



GPO Box 9887, Hobart TAS 7001

2 February 2021

s.22 Irrelevant Information

s.47E(d) Certain operations of agencies

[REDACTED]

[REDACTED]

Reference number: s.22 Irrelevant Information

## COMPLIANCE NOTICE ISSUED TO s.47E(d) Certain operations of agencies

Dear s.22 Irrelevant Information,

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies regarding security services provided during the Victorian Hotel Quarantine Program.

The FWO is an independent agency responsible for ensuring compliance with the *Fair Work Act 2009* (FW Act) and other relevant Commonwealth workplace laws.

### BACKGROUND

An audit was conducted to establish whether s.47E(d) Certain operations of agencies had complied with the FW Act.

As a result of that audit, I reasonably believe that s.47E(d) Certain operations of agencies has contravened terms of the *Security Services Industry Award 2020* [MA000016] as set out in the attached compliance notice dated 2 February 2021 (Compliance Notice).

To date, the underpayments arising as a result of these contraventions have not been rectified.

On this basis, I have determined that the appropriate enforcement measure in this instance is to issue s.47E(d) Certain operations of agencies with the Compliance Notice under s716 of the FW Act.

### ACTION REQUIRED

The Compliance Notice provides s.47E(d) Certain operations of agencies with a further opportunity to rectify the contraventions.

The Compliance Notice sets out a number of actions that s.47E(d) Certain operations of agencies is required to take on or before 2 March 2021. Please consider the actions specified in the Notice carefully.

Complying with the Compliance Notice is not an admission (nor does it constitute a finding) that s.47E(d) Certain operations of agencies has contravened the *Security Services Industry Award 2020* [MA000016] or the FW Act.

In order to assist you to undertake the calculations and rectification required by the Compliance Notice, you can find the required information on our website ([www.fairwork.gov.au](http://www.fairwork.gov.au)), which contains further tools to

help you understand and comply with your obligations, including:

- (a) a Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements;
- (b) templates and checklists to make record keeping easy; and
- (c) an online learning centre to learn the basics and get new skills.

We recommend that you also register at our website for My Account to save all your information in one place and get priority support when you need it.

## OBLIGATIONS UNDER THE COMPLIANCE NOTICE

If **s.47E(d) Certain operations of agencies** fails to comply with the Compliance Notice by **2 March 2021** it may contravene section 716(5) of the FW Act (unless it has a reasonable excuse).

In those circumstances, the FWO may (without further notice) commence legal action against **s.47E(d) Certain operations of agencies** and/or individuals involved in **s.47E(d) Certain operations of agencies** failure to comply with the Compliance Notice. A Court may impose penalties of up to \$6,660 in respect of an individual or \$33,300 in respect of a body corporate for each failure to comply with a Compliance Notice.

Alternatively, **s.47E(d) Certain operations of agencies** may apply to the Federal Court, Federal Circuit Court or an eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:

- (a) The **s.47E(d) Certain operations of agencies** Ltd did not commit the contravention(s) set out in this Compliance Notice
- (b) the Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

For further general information about Compliance Notices, please refer to our Compliance and Enforcement Policy, which can be found on our website.

Finally, we note that you may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information, or produce false or misleading documents, to the FWO. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

## HISTORICAL VERSIONS OF AWARD

The FWO acknowledges that four versions of the *Security Services Industry Award* (19 Dec 2019, 8 Apr 2020, 12 Jun 2020 and 2 Jul 2020) applied during the assessment period 5 April 2020 to 5 July 2020. However, the substantive requirements did not change with each version, (i.e. the pay and penalty rates entitled where consistent in all versions). There was only a variation in the applicable clause number within different versions.

For this reason, the FWO has used the clause numbers in the most recent version of the *Security Services Industry Award 2020* [MA000016] (version effective 20 November 2020) in the Compliance Notice in order to eliminate confusion for **s.47E(d) Certain operations of agencies** in rectifying the contraventions. You can access the Award here: [<http://awardviewer.fwo.gov.au/award/show/MA000016>]. Historical versions can be found in the right hand navigation pane under "versions."

## OTHER CONTRAVENTIONS

I have also found that the following contravention occurring during the Audit Period:

1. **Clause 5.5 and 5.6(d) of the *Security Services Industry Award 2020***

s.47E(d) Certain operations of agencies has failed to meet all the requirements of creating an individual flexibility arrangement (IFAs) . In particular, the IFAs failed to set out how the employees would be better off overall at the time the agreement was made.

In addition to the requirements set out in the Compliance Notice, the FWO recommends s.47E(d) Certain operations of agencies review any existing IFAs in place and ensure any IFAs entered into the future meet all the requirements contained in clause 5 of the Award. In particular, a detailed assessment of how an employee is better off overall.

Should you wish to discuss this letter, or clarify any of the issues raised in the Compliance Notice, please contact me on s.22 Irrelevant Information or at s.22 Irrelevant Information

Yours sincerely

s.22 Irrelevant Information

s.22 Irrelevant Information

Fair Work Inspector  
Fair Work Ombudsman

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act



GPO Box 9887, Hobart TAS 7001

**COMPLIANCE NOTICE**  
(issued under section 716(2) of the *Fair Work Act 2009* (Cth))

Date of Issue: 2 February 2021

Name of Employer:

s.47E(d) Certain operations of agencies

ABN/ACN

s.47E(d) Certain operations of agencies

Director:

s.22 Irrelevant Information

I, s.22 Irrelevant Information being a duly appointed Fair Work Inspector, reasonably believe that s.47E(d) Certain operations of agencies (Employer) has contravened terms of the *Security Services Industry Award 2020 (Award)*, as described below. This Compliance Notice requires you to take steps to remedy the contraventions described below.

### Rights and obligations under this Compliance Notice

1. Failure to comply with this Compliance Notice may contravene section 716(5) of the *Fair Work Act 2009* (Cth) (FW Act) and render you liable for a civil penalty (unless you have a reasonable excuse).
2. You may be liable to a civil remedy if you give false or misleading information or produce false or misleading documents. It is also a serious offence under the *Criminal Code* (Cth).
3. If you do not comply with this Compliance Notice, the Fair Work Ombudsman may, without further notice, commence legal action against you and/or individuals involved in your failure to comply with this Compliance Notice to recover any outstanding monies which this Compliance Notice requires you to pay and to seek civil penalties.
4. Complying with the Compliance Notice is not an admission that you contravened, or have been found to have contravened, the Award or the FW Act.
5. You may apply to the Federal Court, Federal Circuit Court or eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:
  - (a) you did not commit the contraventions set out in this Compliance Notice;
  - (b) this Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.



### Details of the contravention(s)

6. The Employer, between 5 April 2020 and 5 July 2020 (Period), contravened the clauses of the Award set out in the table below.

No	Clause	Details of contravention(s)
(a)	20.3	<p><b>Night Span (Permanent Night Work) Penalty contravention</b> for those employees who worked ordinary hours during the Night Span (Permanent Night Work), failing to pay those employees a 30% penalty rate in addition to the ordinary time rate for such hours worked</p> <p>'Night Span' means 0000 hrs to 0600 hrs and 1800 hrs to 2400 hrs throughout the period from 0000 hours Monday to 2400 hours Friday (excluding hours on a day that is a public holiday)</p> <p>'Permanent night work' means work performed during a Night span over the whole period of a roster cycle in which more than two thirds of the employee's ordinary shifts include ordinary hours between 0000 hrs and 0600 hrs</p>
(b)	21.3(c)(ii)	<p><b>Payment of Annual Leave Loading contravention</b></p> <p>for those employees who were not paid a 17.5% loading on their Annual Leave entitlements when paying out the employee their accrued annual leave entitlement,</p>
(c)	20.2	<p><b>Night Span Penalty contravention</b></p> <p>failing to pay:</p> <p>(a) s.22 Irrelevant Information ; (b) s.22 Irrelevant Information ; and (c) s.22 Irrelevant Information .</p> <p>a 21.7% penalty rate in addition to the ordinary time rate for such hours worked during the Night Span (Night Span Penalty entitlement)</p> <p>'Night Span' means 0000 hrs to 0600 hrs and 1800 hrs to 2400 hrs throughout the period from 0000 hours Monday to 2400 hours Friday (excluding hours on a day that is a public holiday)</p>
(d)	20.2	<p><b>Saturday Span Penalty contravention</b></p> <p>failing to pay:</p> <p>(a) s.22 Irrelevant Information (b) s.22 Irrelevant Information (c) s.22 Irrelevant Information ; and (d) s.22 Irrelevant Information .</p> <p>a 50% penalty rate in addition to the ordinary time rate for ordinary hours worked during the Saturday Span (Saturday Span Penalty entitlement)</p>

		<b>Saturday Span</b> means 0000 hrs to 2400 hrs on a Saturday
(e)	20.2	<p><b>Sunday Span Penalty contravention</b></p> <p>failing to pay:</p> <p>(a) s.22 Irrelevant Information</p> <p>(b) s.22 Irrelevant Information ;</p> <p>(c) s.22 Irrelevant Information ; and</p> <p>(d) s.22 Irrelevant Information .</p> <p>a 100% penalty rate in addition to the ordinary time rate for ordinary hours worked during the Sunday Span (<b>Sunday Span Penalty entitlement</b>)</p> <p><b>Sunday Span</b> means 0000 hrs to 2400 hrs on a Sunday</p>
(f)	17.5(a) – (d)	<p><b>Supervision Allowance contravention</b></p> <p>failing to pay:</p> <p>(a) s.22 Irrelevant Information ;</p> <p>(b) s.22 Irrelevant Information ;</p> <p>(c) s.22 Irrelevant Information ; and</p> <p>(d) s.22 Irrelevant Information .</p> <p>the appropriate supervision allowance according to the number of employees supervised.</p>

#### Required action under this Compliance Notice

7. In accordance with section 716(2) of the FW Act, I require you by **2 March 2021** to:

#### **Step 1 – calculate and rectify underpayments**

(a) in respect of the contravention referred to in row (a) of the table above:

- (i) identify each employee employed by the Employer who was not paid (but was required by the Award to be paid) the Entitlement that is the subject of the contravention – the Entitlement is found in the ‘Details of Contravention’ column of the table above
- (ii) in respect of each such employee identified:
  1. identify the employee’s classification under the Award and their employment status (ie full-time, part-time or casual)
  2. identify the number of hours the employee worked during the Period in respect of which the Entitlement was required to be paid by the Award (**Hours**) – ignore this step if the Entitlement is not paid on an hourly basis
  3. identify the amount the Employer paid to the employee during the Period in respect of the Entitlement (having regard to the Hours, where applicable)

4. calculate the amount the Employer should have paid to the employee during the Period in respect of the Entitlement (having regard to the Hours, where applicable)
5. make a payment to the employee of the difference between the amount referred to in (3) and the amount referred to in (4) immediately above
6. make a record of the information and amounts referred to in (1) to (4) and the amount of the payment referred to in (5) immediately above (**Underpayment Rectification Information**)

(b) repeat the same process described in Step 1(a) for each of the contraventions referred to in rows (b) to (f) of the table above

**Step 2 – Superannuation**

- (c) calculate additional superannuation contributions required by clause 20.2 of the Award in respect of the amounts required to be paid to employees of the Employer as a result of Step 1
- (d) in relation to each employee who is owed such additional superannuation contributions, pay such additional superannuation contributions to the chosen Superannuation Fund of the employee.

***Reasonable evidence of steps taken to comply with this Compliance Notice***

8. In accordance with section 716(2) of the FW Act, I require you to produce the following reasonable evidence of your compliance with the actions specified in paragraph 7 above:

(a) a schedule that sets out:

- (i) the full name of each employee identified in Step 1
- (ii) in relation to each such employee, and in respect of each contravention that concerns the employee, the Underpayment Rectification Information
- (iii) in relation to each such employee, the additional superannuation contributions calculated for the employee and paid to the employee's Superannuation Fund in accordance with Step 2

(b) proof that full payment has been made to each employee identified in Step 1 of the payment(s) required to be made by Step 1 and Step 2, such as a bank transfer showing the transfer of funds to the employee and their Superannuation Fund, or a copy of the employee's payroll records showing the payment(s).

9. The evidence referred to above must be provided to the Fair Work Ombudsman by 9 March 2021 by delivery to GPO Box 9887, Hobart TAS 7001 or email at **s.22 Irrelevant Information**

10. You may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information or produce false or misleading documents in response to this Compliance Notice. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

s.22 Irrelevant Information



s.22 Irrelevant Information

Fair Work Inspector  
Fair Work Ombudsman

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act



GPO Box 9887, Hobart TAS 7001

4 March 2021

s.22 Irrelevant Information

s.47E(d) Certain operations of agencies

[Redacted]

[Redacted]

Reference number: s.22 Irrelevant Information

## LETTER OF ACKNOWLEDGEMENT OF COMPLIANCE

Dear [Redacted],

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies concerning the security services provided during the Victorian Hotel Quarantine Program.

### BACKGROUND

As per previous communications in this matter, an investigation was conducted to establish whether s.47E(d) Certain operations of agencies Ltd had complied with the *Fair Work Act 2009* (Cth) (FW Act).

As a result of that investigation, I reasonably believed that s.47E(d) Certain operations of agencies had contravened terms of the *Security Services Industry Award 2020* [MA000016] (Commonwealth workplace laws) as follows:

- cl 21.3(c)(ii) – payment of Annual Leave Loading contravention
- cl 20.3 – Permanent night span penalty contraventions; and
- cl 17.5(a) – (d) & 20.2 – penalty rates and supervision allowance for employees on individual flexibility arrangements.

As a result of my reasonable belief that contraventions of Commonwealth workplace laws had occurred, s.47E(d) Certain operations of agencies was served with a compliance notice dated 2 February 2021 regarding the contraventions detailed above (Compliance Notice).

### ACKNOWLEDGEMENT OF COMPLIANCE

This letter is to acknowledge that s.47E(d) Certain operations of agencies has complied with the Compliance Notice. As a result, no further action will be taken by the FWO in relation to the contraventions detailed in the Compliance Notice.

### NEXT STEPS

Following your compliance with the Compliance Notice, it is very important that you review your practices moving forward to ensure that all of your employees have their minimum entitlements met in accordance with any applicable awards, agreements, determinations and/or orders and the FW Act.

Information can be found on our website ([www.fairwork.gov.au](http://www.fairwork.gov.au)), which contains further tools to help you understand and comply with your obligations, including:

- (a) a Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements;
- (b) templates and checklists to make record keeping easy; and
- (c) an online learning centre to learn the basics and get new skills.

We recommend that you register at [www.fairwork.gov.au](http://www.fairwork.gov.au) for My Account to save all your information in one place and get priority support when you need it.

