

Franchisors

Franchisors can be held responsible and face penalties in court (www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/litigation) if their franchisee doesn't follow workplace laws.

As a franchisor, you should take steps to make sure your franchisees are compliant with workplace laws to:

- minimise the risk that you'll be held legally responsible
- minimise the risk to your brand and reputation
- help improve employment terms and conditions, as well as engagement and motivation, for people working in your franchise.

Find out:

- [when franchisors can be held responsible](#)
- [how you can help your franchisees](#)

Promoting compliance in your network

Read our detailed [Guide to promoting workplace compliance in your franchise network \(DOCX 763.1KB\)](https://www.fairwork.gov.au/ArticleDocuments/712/guide-to-promoting-workplace-compliance-in-your-franchise-network.docx.aspx) (<https://www.fairwork.gov.au/ArticleDocuments/712/guide-to-promoting-workplace-compliance-in-your-franchise-network.docx.aspx>) ([PDF 369.8KB](https://www.fairwork.gov.au/ArticleDocuments/712/guide-to-promoting-workplace-compliance-in-your-franchise-network.pdf.aspx)) (<https://www.fairwork.gov.au/ArticleDocuments/712/guide-to-promoting-workplace-compliance-in-your-franchise-network.pdf.aspx>).

The guide provides advice about how franchisors can work with their franchisees to promote compliance in their franchisee networks, including how to:

- set expectations
- educate and train
- monitor compliance
- take further action.

We've developed this guide in close consultation with the franchise sector and we'll continue to update this guide in the future, for example, as these laws are clarified through the courts.

When franchisors can be held responsible

Franchisors can be held responsible if their franchisee doesn't follow workplace laws about:

- the [National Employment Standards](http://www.fairwork.gov.au/employee-entitlements/national-employment-standards) (www.fairwork.gov.au/employee-entitlements/national-employment-standards)
- a [modern award](http://www.fairwork.gov.au/awards-and-agreements/awards) (www.fairwork.gov.au/awards-and-agreements/awards)
- an [enterprise agreement](http://www.fairwork.gov.au/awards-and-agreements/agreements) (www.fairwork.gov.au/awards-and-agreements/agreements)
- [method and frequency of paying wages](http://www.fairwork.gov.au/pay/paying-wages) (www.fairwork.gov.au/pay/paying-wages)
- [deductions from pay and cashback schemes](http://www.fairwork.gov.au/pay/deducting-pay-and-overpayments) (www.fairwork.gov.au/pay/deducting-pay-and-overpayments)
- [guarantees of annual earnings](http://www.fairwork.gov.au/awards-and-agreements/award-and-agreement-free-wages-and-conditions#employee-award-free) (www.fairwork.gov.au/awards-and-agreements/award-and-agreement-free-wages-and-conditions#employee-award-free)
- [sham contracting](http://www.fairwork.gov.au/find-help-for/independent-contractors) (www.fairwork.gov.au/find-help-for/independent-contractors)
- [record-keeping requirements](http://www.fairwork.gov.au/pay/pay-slips-and-record-keeping/record-keeping) (www.fairwork.gov.au/pay/pay-slips-and-record-keeping/record-keeping)
- [pay slip requirements](http://www.fairwork.gov.au/pay/pay-slips-and-record-keeping/pay-slips) (www.fairwork.gov.au/pay/pay-slips-and-record-keeping/pay-slips)
- an [equal remuneration wage order](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/gender-pay-equity) (www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/gender-pay-equity)
- a [workplace determination](https://www.fwc.gov.au/disputes-at-work/industrial-action/resolving-issues-at-the-commission/workplace-determinations) [☞] (<https://www.fwc.gov.au/disputes-at-work/industrial-action/resolving-issues-at-the-commission/workplace-determinations>)
- a [national minimum wage order](https://www.fwc.gov.au/awards-and-agreements/minimum-wages-conditions/national-minimum-wage-orders) [☞] (<https://www.fwc.gov.au/awards-and-agreements/minimum-wages-conditions/national-minimum-wage-orders>).

This applies to franchisors:

- who have allowed the franchisee to supply goods or services under their specific brand or trade mark
- whose branding or trade mark is major part of the franchisee's business

- who have a significant degree of influence or control over the business affairs of the franchisee.

Franchisors can be held responsible for breaches or underpayments if:

- they knew (or could have reasonably known) that a franchisee wasn't following workplace laws
- they didn't take reasonable steps to prevent it.

Underpayments include:

- wages and commission
- leave
- superannuation payments
- reimbursement for expenses.

