



Australian Government

Fair Work

OMBUDSMAN

Tasmanian Fair Work Information Statement Audit Program 2011 Final Report

Summary

Between March and July 2011, the Fair Work Ombudsman (FWO) conducted the Tasmanian Fair Work Information Statement Audit Program (the program). The program aimed to assess and promote compliance with the new obligation for employers to provide an Information Statement (the statement) to new employees.

The provision of the statement is a legislated requirement and forms part of the National Employment Standards (NES), which came into effect on 1 January 2010.

Businesses were selected at random in Launceston, Devonport, Sorell, Hobart, Moonah and Glenorchy. If businesses had employed new employees since January 2010 inspectors assessed whether they had provided their new employees with the statement. If the business had not employed any new employees as of 1 January 2010, inspectors assessed time and wage records and payslips to ensure employers were meeting their record – keeping and payslip obligations.

Of the 42 businesses audited, 24 (57%) were found to be compliant and 18 (43%) were in contravention. Of the non compliant employers, inspectors identified 16 not to have provided the statement to their new employee/s and 2 employers to have issued payslips which did not contain the required information as per the *Fair Work Regulations 2009 (the Regulations)*.

Further details on the program and findings are provided below.

Background

The 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 employees. One, is the obligation for employers to provide the statement to each employee before, or as soon as possible after, they commence employment. The statement contains important information about modern awards, individual flexibility arrangements and other entitlements.

The program was conducted to determine the level of compliance and to raise awareness of the new obligation to provide the statement. Further, there were concerns that some employers may view the obligation to be trivial and consequently not comply.

There is no legislative requirement for employers to keep records as evidence that they have provided the statement. However, during the course of the program inspectors

informed employers that best practice would be to keep documentary evidence that the statement had been provided.

Program aim & objectives

The aim of this Tasmanian program was to assess and promote compliance with the obligation for employers to provide the statement to new employees in accordance with the NES.

The objectives were to:

- make unannounced visits to businesses in Launceston CBD, Devonport, Sorell, Hobart, Moonah and Glenorchy
- assess compliance with the obligation to provide a statement with those employers who had hired new employees since January 2012 educate employers on their obligations under the NES
- assess record – keeping/payslip compliance of those employers who have not hired a new employee since January 2010
- raise the profile of FWO in Tasmania

Methodology

Between March and July 2011, we conducted a series of unannounced visits to businesses in Launceston CBD, Devonport, Sorell, Hobart, Moonah and Glenorchy. We selected the businesses at random, and assessed whether they had complied with the NES requirement to provide a statement to new employees.

During the visit we discussed with the employer the purpose of the audit and determined whether the statements were being provided to new employees.

To confirm if a statement had been provided, we also met with the new employees and asked them whether they had received the statement.

For those employers who had not employed staff since 1 January 2010 we inspected the employees' time records and payslips to ensure compliance with record – keeping and payslip obligations.

Non – compliant employers were asked to sign a Compliance Commitment Form, agreeing to rectify their contravention. Employers not complying with the requirement to issue a statement were also supplied a [template statement](#) they could use.

Results

We audited 42 employers and found that 24 employers were compliant, 16 had not provided a statement to their new employees and 2 were found to be in contravention for not issuing payslips containing the required content as per the *Regulations*.

Audit Status – Tasmanian Fair Work Information Statement Campaign 2011	
Number of employers audited	42
• <i>Employers compliant</i>	24 (57%)
• <i>Employers in contravention (voluntary compliance)</i>	18 (43%)

Other findings

Inspectors found that although the majority of employers had hired a new employee since 1 January 2010, many were not aware of their obligation to provide a statement.

We also found a number of the employers, particularly in regional areas, had not heard of the FWO prior to the inspectors visit.

Conclusion

This program confirmed that many employers are not familiar with their obligation to issue a statement to new employees in accordance with the NES. We therefore recommend that FWO's future audit programs include an assessment with the provision of the statement in addition to other compliance obligations.

It is also proposed that all FWO's presentations to secondary schools include information on the statement. In educating students to expect to receive a statement, it is anticipated that they will influence their future employers' compliance with the obligation.

The program also identified that there were a number of employers unaware of the existence or role of the FWO. However inspectors received numerous phone calls from the businesses audited, seeking further information and clarification of their rights and obligations. The program therefore provided an opportunity to significantly raise the profile of the FWO.

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