We welcome feedback about your experience with us. It helps us to know what we're doing well and what changes we need to make. Tell us what you think about our services, by completing our online feedback form at [www.fairwork.gov.au/feedback](http://www.fairwork.gov.au/feedback).

Should you wish to discuss this letter or any of your obligations further, please contact me on s.22 Irrelevant Information or at s.22 Irrelevant Information.

Yours sincerely

s.22 Irrelevant Information

**Fair Work Inspector**

**Fair Work Ombudsman**





GPO Box 9887, Hobart TAS 7001

12 January 2021

s.22 Irrelevant Information

s.47E(d) Certain operations of agencies

Reference number: s.22 Irrelevant Information

## FINDINGS OF CONTRAVENTION

(issued under Regulation 5.05 of the *Fair Work Regulations 2009*)

Dear s.22 Irrelevant Information

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies regarding security services provided during the Victorian Hotel Quarantine Program.

The FWO is an independent agency responsible for ensuring compliance with the *Fair Work Act 2009* (FW Act) and other relevant Commonwealth workplace laws.

An audit was conducted to establish whether s.47E(d) Certain operations of agencies (Company) had complied with the FW Act.

### Investigation findings

As a result of that audit and based on information and evidence given to the FWO, I have found that Company has contravened Commonwealth workplace laws in relation to the terms of the *Security Services Industry Award 2020* [MA000016](Award):

No	Clause	Details of Contravention
(a)	20.3	Failing to pay a 30% penalty rate in addition to the ordinary time rate for ordinary hours worked during the Night Span (permanent night work).
(b)	21.3(c)	Failing to pay untaken Annual Leave entitlements in respect to the accrued annual leave entitlements but not taken upon termination;
(c)	21.3(c)(ii)	Failing to pay untaken Annual Leave Loading for the workers with accrued annual leave entitlement not paid upon termination;
(d)	10.3 – 10.5	Failing to agree in writing at the time of engagement of part-time employees on a regular pattern of work.

### Next Steps

The FWO acknowledges that the Company has rectified the monetary contraventions (a) to (c) listed above and provided evidence of the rectification on 8 January 2021, including payslips and electronic

funds transfer for all effected employees.

The FWO takes this opportunity to remind you that when an employer engages a part-time employee they must ensure there is a written agreement between the employer and employee on an agreed regular pattern of work. This is to be in accordance with clause 10.3 and 10.5 of the Award.

You may also find the following resources useful:

Security Services Industry Award 2020:

[http://awardviewer.fwo.gov.au/award/show/MA000016#P257\\_18975](http://awardviewer.fwo.gov.au/award/show/MA000016#P257_18975)

Letter of Engagement Template:

<https://www.fairwork.gov.au/ArticleDocuments/766/Letter-of-engagment-full-time-and-part-time-employees.doc.aspx>

Part-time hours of work agreement or variation:

<https://www.fairwork.gov.au/ArticleDocuments/766/Part-time-hours-of-work-agreement-variation.doc.aspx>

Other usefull recources can be found on the Fair Work Ombudsman website at <https://www.fairwork.gov.au/>

Please note that you may be liable to a civil remedy for giving false or misleading information or producing false or misleading documents. It is also a serious offence under the *Criminal Code* (Cth).

### Enforcement action

Please note, it is important for you to understand that the FWO can take enforcement action when contraventions of the FW Act are identified. Efforts by the Company to correct the contraventions set out above are considered in deciding whether or not to start enforcement action. In this instance, the FWO considers it is not suitable to take further enforcement action against the Company.

However, you should be aware for future reference, enforcement action can include taking an employer to court to:

- recover outstanding amounts owed to employees
- seek financial penalties and/or other orders for non-compliance with Commonwealth workplace laws.

We can also start legal action against individuals and/or other businesses involved in contraventions of Commonwealth workplace laws.

**Possible maximum penalties for each contravention are generally \$66,600 for a body corporate and \$13,320 for an individual.**

### Disagreeing with the findings

If you do not agree with the findings please write to me by 19 January 2021 with details of each finding disputed and evidence to support your claims. I will review any additional evidence you provide.

If you need more information or would like to talk to me about these findings, please contact me on s.22 Irrelevant Information by email at s.22 Irrelevant Information or by post to the address above. Please quote the reference number s.22 Irrelevant Information

Y

s.22 Irrelevant Information

s.22 Irrelevant Information

Fair Work Inspector  
Fair Work Ombudsman

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act

GPO Box 9887, Adelaide SA 5001

22 January 2021

s.22 Irrelevant Information  
s.47E(d) Certain operations of agencies

CC via email: s.22 Irrelevant Information

Reference number: s.22 Irrelevant Information

## FINDINGS OF CONTRAVENTION

(issued under Regulation 5.05 of the *Fair Work Regulations 2009*)

Dear s.22 Irrelevant Information,

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies regarding security services provided during the Victorian Hotel Quarantine Program.

The FWO is an independent agency responsible for ensuring compliance with the *Fair Work Act 2009* (FW Act) and other relevant Commonwealth workplace laws.

An audit was conducted to establish whether s.47E(d) Certain operations of agencies (Company) had complied with the FW Act. I am writing to let you know the outcome of the investigation into the allegations.

### Investigation findings

As a result of the audit and based on information and evidence given to the FWO during the investigation, I have found that the Company has contravened Commonwealth workplace laws in relation to terms of the *Security Services Industry Award 2020* [MA000016] (Award):

Clauses	Details of Contravention
10.3	Failing to agree in writing at the time of engagement of part-time employees on a regular pattern of work.
10.4	If the employee works under a roster, then the agreement must specify at least the following: <ul style="list-style-type: none"> <li>(a) the starting and finishing times for each shift; and</li> <li>(b) the days or part days on which the employee will not be rostered.</li> </ul>

## Next steps & helpful resources

The FWO takes this opportunity to remind you that when an employer engages a part-time employee, they must ensure there is a written agreement in place between the employer and employee detailing the employee's regular pattern of working hours. This is in accordance with clauses 10.3-10.5 of the Award.

The FWO acknowledges that as per our phone discussion with you on 21 December 2020 that part-time agreements were put in place for the security guards post engagement. However, upon review of the agreements provided to the FWO for inspection on 20 January 2021, they do not include:

- working hours each day or working days agreed upon;
- or alternatively (for rostered employees) the starting and finish times for each shift as well as reference to the days or part days on which the employee will not be rostered.

**The part-time agreements must be amended to include these details. Please advise me in writing of actions taken to comply by 5<sup>th</sup> February 2021, including in your response one example of an amended part-time agreement.**

Please note that you may be liable to a civil remedy for giving false or misleading information or producing false or misleading documents. It is also a serious offence under the *Criminal Code* (Cth).

You may also find the following resources useful:

- Security Services Industry Award 2020:  
<http://awardviewer.fwo.gov.au/award/show/MA000016>
- Payment guides for the Security Award:  
<https://www.fairwork.gov.au/pay/minimum-wages/pay-guides>
- Part-time hours of work agreement or variation:  
<https://www.fairwork.gov.au/ArticleDocuments/766/Part-time-hours-of-work-agreement-variation.doc.aspx>

Other useful resources can be located on our website:

[www.fairwork.gov.au](http://www.fairwork.gov.au)

## Enforcement action

The FWO has considered the circumstances surrounding the contraventions and determined that no enforcement action will be taken against the Company.

However, you should be aware for future reference that the FWO may take enforcement action where FW Act contraventions are identified.

Enforcement action can include taking an employer to court to:

- recover outstanding amounts owed to employees
- seek financial penalties and/or other orders for non-compliance with Commonwealth workplace laws.

We can also start legal action against individuals and/or other businesses involved in contraventions of Commonwealth workplace laws.

Possible maximum penalties for each contravention are generally \$66,600 for a body corporate and \$13,320 for an individual.

**Disagreeing with the findings**

If you do not agree with the findings please write to me by 3 February 2021, with details of each finding disputed and evidence to support your claims. I will review any additional evidence you provide.

If you need more information or would like to talk to me about these findings, please contact me on [REDACTED], by email at **s.22 Irrelevant Information** or by post to the address above. Please quote the reference number **s.22 irrelevant information**

Yours sincerely

**s.22 Irrelevant Information**

Fair Work Inspector  
Fair Work Ombudsman

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Under the Freedom of Information Act



RE: Fair Work Ombudsman investigation findings- Our Reference: [REDACTED]  
[SEC=OFFICIAL] - Saved

Normal  
Priority

Sent  
Status Reason

[REDACTED]  
Owner

Email

Email Related

From	[REDACTED]	
To	[REDACTED] s.47E(d) Certain operations of agencies	+3
Cc	---	
Bcc	---	
Subject	RE: Fair Work Ombudsman investigation findings- Our Reference: [REDACTED]	
Direction	Outgoing	3/02/2021

Security Incident	No	10:02 AM
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**OFFICIAL**

Good morning [REDACTED]

Good morning [REDACTED]

Thank you for sending me through the updated part-time Employment Agreement in response to the Contravention Letter.  
I can confirm that the Agreement is satisfactory, and meets the appropriate standards.

As a result, please take this email as confirmation of the finalisation of our investigation.  
Thank you for your co-operation during the investigation process.

Kind regards,  
[REDACTED] Fair Work Inspector  
Compliance Branch  
**FAIR WORK OMBUDSMAN**





GPO Box 9887 MELBOURNE VIC 3001

21 April 2021

s.22 Irrelevant Information  
s.47E(d) Certain operations of agencies

s.22 Irrelevant Information

Reference number: s.22 Irrelevant Information

## COMPLIANCE NOTICE ISSUED TO s.47E(d) Certain operations of agencies

s.47E(d) Certain operations of agencies

Dear s.22 Irrelevant Information

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies (Company) concerning payment of minimum entitlements, issuance of pay slips and keeping of employee records.

The FWO is an independent agency responsible for ensuring compliance with the *Fair Work Act 2009* (FW Act) and other relevant Commonwealth workplace laws.

### BACKGROUND

An audit was conducted to establish whether the Company had complied with the FW Act.

As a result of that audit, I reasonably believe that the Company has contravened terms of the *Security Services Industry Award 2010* [MA000016] (Award), as set out in the attached compliance notice dated 21 April 2021 (Compliance Notice).

On this basis, I have determined that the appropriate enforcement measure in this instance is to issue the Company with the Compliance Notice under s 716 of the FW Act.

### ACTION REQUIRED

The Compliance Notice provides the Company with a further opportunity to rectify the contraventions.

The Compliance Notice sets out a number of actions that the Company is required to take on or before 19 May 2021. Please consider the actions specified in the Notice carefully.

Complying with the Compliance Notice is not an admission (nor does it constitute a finding) that the Company has contravened the Award.

In order to assist you to undertake the calculations and rectification required by the Compliance Notice, we have attached:

- (a) a link to the Award (as in force at the time of the contraventions);

<http://awardviewer.fwo.gov.au/award/version/MA000016?vn=61&rvn=37>

- (b) the relevant Award pay guides are attached on the FWO website;

- (c) information about your pay slip and record keeping obligations;

<https://www.fairwork.gov.au/pay/pay-slips-and-record-keeping>

This information can also be found on our website ([www.fairwork.gov.au](http://www.fairwork.gov.au)), which contains further tools to help you understand and comply with your obligations, including:

- (a) a Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements;
- (b) templates and checklists to make record keeping easy; and
- (c) an online learning centre to learn the basics and get new skills.

We recommend that you also register at our website for My Account to save all your information in one place and get priority support when you need it.

#### OBLIGATIONS UNDER THE COMPLIANCE NOTICE

If the Company fails to comply with the Compliance Notice by **19 May 2021**, it may contravene section 716(5) of the FW Act (unless it has a reasonable excuse).

In those circumstances, the FWO may (without further notice) commence legal action against the Company and/or individuals involved in the Company's failure to comply with the Compliance Notice. A Court may impose penalties of up to \$6,660 in respect of an individual or \$33,300 in respect of a body corporate for each failure to comply with a Compliance Notice.

Alternatively, the Company may apply to the Federal Court, Federal Circuit Court or an eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:

- (a) the Company did not commit the contraventions set out in this Compliance Notice
- (b) the Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

For further general information about Compliance Notices, please refer to our Compliance and Enforcement Policy, which can be found on our website.

Finally, we note that you may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information, or produce false or misleading documents, to the FWO. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

Should you wish to discuss this letter, or clarify any of the issues raised in the Compliance Notice, please contact me on **s.22 Irrelevant Information** or at **s.22 Irrelevant Information**

Yours sincerely

**s.22 Irrelevant Information**

Fair Work Inspector  
Fair Work Ombudsman



GPO Box 9887 MELBOURNE VIC 3001

## COMPLIANCE NOTICE

(issued under section 716(2) of the *Fair Work Act 2009* (Cth))

Date of Issue: 21 April 2021

Name of Employer:

s.47E(d) Certain operations of agencies

ACN:

s.47E(d) Certain Operations

Director:

s.22 Irrelevant Information

I, s.22 Irrelevant Information being a duly appointed Fair Work Inspector, reasonably believe that s.47E(d) Certain operations of agencies s.47E(d) Certain operations of agencies (Employer) has contravened terms of the *Security Services Industry Award 2010* (Award), as described below. This Compliance Notice requires you to take steps to remedy the contraventions described below.

### Rights and obligations under this Compliance Notice

1. Failure to comply with this Compliance Notice may contravene section 716(5) of the *Fair Work Act 2009* (Cth) (FW Act) and render you liable for a civil penalty (unless you have a reasonable excuse).
2. You may be liable to a civil remedy if you give false or misleading information or produce false or misleading documents. It is also a serious offence under the *Criminal Code* (Cth).
3. If you do not comply with this Compliance Notice, the Fair Work Ombudsman may, without further notice, commence legal action against you and/or individuals involved in your failure to comply with this Compliance Notice to recover any outstanding monies which this Compliance Notice requires you to pay and to seek civil penalties.
4. Complying with the Compliance Notice is not an admission that you contravened, or have been found to have contravened, the Award or the FW Act.
5. You may apply to the Federal Court, Federal Circuit Court or eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:
  - (a) you did not commit the contraventions set out in this Compliance Notice;
  - (b) this Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

### Details of the contraventions

6. The Employer, between 29 March 2020 to 11 May 2020 (Period), contravened the clauses of the Award set out in the table below.