See our fact sheet on [Franchisor responsibility \(https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/franchisor-responsibility\)](https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/franchisor-responsibility) for more information.

How you can help your franchisees

A court will decide if a franchisor took reasonable steps to prevent their franchisee from breaching their obligations. You should take steps to enable, support and monitor your franchisees' compliance.

Enable compliance

Make sure your franchise agreement clearly requires franchisees to comply with workplace laws. While the workplace laws apply even if it isn't mentioned in the agreement, being clear about this can help set your expectations from them from the start.

You should also make sure that the franchise's business model takes into account the costs of lawfully employing enough staff.

Negotiating a [registered agreement \(www.fairwork.gov.au/Dictionary.aspx?TermID=2034\)](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2034) for your franchise can create clarity and consistency about conditions of employment across the business. For information about how to make an enterprise agreement, visit the [Fair Work Commission](https://www.fwc.gov.au/awards-and-agreements/agreements) website.

Support compliance

Franchisors can develop and provide internal tools and processes to help franchisees be compliant. You can:

- incorporate our Fair Work Handbook (DOCX 375.9KB) (www.fairwork.gov.au/ArticleDocuments/712/fair-work-handbook.docx.aspx) (PDF 801KB) (www.fairwork.gov.au/ArticleDocuments/712/Fair-Work-Handbook.pdf.aspx) into your business' operations manual, or provide it as a standalone resource for franchisees
- keep franchisees regularly updated about their obligations under workplace laws and where they can get help
- provide franchisees templates that show them what to do, such as our free [templates \(www.fairwork.gov.au/how-we-will-help/templates-and-guides\)](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides)
- implement human resource management systems or software to help your franchisees with consistent and compliant workplace practices
- engage qualified human resources or industrial relations staff to train, update and assist franchisees
- recommend our [Record My Hours app \(www.fairwork.gov.au/how-we-will-help/how-we-help-you/record-my-hours-app\)](http://www.fairwork.gov.au/how-we-will-help/how-we-help-you/record-my-hours-app) as a secondary record-keeping measure
- direct franchisees to our [online pay tools \(https://calculate.fairwork.gov.au/\)](https://calculate.fairwork.gov.au/)
- direct franchisees to our [online learning centre \(www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/default\)](http://www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/default) to do courses to help them understand their obligations
- assist franchisees to resolve workplace disputes with employees.

Monitor compliance

Regularly checking that your franchisees are complying with workplace laws will mean you are better placed to see and address issues before they become a problem.

Before implementing new monitoring activities, check what your franchise agreement or business structure allows you to do and follow any privacy obligations that apply.

Monitoring activities include:

- regular audits of pay slips and records to make sure franchisees are meeting their record-keeping obligations
- requiring franchisees to conduct 'self-audits' and report the results
- allowing employees to contact you for help if their complaints are not dealt with by the franchisee
- requiring franchisees to notify you if an employee has requested our assistance, or if we are auditing them
- encouraging franchisees to actively cooperate with our dispute resolution processes, investigations and audits.

You can also consider entering into a [Compliance Partnership \(www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/compliance-partnerships/default\)](http://www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/compliance-partnerships/default) with us, to formalise compliance monitoring.

What to do next

- Read our detailed [Guide to promoting workplace compliance in your franchise network \(DOCX 763.1KB\) \(https://www.fairwork.gov.au/ArticleDocuments/712/guide-to-promoting-workplace-compliance-in-your-franchise-network.docx.aspx\)](https://www.fairwork.gov.au/ArticleDocuments/712/guide-to-promoting-workplace-compliance-in-your-franchise-network.docx.aspx) (PDF 369.8KB) (<https://www.fairwork.gov.au/ArticleDocuments/712/guide-to-promoting-workplace-compliance-in-your-franchise-network.pdf.aspx>) .

You might also be interested in

- [Accessorial, franchisor & holding company liability \(www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/litigation/accessorial-franchisor-and-holding-company-liability\)](http://www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/litigation/accessorial-franchisor-and-holding-company-liability)
- [How to fix an underpayment \(www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/how-to-fix-an-underpayment\)](http://www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/how-to-fix-an-underpayment)
- our [Effective dispute resolution best practice guide \(www.fairwork.gov.au/How-we-will-help/templates-and-guides/Best-practice-guides/effective-dispute-resolution\)](http://www.fairwork.gov.au/How-we-will-help/templates-and-guides/Best-practice-guides/effective-dispute-resolution)

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Contact us

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Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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