

# Tasmanian Compliance Campaign

Report – February 2016

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

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# Contents

Contents.....	2
Campaign Snapshot.....	3
Summary.....	4
What we did.....	4
Outcomes.....	5
Other findings.....	6
Next Steps.....	7
Conclusion.....	7
About the Fair Work Ombudsman.....	8

# Campaign Snapshot

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Total of  
**45**

Businesses audited during  
the campaign

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Total of  
**76%**

Of businesses were paying  
their employees correctly

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More than  
**\$18k**

Was recovered on behalf of  
12 employees

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Total of  
**82%**

Of businesses were  
compliant with record-  
keeping and pay slip  
obligations

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Total of  
**10**

Enforcement actions were  
taken

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## Summary

In June 2014 the Fair Work Ombudsman (FWO) commenced the Tasmanian Compliance Campaign (the Campaign). The campaign was undertaken in response to high levels of non-compliance identified across a range of industries throughout Tasmania during previous audit campaigns.

The campaign was specifically conducted to:

- initiate enforcement action to alter the behaviour of businesses who have remained non-compliant following their previous interactions with the FWO; and
- provide education and assistance to other businesses to help them achieve and maintain ongoing compliance.

Of the 45 businesses audited:

- 34 (76%) businesses were paying their employees correctly;
- 37 (82%) businesses were compliant with record-keeping and pay slip requirements;
- \$18,168 was recovered from 8 businesses on behalf of 12 employees;
- 9 formal cautions and 1 infringement notice (on the spot fine) was issued; and
- 10 (100%) businesses that underpaid their employees in previous campaigns and found to be non-compliant in this campaign were subject to enforcement action.

## What we did

The FWO contacted 45 businesses across Tasmania, including some that were non-compliant in previous campaigns. A sample of time and wage records was requested and Fair Work Inspectors (FWI's) assessed compliance with the *Fair Work Act 2009* (the Act), the *Fair Work Regulations 2009* (the Regulations) and the applicable award:

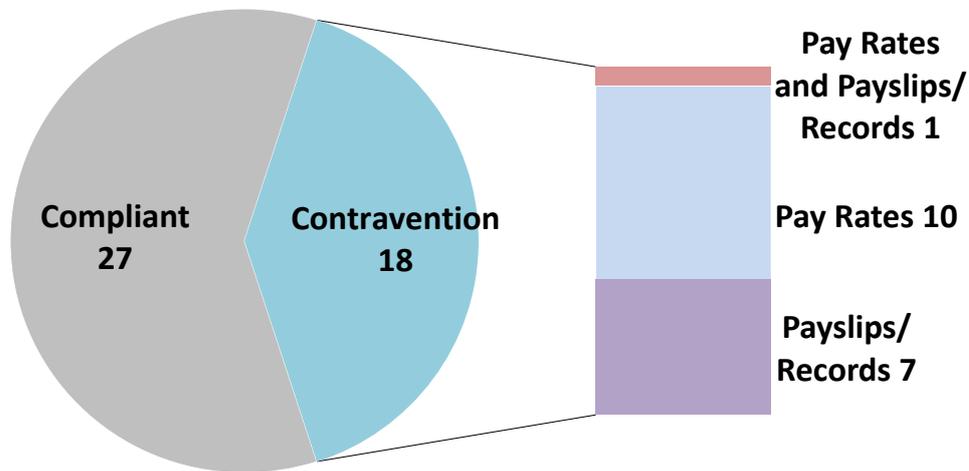
- where businesses were underpaying their employees in previous campaigns, and were found to be non-compliant again in this campaign, enforcement action was taken; and
- where businesses were non-compliant for the first time in this campaign, the FWO required them to rectify the issue and provide proof of having back-paid employees for all underpayments.

# Outcomes

Of the 45 businesses audited:

- 27 (60%) were compliant with all requirements
- 18 (40%) had made at least one error, of which:
  - 10 (22%) related to pay rates;
  - 7 (16%) related to record-keeping/pay slips; and
  - 1 (2%) related to both pay rates and records.

Figure 1: Audit results



This means that:

- 34 (76%) businesses were paying their employees correctly;
- 37 (82%) businesses were compliant with record-keeping and pay slip requirements; and
- 10 (100%) businesses that underpaid their employees in previous campaigns and found to be non-compliant in this campaign were subject to enforcement action.

The 18 businesses found to be non-compliant had a total of 22 individual errors, as outlined in Figure 1.

The most commonly identified errors were:

- failure to provide pay slips in the prescribed form (32%); and
- underpayment of minimum base hourly rate (27%).

