	
No. of audits completed	172
• <i>Employers in contravention</i>	98 (57%)
• <i>Employers compliant</i>	74 (43%)

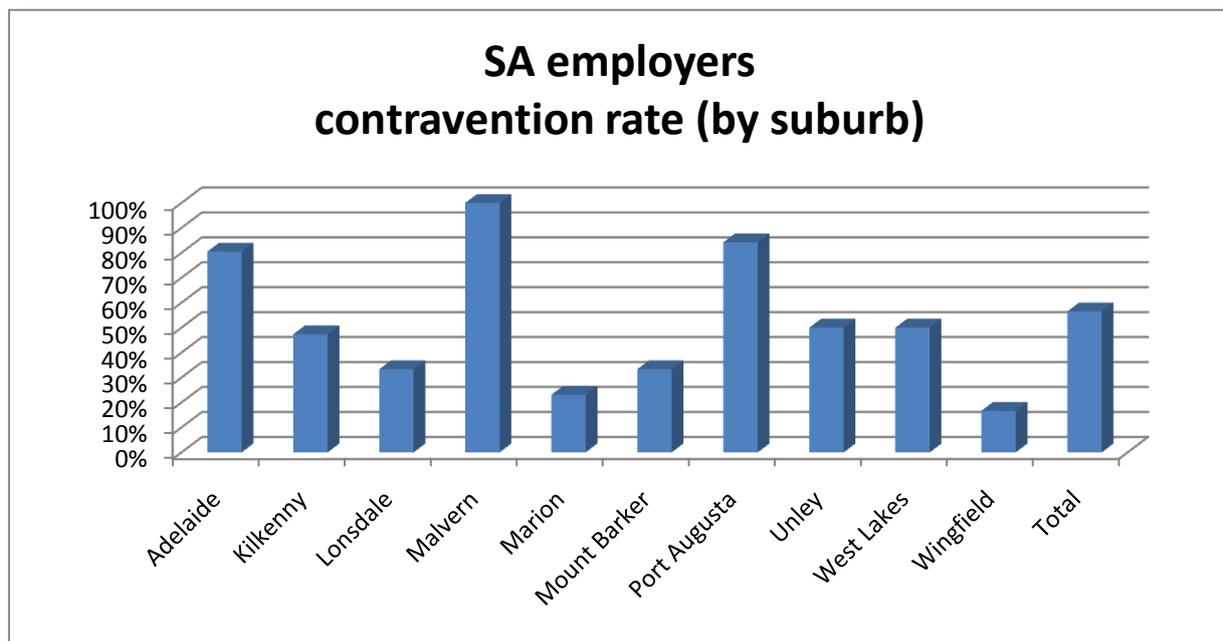
This table indicates 98 employers (57%) did not issue statements to new employees who commenced after 1 January 2010. The audit results for each region are listed below for both Northern Territory and South Australia:

South Australia

Suburb	Compliant	Contravention	% in contravention	Total
Adelaide	8	33	80%	41
Kilkenny	10	9	47%	19
Lonsdale	6	3	33%	9
Malvern		1	100%	1
Marion	10	3	23%	13
Mount Barker	12	6	33%	18
Port Augusta	3	16	84%	19
Unley	5	5	50%	10
West Lakes	1	1	50%	2
Wingfield	5	1	17%	6
Total	60	78	56%	138

The table indicates 78 employers (56%) did not provide new employees (*who commenced employment after 1 January 2010*) with Fair Work Information Statements upon commencement.

The graph below illustrates the contravention rate by suburb and township:

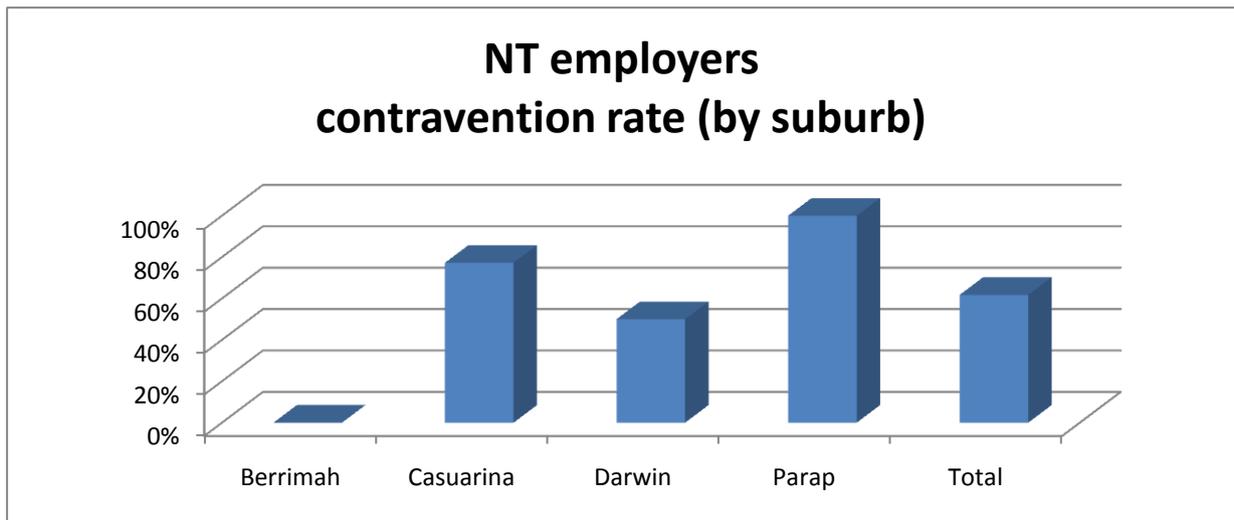


Northern Territory

Suburb	Compliant	Contravention	% in contravention	Total
Berrimah	7		0%	7
Casuarina	5	17	77%	22
Darwin	2	2	50%	4
Parap		1	100%	1
Total	14	20	58%	34

This table indicates 20 employers (58%) did not provide new employees (*who commenced employment after 1 January 2010*) with Fair Work Information Statements upon commencement.

The graph below illustrates the contravention rate by suburb:



Other findings

The results of this audit program indicate a lack of awareness about s125 of the *Fair Work Act 2009*, which requires employers to provide each employee the Fair Work Information Statement before, or as soon as practicable after, the employee starts employment.

Despite the above statistics there was a general awareness of existence of 'a *new federal industrial relations system*' of which most employers were keen to follow up through the Fair Work Info line or the Fair Work website.

After the visits were conducted the feedback from the involved inspectors was that employers were genuinely committed to learning and complying with the NES and the minimum condition contained in the *Fair Work Act 2009*.

Conclusion

This Audit Program aimed to assess and ensure compliance with s125 of the *Fair Work Act 2009*, which requires employers to issue new employees with a Fair Work Information Statement. Businesses from both South Australia and Northern Territory were visited as part of this initiative.

The results of the audit program indicate a high level of non compliance with this employer obligation. This suggests further education and compliance initiatives may be necessary to ensure employers are issuing Fair Work Information Statements to new employees.

Both SA and NT had similar levels of non compliance. The findings from Fair Work Inspector suggest there was a lack of awareness about employer's obligation to distribute Fair Work Information Statements. After this audit program, we are confident those businesses visited now know their responsibilities in this regard.

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