

7-Eleven signs on with Fair Work Ombudsman to set the standard for franchising in Australia

7 December 2016

Australia's largest petrol and convenience retailer, 7-Eleven, has signed a Proactive Compliance Deed with the Fair Work Ombudsman which will set a new standard for franchising in Australia.

The landmark agreement commits 7-Eleven to a range of measures designed to ensure all its workers receive their lawful entitlements through strong accountability for all operators across its franchise network and supervision by the Fair Work Ombudsman.

The measures include installing and overseeing biometric shift scanning systems and the roll out of 7-Eleven owned CCTV systems at all outlets in order to allow the head office to monitor employee hours and make sure workers are paid correctly.

The deed also implements measures aimed at overcoming the challenging and unlawful practice of 'cash backs' by workers to franchisees which were revealed by the Fair Work Ombudsman's Inquiry Report into workplace non-compliance in the 7-Eleven network.

Fair Work Ombudsman Natalie James said the commitments in the deed would help prevent the unlawful practices identified in the regulator's April 2016 Inquiry Report, increase accountability across the entire franchise network and introduce a culture of compliance from head office down.

"The measures in this deed are the most robust and comprehensive that any franchise brand has in place in Australia," Ms James said.

"The goal is to make sure franchisees pay workers correctly in the first place. As we noted in our Inquiry report, non-compliance in this network has been long term, extensive and systemic. Some franchisees have demonstrated they will go to extreme lengths to circumvent record keeping systems. The deed establishes a framework for 7-Eleven to detect, investigate and rectify underpayments within its network now and into the future. It also maintains commitments to backpay workers underpaid in the past."

The actions required by the deed will ensure employees and franchisees understand their rights and obligations, including ensuring franchisees understand the wages costs associated with their store. It will make franchisees and Head Office accountable through new systems and oversight by the Fair Work Ombudsman. The measures include:

Improving systems and record keeping

Identifying Employees and Maintaining Employee Records – Fully implement a biometric time recording system that can ensure periodical verification of workers supported by a 7-Eleven owned and operated CCTV system. Franchisees will not be permitted to alter any systems owned by 7-Eleven.

Payment and Payroll Records – All franchisees must use a central payroll system which will specify lawful minimum rates of pay for all employees, and which cannot be manually altered by Franchisees. All payments to be made by electronic funds transfer, rather than cash.

Managing claims of underpayment:

The current 7-Eleven Wage Repayment Program – will continue to receive and process all employee Claims submitted prior to 31 January 2017, as well as all Claims previously made to and received by the Panel. 7-Eleven will pay the aggregate Claim amounts approved through the 7-Eleven WRP on an uncapped basis and will report to the FWO at least quarterly regarding the outcome of Claims to the 7-Eleven WRP. Claimants who disagree with the outcome of a claim can seek review by the WRP and further review by the Fair Work Ombudsman if they choose. Note – to date, 7-Eleven has paid more than \$55 million in wages to employees who were underpaid by 7-Eleven franchisees.

Internal Investigations Unit - an Internal Investigations Unit (IIU) will be established to ensure compliance in individual franchises by monitoring and detecting issues when and where they arise. From 1 February 2017 the IIU will receive and investigate claims from 7-Eleven employees and make franchisees accountable for any underpayments that have occurred. The IIU will report on all activity to 7-Eleven and the FWO on a quarterly basis.

Rectification of Underpayments - Where an underpayment claim is substantiated by the IIU, 7-Eleven will require the relevant franchisee to rectify any underpayment to that Employee within 30 days of service.

If the Franchisee fails to rectify the underpayment within 30 days of 7-Eleven having notified the Franchisee of the substantiated Underpayment claim, 7-Eleven will rectify the underpayment within a further 15 days.

Uncapped Payments - 7-Eleven will ensure that it has funds available to enact prompt rectification of underpayments on an uncapped basis for all claims lodged with both the WRP and the IIU. 7-Eleven will report to the FWO on all amounts paid for the rectification of underpayments.

Acknowledgement and Accountability

Compliance with Commonwealth Workplace Laws – 7-Eleven acknowledges its moral and ethical responsibility to ensure compliance with the law in relation to all employees and meet Australian community and social expectations

Auditing and Reporting to the FWO – 7-Eleven will engage an independent auditor to conduct three annual audits throughout the duration of the Deed assessing compliance with Commonwealth Workplace Laws and applicable Fair Work Instruments. Within two months of the audit, 7-Eleven must provide the Fair Work Ombudsman with a summary report prepared by the auditor outlining findings and steps taken to rectify contraventions.