No	Clause	Details of contraventions
(a)	Clause 10.5(b)	<b>Casual Minimum Wage contravention</b> for those Level 1 Casual employees who were not paid the ordinary hourly rate for the classification in which they were employed plus a casual loading of 25% of the ordinary hourly rate ( <b>Casual Minimum Wage entitlement</b> ), failing to pay those employees the Casual Minimum Wage entitlement
(b)	22.3	<b>Night Span Penalty contravention</b> for those Level 1 Casual employees who were not paid a 21.7% penalty rate in addition to the Casual rate for ordinary hours they worked during the Night Span ( <b>Night Span Penalty entitlement</b> ), failing to pay those employees the Night Span Penalty entitlement 'Night Span' means 0000 hrs to 0600 hrs and 1800 hrs to 2400 hrs throughout the period from 0000 hours Monday to 2400 hours Friday (excluding hours on a day that is a public holiday)
(c)	22.3	<b>Saturday Span Penalty contravention</b> for those Level 1 Casual employees who were not paid a 50% penalty rate in addition to the Casual rate for ordinary hours they worked during the Saturday Span ( <b>Saturday Span Penalty entitlement</b> ), failing to pay those employees the Saturday Span Penalty entitlement <b>Saturday Span</b> means 0000 hrs to 2400 hrs on a Saturday
(d)	22.3	<b>Sunday Span Penalty contravention</b> for those Level 1 Casual employees who were not paid a 100% penalty rate in addition to the Casual rate for ordinary hours they worked during the Sunday Span ( <b>Sunday Span Penalty entitlement</b> ), failing to pay those employees the Sunday Span Penalty entitlement <b>Sunday Span</b> means 0000 hrs to 2400 hrs on a Sunday
(e)	22.3	<b>Public Holiday Span Penalty contravention</b> for those Level 1 Casual employees who were not paid a 150% penalty rate in addition to the Casual rate for ordinary hours they worked during the Public Holiday Span ( <b>Public Holiday Span Penalty entitlement</b> ), failing to pay those employees the Public Holiday Span Penalty entitlement <b>Public Holiday Span</b> means 0000 hrs to 2400 hrs on a public holiday

#### Required action under this Compliance Notice

7. In accordance with section 716(2) of the FW Act, I require you by **19 May 2021** to:

**Step 1 – calculate and rectify underpayments**

(a) in respect of the contravention referred to in row (a) of the table above:

- (i) identify each Casual employee employed by the Employer who was not paid (but was required by the Award to be paid) the Entitlement that is the subject of the contravention – the Entitlement is found in the 'Details of Contravention' column of the table above
- (ii) in respect of each such employee identified:
  1. identify the employee's classification under the Award

2. identify the number of hours the employee worked during the Period in respect of which the Entitlement was required to be paid by the Award (**Hours**) – ignore this step if the Entitlement is not paid on an hourly basis
3. identify the amount the Employer paid to the employee during the Period in respect of the Entitlement (having regard to the Hours, where applicable)
4. calculate the amount the Employer should have paid to the employee during the Period in respect of the Entitlement (having regard to the Hours, where applicable)
5. make a payment to the employee of the difference between the amount referred to in (3) and the amount referred to in (4) immediately above
6. make a record of the information and amounts referred to in (1) to (4) and the amount of the payment referred to in (5) immediately above (**Underpayment Rectification Information**)

- (b) repeat the same process described in Step 1(a) for each of the contraventions referred to in rows (b) to (e) of the table above

**Step 2 – Superannuation**

- (c) calculate additional superannuation contributions required by clause 20.2 of the Award in respect of the amounts required to be paid to employees of the Employer as a result of Step 1
- (d) in relation to each employee who is owed such additional superannuation contributions, pay such additional superannuation contributions to the chosen Superannuation Fund of the employee.

***Reasonable evidence of steps taken to comply with this Compliance Notice***

8. In accordance with section 716(2) of the FW Act, I require you to produce the following reasonable evidence of your compliance with the actions specified in paragraph 7 above:
  - (a) a schedule that sets out:
    - (i) the full name of each employee identified in Step 1
    - (ii) in relation to each such employee, and in respect of each contravention that concerns the employee, the Underpayment Rectification Information
    - (iii) in relation to each such employee, the additional superannuation contributions calculated for the employee and paid to the employee's Superannuation Fund in accordance with Step 2
  - (b) proof that full payment has been made to each employee identified in Step 1 of the payments required to be made by Step 1 and Step 2, such as a bank transfer showing the transfer of funds to the employee and their Superannuation Fund, or a copy of the employee's payroll records showing the payments.
9. The evidence referred to above must be provided to the Fair Work Ombudsman by **26 May 2021** by mail to GPO Box 9887 MELBOURNE VIC 3001 or email to **s.22 Irrelevant Information**
10. You may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information or produce false or misleading documents in response to this Compliance Notice. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.



**s.22 Irrelevant Information**



Fair Work Inspector  
Fair Work Ombudsman

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act



27 May 2021

s.22 Irrelevant Information  
s.47E(d) Certain operations of agencies  
s.22 Irrelevant Information  
cc. s.22 Irrelevant Information  
cc. s.22 Irrelevant Information

Reference number: s.22 irrelevant information

## FAILURE TO COMPLY WITH COMPLIANCE NOTICE

Dear s.22 Irrelevant Information

I refer to the Compliance Notice dated 21 April 2021 that was served upon s.47E(d) Certain operations of agencies (Company) regarding the Company's contraventions of the *Security Services Industry Award 2010 (Award)* that were reasonably believed to have occurred (Compliance Notice).

That Compliance Notice provided the Company with a further opportunity to rectify the contraventions.

The Company has failed to comply with the Compliance Notice. Specifically, it has failed to, by 26 May 2021:

- produce to the Fair Work Ombudsman the required reasonable evidence of compliance set out in the Compliance Notice.

Please advise us, within 7 days, if the Company has a reasonable excuse for not complying with the Compliance Notice.

If the Company does not provide a reasonable excuse for its failure to comply with the Compliance Notice, the Fair Work Ombudsman (FWO) may commence legal action against the Company, and any persons involved in its failure to comply with the Compliance Notice, without further notice.

Failure to comply with a compliance notice is a contravention under section 716(5) of the *Fair Work Act 2009*. A court may order a maximum penalty of \$6,660 in respect of an individual or \$33,300 in respect of a body corporate for each failure to comply with a compliance notice.

If legal action is taken against the Company, in addition to seeking civil penalties, FWO may seek to recover any outstanding monies which the Compliance Notice required to pay.

Finally, we note that you may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information, or produce false or misleading documents, to the FWO. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

We strongly encourage you to obtain independent legal advice in respect of this matter and, in particular, this correspondence. You should be aware that this letter may be produced to a court in respect of this matter.

Should you wish to discuss this letter, or clarify any of the issues raised, please contact me on s.22 Irrelevant Information or at s.22 Irrelevant Information

Yours sincerely

s.22 Irrelevant Information

Fair Work Inspector  
Fair Work Ombudsman

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act

Information

**From:** s.22 Irrelevant Information  
**Sent:** Tuesday, 22 June 2021 3:47 PM  
**To:** s.22 Irrelevant Information  
**Cc:** s.22 Irrelevant Information  
**Subject:** Completion of FWO Investigation [SEC=OFFICIAL]

**Importance:** High

**Categories:** Tracked To Dynamics 365

**OFFICIAL**

s.22 Irrelevant Information  
 s.47E(d) Certain operations of agencies

Reference number: s.22 Irrelevant Information

#### Completion of investigation

Dear s.22 Irrelevant Information

We refer to the audit conducted by the FWO relating to the provision of security services by s.47E(d) Certain operations of agencies (Company) at hotels designated for the purpose of the Victorian Government's COVID-19 hotel quarantine program (Quarantine Hotel Security Services).

#### Outcome of investigation

As per previous communications in this matter, an audit was conducted to establish whether the Company had complied with the *Fair Work Act 2009* (Cth) (FW Act).

As a result of that audit, I reasonably believed that the Company had contravened terms of the *Security Services Industry Award 2010* (Award) (Commonwealth workplace laws) as follows:

- Casual Minimum Wage contravention
- Night Span Penalty contravention
- Saturday Span Penalty contravention
- Sunday Span Penalty contravention
- Public Holiday Span Penalty contravention

As a result of my reasonable belief that contraventions of Commonwealth workplace laws had occurred, the Company was served with a compliance notice dated 20 April 2021 regarding the contraventions detailed above (Compliance Notice).

We have found that it would be inappropriate to recommend further enforcement action against the Company at this time. The reason for this finding is with reference to the Corporations Act 2001 Section 206B and based upon advice received from s.22 Irrelevant Information on 21 June 2021.

Please be advised that the Fair Work Ombudsman will be taking no further action in relation to this matter at this time.

We welcome feedback about your experience with us. It helps us to know what we're doing well and what changes we need to make.

Tell us what you think about our services, or request a review of a decision, by completing our [online feedback form](https://www.fairwork.gov.au/feedback) at [www.fairwork.gov.au/feedback](https://www.fairwork.gov.au/feedback).

Should you wish to discuss this matter, please contact s.22 Irrelevant Information, or by email at s.22 Irrelevant Information or by post to the address below. Please quote the reference number s.22 Irrelevant information

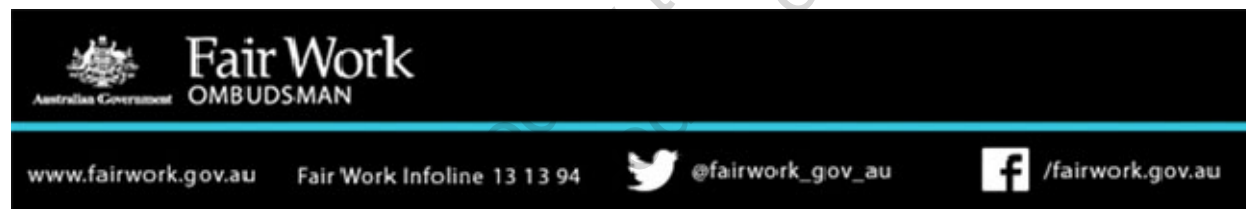
Yours sincerely

s.22 Irrelevant Information | Fair Work Inspector | Compliance  
**Fair Work Ombudsman**

s.22 Irrelevant Information

GPO Box 9887 Melbourne 3001

*Please note that the FWO does not engage any third parties to act on its behalf in relation to audits it is conducting, including to contact businesses to advise them about an audit. If you have concerns relating to any contact or approaches you have received from any person or businesses claiming to be working with the FWO on this campaign, or if you would like to verify a person's details or discuss any approaches, please contact the Fair Work Infoline on 13 13 94 (select option 3 for the Small Business Hotline). Alternatively, you can contact me directly via the above details.*



~Please consider the environment before printing this message~



GPO Box 9887, Hobart TAS 7001

12 April 2021

s.22 Irrelevant Information  
s.47E(d) Certain operations of agencies

Reference number: s.22 Irrelevant Information

## COMPLIANCE NOTICE AND INFRINGEMENT NOTICES ISSUED TO

s.47E(d) Certain operations of agencies

Dear s.22 Irrelevant Information

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies regarding security services provided during the Victorian Hotel Quarantine Program.

The FWO is an independent agency responsible for ensuring compliance with the *Fair Work Act 2009* (FW Act) and other relevant Commonwealth workplace laws.

### BACKGROUND

An audit was conducted to establish whether s.47E(d) Certain operations of agencies had complied with the FW Act.

As a result of that audit, I reasonably believe that s.47E(d) Certain operations of agencies has contravened terms of the *Security Services Industry Award 2020* [MA000016] as set out in the attached compliance notice dated 12 April 2021 (Compliance Notice) and sections of the FW Act as set out in the attached infringement notices (s.22 Irrelevant Information, s.22 Irrelevant Information and s.22 Irrelevant Information) dated 12 April 2021 (Infringement Notices).

### COMPLIANCE NOTICE

The FWO notes that two versions of the *Security Services Industry Award* (19 Dec 2019 and 8 Apr 2020) applied during the contravention period. However, the substantive requirements did not change with each version, (i.e. the pay and penalty rates entitled where consistent in all versions). There was only a variation in the applicable clause number within different versions.

For this reason, the FWO has used the clause numbers in the most recent version of the *Security Services Industry Award 2020* [MA000016] in the Compliance Notice in order to eliminate confusion for s.47E(d) Certain operations of agencies in rectifying the contraventions. For your information, the current version of the *Security Services Industry Award 2020* [MA000016] can be found on our website <http://awardviewer.fwo.gov.au/award/show/MA000016>. Historical versions can be viewed in the right-hand navigation pane titled "About this Document" and under the section "Versions."

To date, the underpayments arising as a result of these contraventions have not been rectified.



On this basis, I have determined that the appropriate enforcement measure in this instance is to issue **s.47E(d) Certain operations of agencies** with the Compliance Notice under s716 of the FW Act.

## INFRINGEMENT NOTICES

**s.47E(d) Certain operations of agencies** contravened several record keeping obligations as set out in sections 535(2), 536(1) and 536(3) of the FW Act. On this basis, I have determined that the appropriate enforcement measure is to issue **s.47E(d) Certain operations of agencies** with the attached Infringement Notices, **s.22 Irrelevant Information**, **s.22 Irrelevant Information** and **s.22 Irrelevant Information**.

## ACTION REQUIRED

Payment of the Infringement Notices is required to be made on or before **11 May 2021**.

The Compliance Notice provides **s.47E(d) Certain operations of agencies** with an opportunity to rectify the contraventions.

The Compliance Notice sets out a number of actions that **s.47E(d) Certain operations of agencies** is required to take on or before **10 May 2021**. Please consider the actions specified in the Notice carefully.

Complying with the Compliance Notice is not an admission (nor does it constitute a finding) that **s.47E(d) Certain operations of agencies** has contravened the *Security Services Industry Award 2020* [MA000016] or the FW Act.

In order to assist you to undertake the calculations and rectification required by the Compliance Notice, you can find the required information on our website ([www.fairwork.gov.au](http://www.fairwork.gov.au)), which contains further tools to help you understand and comply with your obligations, including:

- (a) a Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements;
- (b) templates and checklists to make record keeping easy; and
- (c) an online learning centre to learn the basics and get new skills.

We recommend that you also register at our website for My Account to save all your information in one place and get priority support when you need it.

## OBLIGATIONS UNDER THE COMPLIANCE NOTICE

If **s.47E(d) Certain operations of agencies** fails to comply with the Compliance Notice by **10 May 2021** it may contravene section 716(5) of the FW Act (unless it has a reasonable excuse).

In those circumstances, the FWO may (without further notice) commence legal action against **s.47E(d) Certain operations of agencies** and/or individuals involved in **s.47E(d) Certain operations of agencies** failure to comply with the Compliance Notice. A Court may impose penalties of up to \$6,660 in respect of an individual or \$33,300 in respect of a body corporate for each failure to comply with a Compliance Notice.

Alternatively, **s.47E(d) Certain operations of agencies** may apply to the Federal Court, Federal Circuit Court or an eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:

- (a) **s.47E(d) Certain operations of agencies** did not commit the contravention(s) set out in this Compliance Notice
- (b) the Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

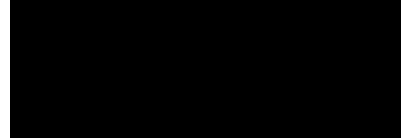
For further general information about Compliance Notices, please refer to our Compliance and Enforcement Policy, which can be found on our website.