The FWO recovered a total of \$18,168 from 8 businesses, on behalf of 12 employees.

The FWO views continuing non-compliance to be of a serious nature and strongly encourages businesses to take action to ensure their employment systems adopt a state of conscious compliance with relevant workplace laws.

Of the 18 non-compliant businesses, 10 had previously been found to be underpaying their employees during previous audits. Enforcement action was taken in relation to all of these businesses.

9 businesses were issued formal cautions and 1 business was issued an infringement notice. Formal cautions are a written warning when the FWO has found non-compliance and wants to put a business on notice that future non-compliance could result in the FWO seeking financial penalties. If the FWO becomes aware of any further instances of non-compliance, the fact the business was issued with a formal caution will be a factor taken into account in deciding whether to commence civil proceedings against the business and may be used as evidence in any penalty determinations.

Formal cautions were issued to businesses operating in a number of industries. 6 formal cautions were issued to businesses in the hair and beauty industry, as well as other businesses operating in the manufacturing, accommodation and construction industries.

An infringement notice is a fine given to a business for non-compliance with record-keeping or pay slip requirements of the Act and Regulations.

Businesses that were found to be non-compliant for the first time were required to rectify any issues (including making backpayments to underpaid employees) and were provided with assistance to help them comply with their obligations.

All non-compliant businesses will be re-audited as part of the FWO's ongoing National Compliance Monitoring Campaign.

## Other findings

To inform our future education and compliance activities, the FWO spoke with non-compliant businesses to determine the reason/s for their non-compliance. Some reasons included:

- businesses paying flat rates of pay to staff for all hours worked. These flat hourly rates were not sufficient to cover penalty and/or overtime rates for hours that attract these penalties eg. weekend penalty rates and overtime for hours worked in excess of ordinary hours. These businesses had agreed to pay a flat hourly rate to staff without ensuring that the hourly rate paid was sufficient to cover all hours that employees worked. These businesses had not sought advice on these arrangements from the FWO or other sources; and
- businesses with junior employees or apprentices not keeping up to date with pay increases including pay increases for junior staff on their birthdays, or pay increases for apprentices when they complete competencies and/or move to subsequent levels within their apprenticeship. These businesses generally did not have systems or processes in place to track these important dates that affect pay rates, and had not taken advantage of the tools and resources available from the FWO and other organisations to keep informed about these issues. The resources the FWO has available to assist with these types of issues include the FWO My Account service and email subscription services.

## Next Steps

The FWO will continue to monitor businesses found to be non-compliant through the ongoing National Compliance Monitoring Campaign and continue to take enforcement action. In addition the FWO will:

- continue to educate employers on their obligations and encourage them to contact the FWO and others for assistance and advice on workplace relations matters;
- promote key themes identified in compliance campaigns through our communication and media activities and use the findings of this campaign to inform future compliance activities; and
- promote the tools and resources available on the FWO website [www.fairwork.gov.au](http://www.fairwork.gov.au).

## Conclusion

The campaign revealed 60% of businesses were fully compliant with their workplace obligations, including 76% of businesses paying their employees correctly. 82% of businesses were compliant with all record-keeping and pay slip obligations.

The campaign also revealed that 40% of businesses were non-compliant, including 22% of businesses not paying their employees correctly.

The FWO will continue to monitor businesses found to be non-compliant. All businesses found to be non-compliant in the campaign will be re-audited as part of the National Compliance Monitoring Campaign. Where further non-compliance is detected, the FWO will consider seeking financial penalties.

The FWO will continue to support a culture of compliance by empowering employers and employees to resolve any issues that arise at a workplace level. To assist businesses to do this, the FWO recently released a number of practical Guides to Resolving Workplace Issues on the FWO website [www.fairwork.gov.au](http://www.fairwork.gov.au). Whilst the FWO will continue to monitor non-compliant businesses, supporting businesses and employees to resolve issues at the workplace level gives the best chance of continued productive workplace relationships.

## 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 main role is to promote harmonious, productive and cooperative workplace relations.

Each year the Fair Work Ombudsman runs proactive campaigns to assist employers and employees understand their rights and obligations under Commonwealth workplace relations laws.

These campaigns can focus on particular industries, regions and/or labour market issues and are conducted on a national and state level.

This report covers the background, method and findings of the Tasmanian Compliance Campaign. For further information and media enquiries please contact 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 campaigns please contact Lynda McAlary-Smith, Executive Director - Proactive Compliance and Education at [Lynda.McAlary-Smith@fwo.gov.au](mailto:Lynda.McAlary-Smith@fwo.gov.au)