Internal Auditing and Risk Analysis – In addition, 7-Eleven must appoint a Senior Manager with responsibility for auditing time and payroll data. The Senior Manager will report to the 7-Eleven Audit and Risk Committee at least every six months and advise the Fair Work Ombudsman of any stores where serious non-compliance has been detected.

Reporting of Non-Compliance with Commonwealth Workplace Laws - 7-Eleven will, at its own expense, establish and maintain a dedicated telephone hotline and email account service with interpreter accessibility to ensure that any person, including Employees and members of the public, may make enquiries, lodge complaints or report potential non-compliance with workplace laws, including underpayment of wages, at 7-Eleven Franchises. The hotline must have the capacity to receive, respond to and manage complaints made anonymously.

Access to Stores - 7-Eleven will allow and facilitate Fair Work Inspectors access to its Franchises, stores or offices at any time for the purpose of the FWO verifying compliance with Commonwealth Workplace Laws.

Clear expectations for franchisees

Wage Costs of Franchises - Prior to the sale of any new or existing Franchise, 7-Eleven will provide information to each prospective franchisee outlining the applicable minimum wages, loadings, penalty rates and overtime rates of pay for full-time, part-time and casual employees of each classification under the relevant Fair Work Instrument.

It will also provide detailed wage modelling, outlining the range of expected minimum wage costs required to operate the type of 7-Eleven store, details of the range of expected minimum working hours required to operate and details of the specific store's income and expenditure data for a period of the previous two years. 7-Eleven will refer franchisees to the IIU if wage costs fall below modelled figures.

Franchisee obligations to comply with workplace laws – the Deed calls on 7-Eleven to take reasonable steps to ensure that each franchisee signs a compliance commitment document certifying that its directors, officers and managers understand their obligations to comply with Commonwealth Workplace Laws; agrees to report to 7-Eleven on the details of the terms and conditions upon which each Employee is engaged; that directors and managers will not require or accept payments from Employees in respect of wages paid and acknowledge that such conduct is unlawful. They will also be required to register with the FWO's My Account Portal so as to ensure they have access to current and accurate information about wage rates and entitlements.

7-Eleven has acknowledged the culture of underpayment and false records that had become normalised in its network and recognised it must do more to detect and fix the issue. It has also acknowledged it had not recognised the need for additional financial support for some stores and that these factors contributed to the exploitation of vulnerable workers.

Ms James said every person working in Australia had the right to receive the relevant entitlements relating to their occupation.

"The law requires direct employers pay all workers, including visa holders, their minimum rates of pay. The community also expects other entities that benefit from labour to take responsibility for making sure workers are paid properly. We are pleased that 7-Eleven has acknowledged this by agreeing to this Compliance Deed, entering into a partnership arrangement with the FWO which sets a new Australian standard," Ms James said.

"With the government committing to new laws to enhance franchisor responsibility for workplace entitlements, I call on all franchisees to consider what steps they might take to ensure their network is compliant. We are happy to work with any business that wants to take responsibility for compliance with workplace laws in its supply chain or network"

The Fair Work Ombudsman and 7-Eleven signed the compliance deed on Tuesday 6 December 2016.

Employers and employees who have any uncertainty or questions about their workplace rights and obligations are encouraged to visit the Fair Work Ombudsman website at www.fairwork.gov.au (<http://www.fairwork.gov.au>) or call the Fair Work Infoline on 13 13 94 for advice.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](http://twitter.com/NatJamesFWO) (<http://twitter.com/NatJamesFWO>), the Fair Work Ombudsman [@fairwork_gov_au](http://twitter.com/fairwork_gov_au) (http://twitter.com/fairwork_gov_au) or find us on Facebook www.facebook.com/fairwork.gov.au (<http://www.facebook.com/fairwork.gov.au>).

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Download the [7-Eleven Stores Pty Ltd Proactive Compliance Deed \(DOCX 280.4KB\)](http://www.fairwork.gov.au/ArticleDocuments/762/7-eleven-pcd.docx.aspx) (www.fairwork.gov.au/ArticleDocuments/762/7-eleven-pcd.docx.aspx) (PDF 9.4MB) (www.fairwork.gov.au/ArticleDocuments/762/7-eleven-pcd.pdf.aspx)

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