Finally, we note that you may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information, or produce false or misleading documents, to the FWO. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

Should you wish to discuss this letter, or clarify any of the issues raised in the Compliance Notice, please contact me on s.22 Irrelevant Information or at s.22 Irrelevant Information.

Yours sincerely

s.22 Irrelevant Information



**Fair Work Inspector**  
**Fair Work Ombudsman**

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act



GPO Box 9887, Hobart TAS 7001

**COMPLIANCE NOTICE**  
(issued under section 716(2) of the *Fair Work Act 2009* (Cth))

Date of Issue: 12 April 2021

Name of Employer:

s.47E(d) Certain operations of agencies

ABN:

s.47E(d) Certain operations of agencies

Director:

s.22 Irrelevant Information

I, s.22 Irrelevant Information, being a duly appointed Fair Work Inspector, reasonably believe that s.47E(d) Certain operations of agencies s.47E(d) Certain operations of agencies (Employer) trading as s.47E(d) Certain operations of agencies has contravened a term of the *Security Services Industry Award 2020* (Award), as described below. This Compliance Notice requires you to take steps to remedy the contraventions described below.

### Rights and obligations under this Compliance Notice

1. Failure to comply with this Compliance Notice may contravene section 716(5) of the *Fair Work Act 2009* (Cth) (FW Act) and render you liable for a civil penalty (unless you have a reasonable excuse).
2. You may be liable to a civil remedy if you give false or misleading information or produce false or misleading documents. It is also a serious offence under the *Criminal Code* (Cth).
3. If you do not comply with this Compliance Notice, the Fair Work Ombudsman may, without further notice, commence legal action against you and/or individuals involved in your failure to comply with this Compliance Notice to recover any outstanding monies which this Compliance Notice requires you to pay and to seek civil penalties.
4. Complying with the Compliance Notice is not an admission that you contravened, or have been found to have contravened, the Award or the FW Act.
5. You may apply to the Federal Court, Federal Circuit Court or eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:
  - (a) you did not commit the contraventions set out in this Compliance Notice;
  - (b) this Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

### Details of the contravention(s)

6. The Employer, between 2 April 2020 and 19 April 2020 (Period), contravened the clauses of the Award set out in the table below.

No	Clause	Details of contravention(s)
(a)	20.2 & 20.3	<p><b>Night Span (permanent night work) Penalty contravention</b></p> <p>for all employees who worked ordinary hours during the Night Span (permanent night work), failing to pay those employees a 30% penalty rate in addition to the ordinary time rate for such hours worked (<b>Night Span (permanent night work) Penalty entitlement</b>)</p> <p>‘Night Span’ means 0000 hrs to 0600 hrs and 1800 hrs to 2400 hrs throughout the period from 0000 hours Monday to 2400 hours Friday (excluding hours on a day that is a public holiday)</p> <p>‘Permanent night work’ means work performed during a Night span over the whole period of a roster cycle in which more than two thirds of the employee’s ordinary shifts include ordinary hours between 0000 hrs and 0600 hrs</p>

#### Required action under this Compliance Notice

7. In accordance with section 716(2) of the FW Act, I require you by **10 May 2021** to:

##### Step 1 – calculate and rectify underpayments

(a) in respect of the contravention referred to in row (a) of the table above:

- (i) identify each employee employed by the Employer who was not paid (but was required by the Award to be paid) the Entitlement that is the subject of the contravention – the Entitlement is found in the ‘Details of Contravention’ column of the table above
- (ii) in respect of each such employee identified:
  1. identify the employee’s classification under the Award and their employment status (ie full-time, part-time or casual)
  2. identify the number of hours the employee worked during the Period in respect of which the Entitlement was required to be paid by the Award (**Hours**) – ignore this step if the Entitlement is not paid on an hourly basis
  3. identify the amount the Employer paid to the employee during the Period in respect of the Entitlement (having regard to the Hours, where applicable)
  4. calculate the amount the Employer should have paid to the employee during the Period in respect of the Entitlement (having regard to the Hours, where applicable)
  5. make a payment to the employee of the difference between the amount referred to in (3) and the amount referred to in (4) immediately above
  6. make a record of the information and amounts referred to in (1) to (4) and the amount of the payment referred to in (5) immediately above (**Underpayment Rectification Information**)

##### Step 2 – Superannuation

(b) calculate additional superannuation contributions required by clause 20.2 of the Award in respect of the amounts required to be paid to employees of the Employer as a result of Step 1

- (c) in relation to each employee who is owed such additional superannuation contributions, pay such additional superannuation contributions to the chosen Superannuation Fund of the employee.

***Reasonable evidence of steps taken to comply with this Compliance Notice***

8. In accordance with section 716(2) of the FW Act, I require you to produce the following reasonable evidence of your compliance with the actions specified in paragraph 7 above:
- (a) a schedule that sets out:
- (i) the full name of each employee identified in Step 1
  - (ii) in relation to each such employee, and in respect of each contravention that concerns the employee, the Underpayment Rectification Information
  - (iii) in relation to each such employee, the additional superannuation contributions calculated for the employee and paid to the employee's Superannuation Fund in accordance with Step 2
- (b) proof that full payment has been made to each employee identified in Step 1 of the payment(s) required to be made by Step 1 and Step 2, such as a bank transfer showing the transfer of funds to the employee and their Superannuation Fund, or a copy of the employee's payroll records showing the payment(s).
9. The evidence referred to above must be provided to the Fair Work Ombudsman by 17 May 2021 by email to **s.22 Irrelevant Information** or by post to GPO Box 9887, Hobart TAS 7001.
10. You may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information or produce false or misleading documents in response to this Compliance Notice. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

**s.22 Irrelevant Information**

Fair Work Inspector  
Fair Work Ombudsman





s.47E(d) Certain operations of agencies

ATTN: s.22 Irrelevant Information

s.47E(d) Certain operations of agencies

Infringement  
Notice No.

s.22 Irrelevant Information

Date of issue

12 April 2021

Penalty amount

s.47E(d) Certain operations of agencies

Date due

11 May 2021

### Alleged contravention:

It is alleged that between 2 April 2020 and 19 April 2020 the recipient contravened the following provision of the *Fair Work Act 2009*:

Subsection 536(1) – failure to issue pay slip within one working day of payment

### Details of the alleged contravention:

s.47E(d) Certain operations of agencies has failed to give a pay slip to employees working during the Victorian Hotel Quarantine Program within one working day of making the payment.

Fair Work Inspector

s.22 Irrelevant Information

Signature of Fair Work Inspector:

s.22 Irrelevant Information

Name of person served on:

s.22 Irrelevant Information

Position of person served on:

Director

### PAYMENT OPTIONS:

**Government EasyPay** by phone or internet from your credit card.

Call 1300 453 579 or visit [www.fairwork.gov.au](http://www.fairwork.gov.au)

Customer Reference Number: **128023423**



Billers Code

s.22 Irrelevant Information

Ref:

s.47E(d) Certain operations of agencies

Telephone & Internet Banking – BPAY®

Contact your bank or financial institution to make this payment from your cheque, savings, debit, credit card or transaction account. More info: [www.bpay.com.au](http://www.bpay.com.au)

**Note: See overleaf for further information**



## METHODS TO FINALISE THIS MATTER

The penalty stated in this Infringement Notice must be paid by the 'Date Due', being within **28 days** after the date of service of the Notice (unless an application has been made or granted to extend the period for payment in accordance with Regulation 4.07, or have the Infringement Notice withdrawn in accordance with Regulation 4.08). The 'Date Due' is set out on the front page of this Notice.

You may choose from the payment options contained on the front page of this Notice. (If you are unable to make a payment via the options on the front page of this Notice, please contact the Fair Work Ombudsman for an alternative arrangement.)

If the penalty is not paid within the 28 day payment period, and no application has been made or granted to withdraw the Infringement Notice, nor an application made or granted to extend the period for payment, court proceedings may be instigated to obtain orders for the payment of the maximum penalty.

The maximum penalty that may be imposed by an applicable court in relation to a contravention of subsection 535(1); 535(2); 535(4); 536(1); 536(2) or 536(3) of the *Fair Work Act 2009* is:

- a. in the case of a body corporate - \$66,600; or
- b. in the case of an individual - \$13,320.

Payment of the penalty stated in this Infringement Notice means any liability for the alleged contravention is discharged and court proceedings cannot be commenced against you in relation to the alleged contravention. Payment of the penalty is not an admission of having committed the alleged contravention and no conviction is recorded in relation to the alleged contravention.

An application to:

- a. have this Infringement Notice withdrawn; or
- b. extend the period for payment of the penalty prescribed in this Infringement Notice for a further period of up to 28 days,

may be made in writing before the end of the 'Date Due' for payment to:

Nominated Person  
Fair Work Ombudsman  
GPO Box 9887  
In your capital city



AI

s.47E(d) Certain operations of agencies

ATTN: s.22 Irrelevant Information

s.47E(d) Certain operations of agencies

Infringement Notice No.	IN- s.22 Irrelevant Information
Date of issue	12 April 2021
Penalty amount	s.47E(d) Certain operations of agencies
Date due	11 May 2021

### Alleged contravention:

It is alleged that between 2 April 2020 and 19 April 2020 the recipient contravened the following provision of the *Fair Work Act 2009*:

Subsection 536(3) - knowingly give false or misleading payslip

### Details of the alleged contravention:

s.47E(d) Certain operations of agencies knowingly gave a false or misleading payslip to employees during the Victorian Hotel Quarantine Program.

### Fair Work Inspector

s.22 Irrelevant Information

### Signature of Fair Work Inspector:

s.22 Irrelevant Information

### Name of person served on:

s.22 Irrelevant Information

### Position of person served on:

Director

### PAYMENT OPTIONS:

**Government EasyPay** by phone or internet from your credit card.

Call 1300 453 579 or visit [www.fairwork.gov.au](http://www.fairwork.gov.au)

Customer Reference Number: **128023432**



Bill Code s.22 Irrelevant Information

Ref: s.47E(d) Certain operations of agencies

s.47E(d) Certain operations of agencies

Telephone & Internet Banking – BPAY®

Contact your bank or financial institution to make this payment from your cheque, savings, debit, credit card or transaction account. More info: [www.bpay.com.au](http://www.bpay.com.au)

**Note: See overleaf for further information**

## METHODS TO FINALISE THIS MATTER

The penalty stated in this Infringement Notice must be paid by the 'Date Due', being within **28 days** after the date of service of the Notice (unless an application has been made or granted to extend the period for payment in accordance with Regulation 4.07, or have the Infringement Notice withdrawn in accordance with Regulation 4.08). The 'Date Due' is set out on the front page of this Notice.

You may choose from the payment options contained on the front page of this Notice. (If you are unable to make a payment via the options on the front page of this Notice, please contact the Fair Work Ombudsman for an alternative arrangement.)

If the penalty is not paid within the 28 day payment period, and no application has been made or granted to withdraw the Infringement Notice, nor an application made or granted to extend the period for payment, court proceedings may be instigated to obtain orders for the payment of the maximum penalty.

The maximum penalty that may be imposed by an applicable court in relation to a contravention of subsection 535(1); 535(2); 535(4); 536(1); 536(2) or 536(3) of the *Fair Work Act 2009* is:

- a. in the case of a body corporate - \$66,600; or
- b. in the case of an individual - \$13,320.

Payment of the penalty stated in this Infringement Notice means any liability for the alleged contravention is discharged and court proceedings cannot be commenced against you in relation to the alleged contravention. Payment of the penalty is not an admission of having committed the alleged contravention and no conviction is recorded in relation to the alleged contravention.

An application to:

- a. have this Infringement Notice withdrawn; or
- b. extend the period for payment of the penalty prescribed in this Infringement Notice for a further period of up to 28 days,

may be made in writing before the end of the 'Date Due' for payment to:

Nominated Person  
Fair Work Ombudsman  
GPO Box 9887  
In your capital city



s.47E(d) Certain operations of agencies

ATTN: s.22 Irrelevant Information

s.47E(d) Certain operations of agencies

Infringement Notice No.	IN- s.22 Irrelevant Information
Date of issue	12 April 2021
Penalty amount	s.47E(d) Certain operations of agencies
Date due	11 May 2021

### Alleged contravention:

It is alleged that between 2 April 2020 and 19 April 2020 the recipient contravened the following provision of the *Fair Work Act 2009*:

Subsection 535(2) – records not in prescribed form and/or not containing prescribed information

### Details of the alleged contravention:

The records provided or kept by s.47E(d) Certain operations of agencies do not specify the prescribed information in respect of s.22 Irrelevant Information, s.22 Irrelevant Information and s.22 Irrelevant Information, in particular, not providing all hours of work by irregular part-time employees when compared to the number of hours of work paid.

### Fair Work Inspector

s.22 Irrelevant Information

### Signature of Fair Work Inspector:

s.22 Irrelevant Information

### Name of person served on:

s.22 Irrelevant Information

### Position of person served on:

Director

### PAYMENT OPTIONS:

**Government EasyPay** by phone or internet from your credit card.

Call 1300 453 579 or visit [www.fairwork.gov.au](http://www.fairwork.gov.au)

Customer Reference Number: **128023441**



Billers Code s.22 Irrelevant information

Ref: s.47E(d) Certain operations of agencies

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Contact your bank or financial institution to make this payment from your cheque, savings, debit, credit card or transaction account. More info: [www.bpay.com.au](http://www.bpay.com.au)

**Note: See overleaf for further information**

## METHODS TO FINALISE THIS MATTER

The penalty stated in this Infringement Notice must be paid by the 'Date Due', being within **28 days** after the date of service of the Notice (unless an application has been made or granted to extend the period for payment in accordance with Regulation 4.07, or have the Infringement Notice withdrawn in accordance with Regulation 4.08). The 'Date Due' is set out on the front page of this Notice.

You may choose from the payment options contained on the front page of this Notice. (If you are unable to make a payment via the options on the front page of this Notice, please contact the Fair Work Ombudsman for an alternative arrangement.)

If the penalty is not paid within the 28 day payment period, and no application has been made or granted to withdraw the Infringement Notice, nor an application made or granted to extend the period for payment, court proceedings may be instigated to obtain orders for the payment of the maximum penalty.

The maximum penalty that may be imposed by an applicable court in relation to a contravention of subsection 535(1); 535(2); 535(4); 536(1); 536(2) or 536(3) of the *Fair Work Act 2009* is:

- a. in the case of a body corporate - \$66,600; or
- b. in the case of an individual - \$13,320.

Payment of the penalty stated in this Infringement Notice means any liability for the alleged contravention is discharged and court proceedings cannot be commenced against you in relation to the alleged contravention. Payment of the penalty is not an admission of having committed the alleged contravention and no conviction is recorded in relation to the alleged contravention.

An application to:

- a. have this Infringement Notice withdrawn; or
- b. extend the period for payment of the penalty prescribed in this Infringement Notice for a further period of up to 28 days,

may be made in writing before the end of the 'Date Due' for payment to:

Nominated Person  
Fair Work Ombudsman  
GPO Box 9887  
In your capital city



18 May 2021

s.22 irrelevant information

s.47E(d) Certain operations of agencies

Reference number: s.22 Irrelevant Information

## FAILURE TO COMPLY WITH COMPLIANCE NOTICE

Dear s.22 irrelevant information

I refer to the Compliance Notice dated 12 April 2021 that was served upon s.47E(d) Certain operations of agencies regarding s.47E(d) Certain operations of agencies contravention(s) of the *Security Services Industry Award 2020* [MA000016] that were reasonably believed to have occurred (Compliance Notice).

That Compliance Notice provided s.47E(d) Certain operations of agencies with a further opportunity to rectify the contravention(s).

s.47E(d) Certain operations of agencies has failed to comply with the Compliance Notice. Specifically, it has failed to, by 17 May 2021:

- take the required actions set out in the Compliance Notice, by not rectifying underpayments or demonstrating all employees (83 security guard) during the Victorian Hotel Quarantine Program received payment for the applicable night span (permanent night work) penalty entitlement;
- produce to the Fair Work Ombudsman the required reasonable evidence of compliance set out in the Compliance Notice.

Please advise us, within 7 days, if s.47E(d) Certain operations of agencies has a reasonable excuse for not complying with the Compliance Notice.

If s.47E(d) Certain operations of agencies does not provide a reasonable excuse for its failure to comply with the Compliance Notice, the Fair Work Ombudsman (FWO) may commence legal action against s.47E(d) Certain operations of agencies, and any persons involved in its failure to comply with the Compliance Notice, without further notice.



Failure to comply with a compliance notice is a contravention under section 716(5) of the *Fair Work Act 2009*. A court may order a maximum penalty of \$6,660 in respect of an individual or \$33,300 in respect of a body corporate for each failure to comply with a compliance notice.

If legal action is taken against **s.47E(d) Certain operations of agencies**, in addition to seeking civil penalties, FWO may seek to recover any outstanding monies which the Compliance Notice required **s.47E(d) Certain operations of agencies** to pay.

Finally, we note that you may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information, or produce false or misleading documents, to the FWO. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

We strongly encourage you to obtain independent legal advice in respect of this matter and, in particular, this correspondence. You should be aware that this letter may be produced to a court in respect of this matter.

Should you wish to discuss this letter, or clarify any of the issues raised, please contact me on **s.22 Irrelevant Information** or at **s.22 Irrelevant Information**.

Yours sincerely

**s.22 Irrelevant Information**

**s.22 Irrelevant Information**

**Fair Work Inspector  
Fair Work Ombudsman**

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act



GPO Box 9887, Hobart TAS 7001

26 May 2021

s.22 Irrelevant Information

s.47E(d) Certain operations of agencies

Reference number: s.22 Irrelevant Information

## LETTER OF ACKNOWLEDGEMENT OF COMPLIANCE

Dear s.22 Irrelevant Information

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies concerning the Victorian Hotel Quarantine Program.

### BACKGROUND

As per previous communications in this matter, an investigation was conducted to establish whether s.47E(d) Certain operations of agencies had complied with the *Fair Work Act 2009* (Cth) (FW Act).

As a result of that investigation, I reasonably believed that s.47E(d) Certain operations of agencies had contravened terms of the *Security Services Industry Award 2020* [MA000016] as follows:

- cl 20.2 & 20.3 – Night Span (permanent night work) penalty contravention

As a result of my reasonable belief that contraventions of Commonwealth workplace laws had occurred, s.47E(d) Certain operations of agencies was served with a compliance notice dated 12 April 2021 regarding the contraventions detailed above (Compliance Notice).

### ACKNOWLEDGEMENT OF COMPLIANCE

This letter is to acknowledge that s.47E(d) Certain operations of agencies has complied with the Compliance Notice. As a result, no further action will be taken by the FWO in relation to the contraventions detailed in the Compliance Notice.

### NEXT STEPS

Following your compliance with the Compliance Notice, it is very important that you review your practices moving forward to ensure that all of your employees have their minimum entitlements met in accordance with any applicable awards, agreements, determinations and/or orders and the FW Act.

To assist you, we suggest looking at the following materials that can be found on our website [www.fairwork.gov.au](http://www.fairwork.gov.au) | Fair Work Infoline: 13 13 94 | ABN: 43 884 188 232

[www.fairwork.gov.au](http://www.fairwork.gov.au)). The website contains several tools to help you understand and comply with your obligations, including:


- (a) a Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements;
- (b) templates and checklists to make record keeping easy; and
- (c) an online learning centre to learn the basics and get new skills.

We recommend that you register at [www.fairwork.gov.au](http://www.fairwork.gov.au) for My Account to save all your information in one place and get priority support when you need it.

We welcome feedback about your experience with us. It helps us to know what we're doing well and what changes we need to make. Tell us what you think about our services, by completing our online feedback form at [www.fairwork.gov.au/feedback](http://www.fairwork.gov.au/feedback).

Should you wish to discuss this letter or any of your obligations further, please contact me on s.22 Irrelevant Information or at s.22 Irrelevant Information

Yours sincerely

s.22 Irrelevant Information  


Fair Work Inspector  
Fair Work Ombudsman

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act



s.47E(d) Certain operations of agencies

Infringement Notice No.	IN- <span style="background-color: black; color: red;">s.22 Irrelevant Information</span>
Date of issue	18 March 2021
Penalty amount	<span style="background-color: black; color: red;">s.47E(d) Certain operations of agencies</span>
Date due	16 April 2021

**Alleged contravention:**

It is alleged that between 13 April 2020 and 23 July 2020 the recipient contravened the following provision of the *Fair Work Act 2009*:

Subsection 536(2) – pay slip not in prescribed form and/or not containing prescribed information

**Details of the alleged contravention:**

Payslips given by s.47E(d) Certain operations of agencies do not specify the name or name and number of the superannuation fund.

Fair Work Inspector

s.22 Irrelevant Information

Signature of Fair Work Inspector:

s.22 Irrelevant Information

Name of person served on:

s.22 Irrelevant Information

Position of person served on:

Director

**PAYMENT OPTIONS:**

**Government EasyPay** by phone or internet from your credit card.  
Call 1300 453 579 or visit [www.fairwork.gov.au](http://www.fairwork.gov.au)  
Customer Reference Number: **128023138**

	Biller Code	<span style="background-color: black; color: red;">s.22 Irrelevant information</span>
	Ref:	<span style="background-color: black; color: red;">s.47E(d) Certain operations of agencies</span>

Telephone & Internet Banking – BPAY®  
Contact your bank or financial institution to make this payment from your cheque, savings, debit, credit card or transaction account. More info: [www.bpay.com.au](http://www.bpay.com.au)

**Note: See overleaf for further information**

## METHODS TO FINALISE THIS MATTER

The penalty stated in this Infringement Notice must be paid by the 'Date Due', being within **28 days** after the date of service of the Notice (unless an application has been made or granted to extend the period for payment in accordance with Regulation 4.07, or have the Infringement Notice withdrawn in accordance with Regulation 4.08). The 'Date Due' is set out on the front page of this Notice.

You may choose from the payment options contained on the front page of this Notice. (If you are unable to make a payment via the options on the front page of this Notice, please contact the Fair Work Ombudsman for an alternative arrangement.)

If the penalty is not paid within the 28 day payment period, and no application has been made or granted to withdraw the Infringement Notice, nor an application made or granted to extend the period for payment, court proceedings may be instigated to obtain orders for the payment of the maximum penalty.

The maximum penalty that may be imposed by an applicable court in relation to a contravention of subsection 535(1); 535(2); 535(4); 536(1); 536(2) or 536(3) of the *Fair Work Act 2009* is:

- a. in the case of a body corporate - \$66,600; or
- b. in the case of an individual - \$13,320.

Payment of the penalty stated in this Infringement Notice means any liability for the alleged contravention is discharged and court proceedings cannot be commenced against you in relation to the alleged contravention. Payment of the penalty is not an admission of having committed the alleged contravention and no conviction is recorded in relation to the alleged contravention.

An application to:

- a. have this Infringement Notice withdrawn; or
- b. extend the period for payment of the penalty prescribed in this Infringement Notice for a further period of up to 28 days,

may be made in writing before the end of the 'Date Due' for payment to:

Nominated Person  
Fair Work Ombudsman  
GPO Box 9887  
In your capital city



GPO Box 9887 MELBOURNE VIC 3001

29 April 2021

**s.22 Irrelevant Information**

**s.47E(d) Certain operations of agencies**

[Redacted]

Via email only **s.22 Irrelevant Information**

Reference number: **s.22 Irrelevant Information**

## Letter of acknowledgement

Dear **s.22 Irrelevant Information**

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into **s.47E(d) Certain operations of agencies** (Company) concerning the provision of security services under the Victorian government's hotel quarantine program (HQP).

The FWO is an independent agency responsible for ensuring compliance with the *Fair Work Act 2009* (FW Act) and other relevant Commonwealth workplace laws.

### BACKGROUND

An investigation was conducted to establish whether the Company had breached the FW Act.

As per previous communications in this matter, the FWO reasonably believed that the Company had breached the FW Act (Commonwealth workplace laws) as follows:

- Subsection 536(2) – pay slip not in prescribed form and/or not containing prescribed information. Pay slips given by the Company did not specify the name or name and number of the superannuation fund.

As a result of the FWO's reasonable belief that contraventions of Commonwealth workplace laws had occurred, the Company was served with an Infringement Notice on 18 March 2021. This letter is to acknowledge your payment of Infringement Notice IN **s.22 Irrelevant Information** in the amount of **s.47E(d) Certain operations of agencies** on 8 April 2021. As a result, no further action will be taken by the FWO.

### NEXT STEPS

As part of its role under the FW Act to ensure compliance, the FWO now seeks to encourage your ongoing compliance by you:

- Reviewing your records in relation to ALL employees to ensure their minimum entitlements have been met in accordance with the applicable awards, agreements and the FW Act



- Registering at [www.fairwork.gov.au](http://www.fairwork.gov.au) for My Account to save all your information in one place and get priority support when you need it.

Our website also has tools to help you understand and comply with your obligations, including:

- A Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements
- Information about pay slip and record keeping obligations available on our website
- Templates and checklists to make record keeping easy
- An online learning centre to learn the basics and get new skills

We welcome feedback about your experience with us. It helps us to know what we're doing well and what changes we need to make.

Tell us what you think about our services, or request a review of a decision, by completing our [online feedback form](#) at [www.fairwork.gov.au/feedback](http://www.fairwork.gov.au/feedback).

Should you wish to discuss this letter or clarify any of the issues raised please contact me on s.22 Irrelevant Information

Yours sincerely

s.22 Irrelevant Information  
s.22 Irrelevant Information

s.22 Irrelevant Information

Fair Work Inspector  
Fair Work Ombudsman



GPO Box 9887 MELBOURNE VIC 3001

1 March 2021

s.22 Irrelevant Information

s.47E(d) Certain operations of agencies

s.22 Irrelevant Information

Reference number: s.22 Irrelevant Information

## COMPLIANCE NOTICE ISSUED TO s.47E(d) Certain operations of agencies

Dear s.22 Irrelevant Information

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies (Company) concerning payment of minimum entitlements, issuance of pay slips and keeping of employee records.

The FWO is an independent agency responsible for ensuring compliance with the *Fair Work Act 2009* (FW Act) and other relevant Commonwealth workplace laws.

### BACKGROUND

An audit was conducted to establish whether the Company had complied with the FW Act.

As a result of that audit, I reasonably believe that the Company has contravened terms of the *Security Services Industry Award 2010* [MA000016] (Award), as set out in the attached compliance notice dated 1 March 2021 (Compliance Notice).

On this basis, I have determined that the appropriate enforcement measure in this instance is to issue the Company with the Compliance Notice under s 716 of the FW Act.

### ACTION REQUIRED

The Compliance Notice provides the Company with a further opportunity to rectify the contraventions.

The Compliance Notice sets out a number of actions that the Company is required to take on or before 22 March 2021. Please consider the actions specified in the Notice carefully.

Complying with the Compliance Notice is not an admission (nor does it constitute a finding) that the Company has contravened the Award.

In order to assist you to undertake the calculations and rectification required by the Compliance Notice, we have attached:

- (a) a link to the Award (as in force at the time of the contraventions);

<http://awardviewer.fwo.gov.au/award/version/MA000016?vn=61&rvn=37>

- (b) the relevant Award pay guide is attached to the Award on the FWO website (Summaries);
- (c) information about your pay slip and record keeping obligations;

<https://www.fairwork.gov.au/pay/pay-slips-and-record-keeping>

This information can also be found on our website ([www.fairwork.gov.au](http://www.fairwork.gov.au)), which contains further tools to help you understand and comply with your obligations, including:

- (a) a Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements;
- (b) templates and checklists to make record keeping easy; and
- (c) an online learning centre to learn the basics and get new skills.

We recommend that you also register at our website for My Account to save all your information in one place and get priority support when you need it.

#### OBLIGATIONS UNDER THE COMPLIANCE NOTICE

If the Company fails to comply with the Compliance Notice by **22 March 2021**, it may contravene section 716(5) of the FW Act (unless it has a reasonable excuse).

In those circumstances, the FWO may (without further notice) commence legal action against the Company and/or individuals involved in the Company's failure to comply with the Compliance Notice. A Court may impose penalties of up to \$6,660 in respect of an individual or \$33,300 in respect of a body corporate for each failure to comply with a Compliance Notice.

Alternatively, the Company may apply to the Federal Court, Federal Circuit Court or an eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:

- (a) the Company did not commit the contravention(s) set out in this Compliance Notice
- (b) the Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

For further general information about Compliance Notices, please refer to our Compliance and Enforcement Policy, which can be found on our website.

Finally, we note that you may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information, or produce false or misleading documents, to the FWO. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

Should you wish to discuss this letter, or clarify any of the issues raised in the Compliance Notice, please contact me on **s.22 Irrelevant Information** or at **s.22 Irrelevant Information**

Yours sincerely

**s.22 Irrelevant Information**

**s.22 Irrelevant Information**

**Fair Work Inspector**

**Fair Work Ombudsman**



GPO Box 9887 MELBOURNE VIC 3001

## COMPLIANCE NOTICE

(issued under section 716(2) of the *Fair Work Act 2009* (Cth))

Date of Issue: 1 March 2021

Name of Employer:

s.47E(d) Certain operations of agencies

ABN:

s.47E(d) Certain operations of agencies

Director:

s.22 Irrelevant Information

I, s.22 Irrelevant Information, being a duly appointed Fair Work Inspector, reasonably believe that s.47E(d) Certain operations of agencies (Employer) has contravened terms of the *Security Services Industry Award 2010 (Award)*, as described below. This Compliance Notice requires you to take steps to remedy the contraventions described below.

### Rights and obligations under this Compliance Notice

1. Failure to comply with this Compliance Notice may contravene section 716(5) of the *Fair Work Act 2009* (Cth) (FW Act) and render you liable for a civil penalty (unless you have a reasonable excuse).
2. You may be liable to a civil remedy if you give false or misleading information or produce false or misleading documents. It is also a serious offence under the *Criminal Code* (Cth).
3. If you do not comply with this Compliance Notice, the Fair Work Ombudsman may, without further notice, commence legal action against you and/or individuals involved in your failure to comply with this Compliance Notice to recover any outstanding monies which this Compliance Notice requires you to pay and to seek civil penalties.
4. Complying with the Compliance Notice is not an admission that you contravened, or have been found to have contravened, the Award or the FW Act.
5. You may apply to the Federal Court, Federal Circuit Court or eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:
  - (a) you did not commit the contraventions set out in this Compliance Notice;
  - (b) this Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

### Details of the contraventions

6. The Employer, between 29 March 2020 and 3 April 2020 (Period), contravened the clauses of the Award set out in the table below.

No	Clause	Details of contravention(s)
(a)	Clause 23.3	<b>Monday to Friday Overtime – first 2 hours contravention</b> failing to pay <b>s.22 Irrelevant Information</b> a 50% loading in addition to ordinary time rate for the first 2 hours of overtime worked on Monday to Friday ( <b>Monday to Friday Overtime – first 2 hours rate entitlement</b> )
(b)	Clause 23.3	<b>Monday to Friday Overtime – after 2 hours contravention</b> failing to pay <b>s.22 Irrelevant Information</b> a 100% loading in addition to ordinary time rate for all overtime worked after the first 2 hours of overtime worked on Monday to Friday ( <b>Monday to Friday Overtime – after 2 hours rate entitlement</b> )
(c)	Clause 23.3	<b>Sunday Overtime contravention</b> failing to pay <b>s.22 Irrelevant Information</b> a 100% loading in addition to the ordinary time rate for overtime worked on Sunday ( <b>Sunday Overtime entitlement</b> )
(d)	22.3	<b>Night Span Penalty contravention</b> failing to pay <b>s.22 Irrelevant Information</b> a 21.7% penalty rate in addition to the ordinary time rate for ordinary hours worked during the Night Span ( <b>Night Span Penalty entitlement</b> ) 'Night Span' means 0000 hrs to 0600 hrs and 1800 hrs to 2400 hrs throughout the period from 0000 hours Monday to 2400 hours Friday (excluding hours on a day that is a public holiday)
(e)	22.3	<b>Sunday Span Penalty contravention</b> failing to pay <b>s.22 Irrelevant Information</b> a 100% penalty rate in addition to the ordinary time rate for ordinary hours worked during the Sunday Span ( <b>Sunday Span Penalty entitlement</b> ) <b>Sunday Span</b> means 0000 hrs to 2400 hrs on a Sunday

#### Required action under this Compliance Notice

7. In accordance with section 716(2) of the FW Act, I require you by **22 March 2021** to:

##### **Step 1 – calculate and rectify underpayments**

(a) in respect of the contravention referred to in row (a) of the table above, and in respect of **s.22 Irrelevant Information** (Employee) who was employed by the Employer during the Period as a casual Level 1 employee under the Award:

1. identify the number of hours the employee worked during the Period in respect of which the Entitlement was required to be paid by the Award (**Hours**). The Entitlement can be found in the 'Details of Contravention' column of the table above.
2. identify the amount the Employer paid to the employee during the Period in respect of the Entitlement (having regard to the Hours)
3. calculate the amount the Employer should have paid to the employee during the Period in respect of the Entitlement (having regard to the Hours)
4. make a payment to the employee of the difference between the amount referred to in (2) and the amount referred to in (3) immediately above



5. make a record of the information and amounts referred to in (1) to (3) and the amount of the payment referred to in (4) immediately above (**Underpayment Rectification Information**)

- (b) repeat the same process described in Step 1(a) for each of the contraventions referred to in rows **Error! Reference source not found.** to **Error! Reference source not found.** of the table above

**Step 2 – Superannuation**

- (c) calculate additional superannuation contributions required by clause 20.2 of the Award in respect of the amounts required to be paid to employees of the Employer as a result of Step 1
- (d) in relation to each employee who is owed such additional superannuation contributions, pay such additional superannuation contributions to the chosen Superannuation Fund of the employee.

***Reasonable evidence of steps taken to comply with this Compliance Notice***

8. In accordance with section 716(2) of the FW Act, I require you to produce the following reasonable evidence of your compliance with the actions specified in paragraph 7 above:

- (a) a schedule that sets out:

- (i) the full name of the Employee
- (ii) in relation to the Employee, and in respect of each contravention that concerns the Employee, the Underpayment Rectification Information
- (iii) in relation to the Employee, the additional superannuation contributions calculated for the Employee and paid to the Employee's Superannuation Fund in accordance with Step 2

- (b) proof that full payment has been made to the Employee of the payments required to be made by Step 1 and Step 2, such as a bank transfer showing the transfer of funds to the Employee and their Superannuation Fund, or a copy of the Employee's payroll records showing the payments.

9. The evidence referred to above must be provided to the Fair Work Ombudsman by **29 March 2021** by mail to GPO Box 9887 MELBOURNE VIC 3001 or email to **s.22 Irrelevant Information**

10. You may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information or produce false or misleading documents in response to this Compliance Notice. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

**s.22 Irrelevant Information**

**s.22 Irrelevant Information**

**Fair Work Inspector  
Fair Work Ombudsman**





GPO Box 9887 MELBOURNE VIC 3001

30 March 2021

s.22 Irrelevant Information  
s.47E(d) Certain operations of agencies

Sent via email only s.22 Irrelevant Information

Reference number: s.22 Irrelevant Information

## Letter of acknowledgement

Dear s.22 Irrelevant Information

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies (Company) concerning payment of minimum entitlements, issuance of pay slips and keeping of employee records.

The FWO is an independent agency responsible for ensuring compliance with the *Fair Work Act 2009* (FW Act) and other relevant Commonwealth workplace laws.

### BACKGROUND

An audit was conducted to establish whether the Company had complied with the FW Act.

As per previous communications in this matter, the FWO reasonably believed that the Company had breached the FW Act and the *Security Services Industry Award 2010* [MA000016] (Award) (Commonwealth workplace laws) as follows:

- Monday to Friday Overtime – first 2 hours contravention
- Monday to Friday Overtime – after 2 hours contravention
- Sunday Overtime contravention
- Night Span Penalty contravention
- Sunday Span Penalty contravention

As a result of the FWO's reasonable belief that contraventions of Commonwealth workplace laws had occurred, the Company was served with a Compliance Notice. This letter is to acknowledge your rectification in relation to the Compliance Notice dated 1 March 2021 relating to the above contraventions. As a result, no further action will be taken by the FWO.

## NEXT STEPS

As part of its role under the FW Act to ensure compliance, the FWO now seeks to encourage your ongoing compliance by you:

- Reviewing your records in relation to ALL employees to ensure their minimum entitlements have been met in accordance with the applicable awards, agreements and the FW Act
- Registering at [www.fairwork.gov.au](http://www.fairwork.gov.au) for My Account to save all your information in one place and get priority support when you need it.

Our website also has tools to help you understand and comply with your obligations, including:

- A Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements
- Information about pay slip and record keeping obligations available on our website
- Templates and checklists to make record keeping easy
- An online learning centre to learn the basics and get new skills

We welcome feedback about your experience with us. It helps us to know what we're doing well and what changes we need to make.

Tell us what you think about our services, or request a review of a decision, by completing our [online feedback form](#) at [www.fairwork.gov.au/feedback](http://www.fairwork.gov.au/feedback).

Should you wish to discuss this letter or clarify any of the issues raised please contact me on s.22 Irrelevant Information.

Yours sincerely

s.22 Irrelevant Information

s.22 Irrelevant Information

Fair Work Inspector  
Fair Work Ombudsman



GPO Box 9887, Hobart TAS 7001

13 January 2021

s.22 Irrelevant Information

s.47E(d) Certain operations of agencies

Reference number: s.22 Irrelevant Information and s.22 Irrelevant Information

## COMPLIANCE NOTICE ISSUED TO s.47E(d) Certain operations of agencies

Dear s.22 Irrelevant Information

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies regarding security services provided during the Victorian Hotel Quarantine Program.

The FWO is an independent agency responsible for ensuring compliance with the *Fair Work Act 2009* (FW Act) and other relevant Commonwealth workplace laws.

### BACKGROUND

An audit was conducted to establish whether s.47E(d) Certain operations of agencies had complied with the FW Act.

As a result of that audit, I reasonably believe that s.47E(d) Certain operations of agencies has contravened terms of the *Security Services Industry Award 2020* [MA000016] as set out in the attached compliance notice dated 13 January 2021 (Compliance Notice).

The FWO acknowledges that four versions of the *Security Services Industry Award* (19 Dec 2019, 8 Apr 2020, 12 Jun 2020 and 2 Jul 2020) applied during the contravention period. However, the substantive requirements did not change with each version, (i.e. the pay and penalty rates entitled where consistent in all versions). There was only a variation in the applicable clause number within different versions.

For this reason, the FWO has used the clause numbers in the most recent version of the *Security Services Industry Award 2020* [MA000016] in the Compliance Notice in order to eliminate confusion for s.47E(d) Certain operations of agencies in rectifying the contraventions.

To date, the underpayments arising as a result of these contraventions have not been rectified.

On this basis, I have determined that the appropriate enforcement measure in this instance is to issue s.47E(d) Certain operations of agencies with the Compliance Notice under s716 of the FW Act.

### ACTION REQUIRED

The Compliance Notice provides s.47E(d) Certain operations of agencies with a further opportunity to rectify the contraventions.

The Compliance Notice sets out a number of actions that **s.47E(d) Certain operations of agencies** is required to take on or before 3 March 2021. Please consider the actions specified in the Notice carefully.

Complying with the Compliance Notice is not an admission (nor does it constitute a finding) that **s.47E(d) Certain operations of agencies** has contravened the *Security Services Industry Award 2020* [MA000016] or the FW Act.

In order to assist you to undertake the calculations and rectification required by the Compliance Notice, you can find the required information on our website ([www.fairwork.gov.au](http://www.fairwork.gov.au)), which contains further tools to help you understand and comply with your obligations, including:

- (a) a Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements;
- (b) templates and checklists to make record keeping easy; and
- (c) an online learning centre to learn the basics and get new skills.

We recommend that you also register at our website for My Account to save all your information in one place and get priority support when you need it.

#### OBLIGATIONS UNDER THE COMPLIANCE NOTICE

If **s.47E(d) Certain operations of agencies** fails to comply with the Compliance Notice by 3 March 2021 it may contravene section 716(5) of the FW Act (unless it has a reasonable excuse).

In those circumstances, the FWO may (without further notice) commence legal action against **s.47E(d) Certain operations of agencies** and/or individuals involved in **s.47E(d) Certain operations of agencies** failure to comply with the Compliance Notice. A Court may impose penalties of up to \$6,660 in respect of an individual or \$33,300 in respect of a body corporate for each failure to comply with a Compliance Notice.

Alternatively, **s.47E(d) Certain operations of agencies** may apply to the Federal Court, Federal Circuit Court or an eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:

- (a) **s.47E(d) Certain operations of agencies** did not commit the contravention(s) set out in this Compliance Notice
- (b) the Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

For further general information about Compliance Notices, please refer to our Compliance and Enforcement Policy, which can be found on our website.

Finally, we note that you may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information, or produce false or misleading documents, to the FWO. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

Should you wish to discuss this letter, or clarify any of the issues raised in the Compliance Notice, please contact me on **s.22 Irrelevant Information** or at **s.22 Irrelevant Information**.

Yours sincerely

**s.22 Irrelevant Information**

**s.22 Irrelevant Information**

**Fair Work Inspector  
Fair Work Ombudsman**



GPO Box 9887, Hobart TAS 7001

## COMPLIANCE NOTICE

(issued under section 716(2) of the *Fair Work Act 2009* (Cth))

Date of Issue: 13 January 2021

Name of Employer:

s.47E(d) Certain operations of agencies

ABN/ACN:

s.47E(d) Certain operations of agencies

Director:

s.22 Irrelevant information

I, s.22 Irrelevant information, being a duly appointed Fair Work Inspector, reasonably believe that s.47E(d) Certain operations of agencies (Employer) has contravened terms of the *Security Services Industry Award 2020* (Award), as described below. This Compliance Notice requires you to take steps to remedy the contraventions described below.

### Rights and obligations under this Compliance Notice

1. Failure to comply with this Compliance Notice may contravene section 716(5) of the *Fair Work Act 2009* (Cth) (FW Act) and render you liable for a civil penalty (unless you have a reasonable excuse).
2. You may be liable to a civil remedy if you give false or misleading information or produce false or misleading documents. It is also a serious offence under the *Criminal Code* (Cth).
3. If you do not comply with this Compliance Notice, the Fair Work Ombudsman may, without further notice, commence legal action against you and/or individuals involved in your failure to comply with this Compliance Notice to recover any outstanding monies which this Compliance Notice requires you to pay and to seek civil penalties.
4. Complying with the Compliance Notice is not an admission that you contravened, or have been found to have contravened, the Award or the FW Act.
5. You may apply to the Federal Court, Federal Circuit Court or eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:
  - (a) you did not commit the contraventions set out in this Compliance Notice;
  - (b) this Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

### Details of the contraventions

6. The Employer, between 3 April 2020 and 12 July 2020 (Period), contravened the following clauses of the Award as in force at the time of the contraventions set out in the table below.



No	Clause	Details of contraventions
(a)	Clause 11.2	<p><b>Casual Minimum Wage contravention</b></p> <p>for those casual employees who were not paid the ordinary hourly rate for the classification in which they were employed plus a casual loading of 25% of the ordinary hourly rate (<b>Casual Minimum Wage entitlement</b>), failing to pay those employees the Casual Minimum Wage entitlement</p>
(b)	Clause 20.2(b)	<p><b>Night Span Penalty contravention</b></p> <p>for those employees who were not paid a 146.7 % penalty rate in addition to the ordinary time rate (casual loading included) for ordinary hours they worked during the Night Span (<b>Night Span Penalty entitlement</b>), failing to pay those employees the Night Span Penalty entitlement.</p> <p>'Night Span' means 0000 hrs to 0600 hrs and 1800 hrs to 2400 hrs throughout the period from 0000 hours Monday to 2400 hours Friday (excluding hours on a day that is a public holiday)</p>
(c)	Clause 20.2(b)	<p><b>Saturday Span Penalty contravention</b></p> <p>for those employees who were not paid a 175 % penalty rate in addition to the ordinary time rate (casual loading included) for ordinary hours they worked during the Saturday Span (<b>Saturday Span Penalty entitlement</b>), failing to pay those employees the Saturday Span Penalty entitlement</p> <p><b>Saturday Span</b> means 0000 hrs to 2400 hrs on a Saturday</p>
(d)	Clause 20.2(b)	<p><b>Sunday Span Penalty contravention</b></p> <p>for those employees who were not paid a 225 % penalty rate in addition to the ordinary time rate (casual loading included) for ordinary hours they worked during the Sunday Span (<b>Sunday Span Penalty entitlement</b>), failing to pay those employees the Sunday Span Penalty entitlement</p> <p><b>Sunday Span</b> means 0000 hrs to 2400 hrs on a Sunday</p>
(e)	Clause 20.2(b)	<p><b>Public Holiday Span Penalty contravention</b></p> <p>for those employees who were not paid a 275 % penalty rate in addition to the ordinary time rate (casual loading included) for ordinary hours they worked during the Public Holiday Span (<b>Public Holiday Span Penalty entitlement</b>), failing to pay those employees the Public Holiday Span Penalty entitlement</p> <p><b>Public Holiday Span</b> means 0000 hrs to 2400 hrs on a public holiday</p>



### Required action under this Compliance Notice

7. In accordance with section 716(2) of the FW Act, I require you by **3 March 2021** to:

#### **Step 1 – calculate and rectify underpayments**

- (a) in respect of the contravention referred to in row (a) of the table above:
- (i) identify each employee employed by the Employer who was not paid (but was required by the Award to be paid) the Entitlement that is the subject of the contravention – the Entitlement is found in the ‘Details of Contravention’ column of the table above
  - (ii) in respect of each such employee identified:
    1. identify the employee’s classification under the Award and their employment status (ie full-time, part-time or casual)
    2. identify the number of hours the employee worked during the Period in respect of which the Entitlement was required to be paid by the Award (**Hours**) – ignore this step if the Entitlement is not paid on an hourly basis
    3. identify the amount the Employer paid to the employee during the Period in respect of the Entitlement (having regard to the Hours, where applicable)
    4. calculate the amount the Employer should have paid to the employee during the Period in respect of the Entitlement (having regard to the Hours, where applicable)
    5. make a payment to the employee of the difference between the amount referred to in (3) and the amount referred to in (4) immediately above
    6. make a record of the information and amounts referred to in (1) to (4) and the amount of the payment referred to in (5) immediately above (**Underpayment Rectification Information**)
- (b) repeat the same process described in Step 1(a) for each of the contraventions referred to in rows (b) to (e) of the table above

#### **Step 2 – Superannuation**

- (c) calculate additional superannuation contributions required by clause 18.2 of the Award in respect of the amounts required to be paid to employees of the Employer as a result of Step 1
- (d) in relation to each employee who is owed such additional superannuation contributions, pay such additional superannuation contributions to the chosen Superannuation Fund of the employee.

#### ***Reasonable evidence of steps taken to comply with this Compliance Notice***

8. In accordance with section 716(2) of the FW Act, I require you to produce the following reasonable evidence of your compliance with the actions specified in paragraph 7 above:
- (a) a schedule that sets out:
    - (i) the full name of each employee identified in Step 1
    - (ii) in relation to each such employee, and in respect of each contravention that concerns the employee, the Underpayment Rectification Information
    - (iii) in relation to each such employee, the additional superannuation contributions calculated

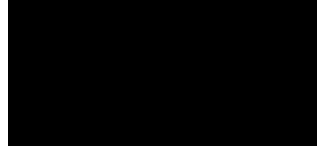
for the employee and paid to the employee's Superannuation Fund in accordance with Step 2

- (b) proof that full payment has been made to each employee identified in Step 1 of the payment(s) required to be made by Step 1 and Step 2, such as a bank transfer showing the transfer of funds to the employee and their Superannuation Fund, or a copy of the employee's payroll records showing the payment(s).

9. The evidence referred to above must be provided to the Fair Work Ombudsman by 10 March 2021 by delivery to GPO Box 9887, Hobart TAS 7001 or email at **s.22 Irrelevant Information**

10. You may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information or produce false or misleading documents in response to this Compliance Notice. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

**s.22 Irrelevant Information**



**s.22 Irrelevant Information**

**Fair Work Inspector  
Fair Work Ombudsman**

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act



GPO Box 9887, Hobart TAS 7001

26 February 2021

s.22 Irrelevant information

s.47E(d) Certain operations of agencies

Reference number: s.22 Irrelevant Information

## LETTER OF ACKNOWLEDGEMENT OF COMPLIANCE

Dear [redacted]

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into [redacted] concerning the security services provided during the Victorian Hotel Quarantine Program.

### BACKGROUND

As per previous communications in this matter, an investigation was conducted to establish whether [redacted] had complied with the *Fair Work Act 2009* (Cth) (FW Act).

As a result of that investigation, I reasonably believed that [redacted] had contravened terms of the *Security Services Industry Award 2020* [MA000016] (Commonwealth workplace laws) as follows:

- cl 11.2 - Casual minimum wage contravention; and
- cl 20.2(b) – Night, Saturday, Sunday and Public Holiday span penalty contraventions.

As a result of my reasonable belief that contraventions of Commonwealth workplace laws had occurred, [redacted] was served with a compliance notice dated 13 January 2021 regarding the contraventions detailed above (Compliance Notice).

### ACKNOWLEDGEMENT OF COMPLIANCE

This letter is to acknowledge that [redacted] has complied with the Compliance Notice. As a result, no further action will be taken by the FWO in relation to the contraventions detailed in the Compliance Notice.

### NEXT STEPS

Following your compliance with the Compliance Notice, it is very important that you review your practices moving forward to ensure that all of your employees have their minimum entitlements met in accordance with any applicable awards, agreements, determinations and/or orders and the FW Act.

Information can be found on our website ([www.fairwork.gov.au](http://www.fairwork.gov.au)), which contains further tools to help you understand and comply with your obligations, including:

- (a) a Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements;
- (b) templates and checklists to make record keeping easy; and
- (c) an online learning centre to learn the basics and get new skills.

We recommend that you register at [www.fairwork.gov.au](http://www.fairwork.gov.au) for My Account to save all your information in one place and get priority support when you need it.

We welcome feedback about your experience with us. It helps us to know what we're doing well and what changes we need to make. Tell us what you think about our services, by completing our online feedback form at [www.fairwork.gov.au/feedback](http://www.fairwork.gov.au/feedback).

Should you wish to discuss this letter or any of your obligations further, please contact me on s.22 Irrelevant Information or at s.22 Irrelevant Information.

Yours sincerely

s.22 Irrelevant Information

s.22 Irrelevant Information

**Fair Work Inspector**

**Fair Work Ombudsman**

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act



GPO Box 9887 MELBOURNE VIC 3001

5 March 2021

s.22 Irrelevant Information  
s.47E(d) Certain operations of agencies

s.22 Irrelevant Information

Reference number: s.22 Irrelevant Information

## COMPLIANCE NOTICE ISSUED TO s.47E(d) Certain operations of agencies

Dear s.22 Irrelevant Information

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies (Company) concerning payment of minimum entitlements, issuance of pay slips and keeping of employee records.

The FWO is an independent agency responsible for ensuring compliance with the *Fair Work Act 2009* (FW Act) and other relevant Commonwealth workplace laws.

### BACKGROUND

An audit was conducted to establish whether the Company had complied with the FW Act.

As a result of that audit, I reasonably believe that the Company has contravened terms of the *Security Services Industry Award 2010* [MA000016] (Award), as set out in the attached compliance notice dated 5 March 2021 (Compliance Notice).

On this basis, I have determined that the appropriate enforcement measure in this instance is to issue the Company with the Compliance Notice under s 716 of the FW Act.

### ACTION REQUIRED

The Compliance Notice provides the Company with a further opportunity to rectify the contraventions.

The Compliance Notice sets out a number of actions that the Company is required to take on or before 2 April 2021. Please consider the actions specified in the Notice carefully.

Complying with the Compliance Notice is not an admission (nor does it constitute a finding) that the Company has contravened the Award.

In order to assist you to undertake the calculations and rectification required by the Compliance Notice, we have attached:

- (a) a link to the Award (as in force at the time of the contraventions);

<http://awardviewer.fwo.gov.au/award/version/MA000016?vn=61&rvn=37>

- (b) the relevant Award pay guide is attached to the Award on the FWO website;
- (c) information about your pay slip and record keeping obligations;

<https://www.fairwork.gov.au/pay/pay-slips-and-record-keeping>

This information can also be found on our website ([www.fairwork.gov.au](http://www.fairwork.gov.au)), which contains further tools to help you understand and comply with your obligations, including:

- (a) a Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements;
- (b) templates and checklists to make record keeping easy; and
- (c) an online learning centre to learn the basics and get new skills.

We recommend that you also register at our website for My Account to save all your information in one place and get priority support when you need it.

#### OBLIGATIONS UNDER THE COMPLIANCE NOTICE

If the Company fails to comply with the Compliance Notice by **2 April 2021**, it may contravene section 716(5) of the FW Act (unless it has a reasonable excuse).

In those circumstances, the FWO may (without further notice) commence legal action against the Company and/or individuals involved in the Company's failure to comply with the Compliance Notice. A Court may impose penalties of up to \$6,660 in respect of an individual or \$33,300 in respect of a body corporate for each failure to comply with a Compliance Notice.

Alternatively, the Company may apply to the Federal Court, Federal Circuit Court or an eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:

- (a) the Company did not commit the contraventions set out in this Compliance Notice
- (b) the Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

For further general information about Compliance Notices, please refer to our Compliance and Enforcement Policy, which can be found on our website.

Finally, we note that you may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information, or produce false or misleading documents, to the FWO. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

Should you wish to discuss this letter, or clarify any of the issues raised in the Compliance Notice, please contact me on **s.22 Irrelevant Information** or at **s.22 Irrelevant Information**

Yours sincerely

**s.22 Irrelevant Information**

**[Redacted Signature]**

**s.22 Irrelevant Information**

**Fair Work Inspector  
Fair Work Ombudsman**





GPO Box 9887 MELBOURNE VIC 3001

## COMPLIANCE NOTICE

(issued under section 716(2) of the *Fair Work Act 2009* (Cth))

Date of Issue: 5 March 2021

Name of Employer:

s.47E(d) Certain operations of agencies

ABN:

s.47E(d) Certain operations of agencies

Director:

s.22 Irrelevant Information

I, s.22 Irrelevant Information, being a duly appointed Fair Work Inspector, reasonably believe that s.47E(d) Certain operations of agencies (Employer) has contravened terms of the *Security Services Industry Award 2010* (Award), as described below. This Compliance Notice requires you to take steps to remedy the contraventions described below.

### Rights and obligations under this Compliance Notice

1. Failure to comply with this Compliance Notice may contravene section 716(5) of the *Fair Work Act 2009* (Cth) (FW Act) and render you liable for a civil penalty (unless you have a reasonable excuse).
2. You may be liable to a civil remedy if you give false or misleading information or produce false or misleading documents. It is also a serious offence under the *Criminal Code* (Cth).
3. If you do not comply with this Compliance Notice, the Fair Work Ombudsman may, without further notice, commence legal action against you and/or individuals involved in your failure to comply with this Compliance Notice to recover any outstanding monies which this Compliance Notice requires you to pay and to seek civil penalties.
4. Complying with the Compliance Notice is not an admission that you contravened, or have been found to have contravened, the Award or the FW Act.
5. You may apply to the Federal Court, Federal Circuit Court or eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:
  - (a) you did not commit the contraventions set out in this Compliance Notice;
  - (b) this Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

### Details of the contraventions

6. The Employer, between 20 March 2020 and 30 April 2020 (Period), contravened the clauses of the Award set out in the table below.

No	Clause	Details of contraventions
(a)	Clause 10.5(b)	<b>Casual Minimum Wage contravention</b> failing to pay <span style="background-color: #cccccc;">s.22 Irrelevant Information</span> the ordinary hourly rate for the classification in which they were employed plus a casual loading of 25% of the ordinary hourly rate ( <b>Casual Minimum Wage entitlement</b> )
(b)	Clause 23.3	<b>Monday to Friday Overtime – first 2 hours contravention</b> for all employees who worked overtime on Monday to Friday, failing to pay those employees a 50% loading in addition to the ordinary time rate for the first 2 hours of such overtime worked ( <b>Monday to Friday Overtime – first 2 hours rate entitlement</b> )
(c)	Clause 23.3	<b>Monday to Friday Overtime – after 2 hours contravention</b> for all employees who were required to work more than 2 hours overtime on Monday to Friday, failing to pay those employees a 100% loading in addition to ordinary time rate for all overtime worked after the first 2 hours of such overtime worked ( <b>Monday to Friday Overtime – after 2 hours rate entitlement</b> )
(d)	Clause 23.3	<b>Saturday Overtime – first 2 hours contravention</b> for all employees who worked overtime on Saturday, failing to pay those employees a 50% loading in addition to the ordinary time rate for the first 2 hours of such overtime worked ( <b>Saturday Overtime – first 2 hours rate entitlement</b> )
(e)	Clause 23.3	<b>Saturday Overtime – after 2 hours rate contravention</b> for all employees who were required to work more than 2 hours overtime on Saturday, failing to pay those employees a 100% loading in addition to the ordinary time rate for all overtime worked after the first 2 hours of such overtime worked ( <b>Saturday Overtime – after 2 hours rate entitlement</b> )
(f)	Clause 23.3	<b>Sunday Overtime contravention</b> for all employees who worked overtime on Sunday, failing to pay those employees a 100% loading in addition to the ordinary time rate for such work ( <b>Sunday Overtime entitlement</b> )
(g)	22.3	<b>Night Span Penalty contravention</b> for all employees who worked ordinary hours during the Night Span (other than permanent night work), failing to pay those employees a 21.7% penalty rate in addition to the ordinary time rate for such hours worked ( <b>Night Span Penalty entitlement</b> ) 'Night Span' means 0000 hrs to 0600 hrs and 1800 hrs to 2400 hrs throughout the period from 0000 hours Monday to 2400 hours Friday (excluding hours on a day that is a public holiday)
(h)	22.3	<b>Saturday Span Penalty contravention</b> for all employees who worked ordinary hours during the Saturday Span, failing to pay those employees a 50% penalty rate in addition to the ordinary time rate for such hours worked ( <b>Saturday Span Penalty entitlement</b> ) <b>Saturday Span</b> means 0000 hrs to 2400 hrs on a Saturday

(i)	22.3	<p><b>Sunday Span Penalty contravention</b> for all employees who worked ordinary hours during the Sunday Span, failing to pay those employees a 100% penalty rate in addition to the ordinary time rate for such hours worked (<b>Sunday Span Penalty entitlement</b>) <b>Sunday Span</b> means 0000 hrs to 2400 hrs on a Sunday</p>
(j)	22.3	<p><b>Public Holiday Span Penalty contravention</b> for all employees who worked ordinary hours during the Public Holiday Span, failing to pay those employees a 150% penalty rate in addition to the ordinary time rate for such hours worked (<b>Public Holiday Span Penalty entitlement</b>) <b>Public Holiday Span</b> means 0000 hrs to 2400 hrs on a public holiday</p>

### Required action under this Compliance Notice

7. In accordance with section 716(2) of the FW Act, I require you by **2 April 2021** to:

#### **Step 1 – calculate and rectify underpayments**

(a) in respect of the contravention referred to in row **Error! Reference source not found.** of the table above:

(i) identify each employee employed by the Employer who was not paid (but was required by the Award to be paid) the Entitlement that is the subject of the contravention – the Entitlement is found in the ‘Details of Contravention’ column of the table above

(ii) in respect of each such employee identified:

1. identify the employee’s classification under the Award and their employment status (ie full-time, part-time or casual)
2. identify the number of hours the employee worked during the Period in respect of which the Entitlement was required to be paid by the Award (**Hours**)
3. identify the amount the Employer paid to the employee during the Period in respect of the Entitlement (having regard to the Hours)
4. calculate the amount the Employer should have paid to the employee during the Period in respect of the Entitlement (having regard to the Hours)
5. make a payment to the employee of the difference between the amount referred to in (3) and the amount referred to in (4) immediately above
6. make a record of the information and amounts referred to in (1) to (4) and the amount of the payment referred to in (5) immediately above (**Underpayment Rectification Information**)

(b) repeat the same process described in Step 1(a) for each of the contraventions referred to in rows **Error! Reference source not found.** to (j) of the table above

#### **Step 2 – Superannuation**

(c) calculate additional superannuation contributions required by clause 20.2 of the Award in respect of the amounts required to be paid to employees of the Employer as a result of Step 1

(d) in relation to each employee who is owed such additional superannuation contributions, pay such additional superannuation contributions to the chosen Superannuation Fund of the employee.

**Reasonable evidence of steps taken to comply with this Compliance Notice**

8. In accordance with section 716(2) of the FW Act, I require you to produce the following reasonable evidence of your compliance with the actions specified in paragraph 7 above:
- (a) a schedule that sets out:
    - (i) the full name of each employee identified in Step 1
    - (ii) in relation to each such employee, and in respect of each contravention that concerns the employee, the Underpayment Rectification Information
    - (iii) in relation to each such employee, the additional superannuation contributions calculated for the employee and paid to the employee's Superannuation Fund in accordance with Step 2
  - (b) proof that full payment has been made to each employee identified in Step 1 of the payments required to be made by Step 1 and Step 2, such as a bank transfer showing the transfer of funds to the employee and their Superannuation Fund, or a copy of the employee's payroll records showing the payments.
9. The evidence referred to above must be provided to the Fair Work Ombudsman by 9 April 2021 by mail to GPO Box 9887 MELBOURNE VIC 3001 or email to **s.22 Irrelevant information**
10. You may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information or produce false or misleading documents in response to this Compliance Notice. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

**s.22 Irrelevant Information**

**s.22 Irrelevant Information**

**Fair Work Inspector  
Fair Work Ombudsman**



GPO Box 9887 MELBOURNE VIC 3001

29 April 2021

s.22 Irrelevant Information  
s.47E(d) Certain operations of agencies

Via email only s.22 Irrelevant Information

Reference number: s.22 Irrelevant Information

## LETTER OF ACKNOWLEDGEMENT OF COMPLIANCE

Dear s.22 Irrelevant Information

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies concerning the provision of security services under the Victorian government's hotel quarantine program (HQP).

The FWO is an independent agency responsible for ensuring compliance with the *Fair Work Act 2009* (FW Act) and other relevant Commonwealth workplace laws.

### BACKGROUND

As per previous communications in this matter, an audit was conducted to establish whether s.47E(d) Certain operations of agencies had complied with the *Fair Work Act 2009* (Cth) (FW Act).

As a result of that audit, I reasonably believed that s.47E(d) Certain operations of agencies had contravened terms of the *Security Services Industry Award 2010* [MA000016] (Award) (Commonwealth workplace laws) as follows:

- Casual Minimum Wage contravention
- Monday to Friday Overtime – first 2 hours contravention
- Monday to Friday Overtime – after 2 hours contravention
- Saturday Overtime – first 2 hours contravention
- Saturday Overtime – after 2 hours rate contravention
- Sunday Overtime contravention
- Night Span Penalty contravention
- Saturday Span Penalty contravention
- Sunday Span Penalty contravention
- Public Holiday Span Penalty contravention



As a result of my reasonable belief that contraventions of Commonwealth workplace laws had occurred, **s.47E(d) Certain operations of agencies** was served with a compliance notice dated 5 March 2021 regarding the contraventions detailed above (Compliance Notice).

## ACKNOWLEDGEMENT OF COMPLIANCE

This letter is to acknowledge that **s.47E(d) Certain operations of agencies** has complied with the Compliance Notice. As a result, no further action will be taken by the FWO in relation to the contraventions detailed in the Compliance Notice.

## NEXT STEPS

Following your compliance with the Compliance Notice, it is very important that you review your practices moving forward to ensure that all of your employees have their minimum entitlements met in accordance with any applicable awards, agreements, determinations and/or orders and the FW Act.

To assist you, we have attached the following materials (a number of which were also previously provided to you):

- (a) a link to the Award;  
<http://awardviewer.fwo.gov.au/award/show/MA000016>
- (b) the relevant Award pay guide is attached to the Award on the FWO website;
- (c) information about your pay slip and record keeping obligations;  
<https://www.fairwork.gov.au/pay/pay-slips-and-record-keeping>

This information can also be found on our website ([www.fairwork.gov.au](http://www.fairwork.gov.au)), which contains further tools to help you understand and comply with your obligations, including:

- (a) a Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements;
- (b) templates and checklists to make record keeping easy; and
- (c) an online learning centre to learn the basics and get new skills.

We recommend that you register at [www.fairwork.gov.au](http://www.fairwork.gov.au) for My Account to save all your information in one place and get priority support when you need it.

We welcome feedback about your experience with us. It helps us to know what we're doing well and what changes we need to make. Tell us what you think about our services, by completing our online feedback form at [www.fairwork.gov.au/feedback](http://www.fairwork.gov.au/feedback).

Should you wish to discuss this letter or any of your obligations further, please contact me on **s.22 Irrelevant Information** or at **s.22 Irrelevant Information**

Yours sincerely

**s.22 Irrelevant Information**

**s.22 Irrelevant Information**

**Fair Work Inspector  
Fair Work Ombudsman**





GPO Box 9887 Sydney NSW 2001

5 February 2021

s.22 Irrelevant Information  
s.47E(d) Certain operations of agencies

By Express Post

Copy by email to: s.22 Irrelevant Information

Reference number: s.22 Irrelevant Information

## COMPLIANCE NOTICE ISSUED TO s.47E(d) Certain operations of agencies

Dear s.22 Irrelevant Information

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies (Employer) concerning compliance with the *Fair Work Act 2009*.

The FWO is an independent agency responsible for ensuring compliance with the *Fair Work Act 2009* (FW Act) and other relevant Commonwealth workplace laws.

### BACKGROUND

An audit was conducted to establish whether the Employer had complied with the FW Act.

As a result of that audit, I reasonably believe that the Employer has contravened a term of the *Security Services Industry Award 2010* [Award code: MA000016], as set out in the attached compliance notice dated 5 February 2021 (Compliance Notice).

On this basis, I have determined that the appropriate enforcement measure in this instance is to issue the Employer with the Compliance Notice under s 716 of the FW Act.

### ACTION REQUIRED

The Compliance Notice provides the Employer with a further opportunity to rectify the contravention.

The Compliance Notice sets out a number of actions that the Employer is required to take on or before **1 March 2021**. Please consider the actions specified in the Notice carefully.

Complying with the Compliance Notice is not an admission (nor does it constitute a finding) that the Employer has contravened the *Security Services Industry Award 2010*.

In order to assist you to undertake the calculations and rectification required by the Compliance Notice,

we have attached:

- (a) a link to the [Security Services Industry Award 2010](#) [Award code: MA000016]; and
- (b) a link to the [Pay Guide](#) for this Award.

This information can also be found on our website ([www.fairwork.gov.au](http://www.fairwork.gov.au)), which contains further tools to help you understand and comply with your obligations, including:

- (a) a Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements;
- (b) templates and checklists to make record keeping easy; and
- (c) an online learning centre to learn the basics and get new skills.

We recommend that you also register at our website for My Account to save all your information in one place and get priority support when you need it.

### **OBLIGATIONS UNDER THE COMPLIANCE NOTICE**

If the Employer fails to comply with the Compliance Notice by **8 March 2021**, it may contravene section 716(5) of the FW Act (unless it has a reasonable excuse).

In those circumstances, the FWO may (without further notice) commence legal action against the Employer and/or individuals involved in the Employer's failure to comply with the Compliance Notice. A Court may impose penalties of up to \$6,660 in respect of an individual or \$33,300 in respect of a body corporate for each failure to comply with a Compliance Notice.

Alternatively, the Employer may apply to the Federal Court, Federal Circuit Court or an eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:

- (a) the Employer did not commit the contraventions set out in this Compliance Notice
- (b) the Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

For further general information about Compliance Notices, please refer to our Compliance and Enforcement Policy, which can be found on our website.

Finally, we note that you may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information, or produce false or misleading documents, to the FWO. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

### **Other Matter**

I also take this opportunity to advise you that in the course of my investigation, I found that the Employer did not comply with sub-clause 10.3 of the Award. Compliance of the Award is required as section 45 of the FW Act provides that 'a person must not contravene a term of a modern award.'

In particular, the part-time written agreements between the Employer and its part-time employees, **s.22 Irrelevant Information** and **s.22 Irrelevant Information** did not set out *a regular pattern of work* as required by sub-clause 10.3 of the Award.

For your convenience, sub-clause 10.3 of the Award provides:-

**10.3** At the time of engaging a part-time employee, the employer and employee must agree in writing on a regular pattern of work.

I also bring to your attention, sub-clauses 10.4 to 10.6 which provide:-

**10.4** If the agreement under clause 10.3 is that the employee will work on a roster, the agreement must specify at least the following:

**(a)** the starting and finishing times for each shift; and

**(b)** the days or part days on which the employee will not be rostered.

**10.5** If the agreement under clause 10.3 is that an employee will work otherwise than on a roster, the agreement must specify all of the following:

**(a)** the number of hours to be worked each day; and

**(b)** the days of the week on which the employee will work; and

**(c)** the times at which the employee will start and finish work each day.

**10.6** Any variation agreed by the employer and the employee to the number of hours to be worked must be in writing.

I understand that the Employer may have made a mistake, but it is against the law and something you need to correct. When I raised this finding in a phone conversation with you on 4 February 2021 and advised you that I would be sending an email to you regarding this, you advised me that you would read my email and speak with your attorney to update the agreements.

The FWO looks forward to receiving your email update by **1 March 2021** advising of the progress made by the Employer to comply with sub-clause 10.3 of the Award for all the Employer's part-time employees and not just for **s.22 Irrelevant Information** and **s.22 Irrelevant Information**.

Should you wish to discuss this letter or clarify any of the issues raised in the Compliance Notice, please contact me at **s.22 Irrelevant Information** or on **s.22 Irrelevant Information**.

Yours sincerely

**s.22 Irrelevant Information**

**s.22 Irrelevant Information**

**Fair Work Inspector  
Fair Work Ombudsman**



GPO Box 9887 Sydney NSW 2001

## COMPLIANCE NOTICE

(issued under section 716(2) of the *Fair Work Act 2009* (Cth))

Date of Issue: 5 February 2021

Name of Employer:

s.47E(d) Certain operations of agencies

ABN/ACN (if applicable):

s.47E(d) Certain operations of agencies

Employer Contact:

s.22 Inrelevant information

I, s.22 Inrelevant information, being a duly appointed Fair Work Inspector, reasonably believe that s.47E(d) Certain operations of agencies (Employer) has contravened a term of the *Security Services Industry Award 2010* (Award), as described below. This Compliance Notice requires you to take steps to remedy the contraventions described below.

### Rights and obligations under this Compliance Notice

1. Failure to comply with this Compliance Notice may contravene section 716(5) of the *Fair Work Act 2009* (Cth) (FW Act) and render you liable for a civil penalty (unless you have a reasonable excuse).
2. You may be liable to a civil remedy if you give false or misleading information or produce false or misleading documents. It is also a serious offence under the *Criminal Code* (Cth).
3. If you do not comply with this Compliance Notice, the Fair Work Ombudsman may, without further notice, commence legal action against you and/or individuals involved in your failure to comply with this Compliance Notice to recover any outstanding monies which this Compliance Notice requires you to pay and to seek civil penalties.
4. Complying with the Compliance Notice is not an admission that you contravened, or have been found to have contravened, the Award or the FW Act.
5. You may apply to the Federal Court, Federal Circuit Court or eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:
  - (a) you did not commit the contraventions set out in this Compliance Notice;
  - (b) this Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

### Details of the contravention

6. The Employer, between 15 June 2020 and 21 June 2020 (Period), contravened the clauses of the Award (in force as at the time of the contravention) set out in the table below.

No	Clause	Details of contravention(s)
(a)	22.3	<p><b>Sunday Span Penalty contravention</b></p> <p>failing to pay casual employees:</p> <p>(a) s.22 Irrelevant Information; and            (b) s.22 Irrelevant Information</p> <p>a 125% penalty rate in addition to the ordinary time rate for ordinary hours worked during the Sunday Span (<b>Sunday Span Penalty entitlement</b>)</p> <p><b>Sunday Span</b> means 0000 hrs to 2400 hrs on a Sunday</p>

### Required action under this Compliance Notice

7. In accordance with section 716(2) of the FW Act, I require you by **1 March 2021** to:

#### **Step 1 – calculate and rectify underpayments**

- (a) in respect of the contravention referred to in row (a) of the table above:

- (i) identify each employee employed by the Employer who was not paid (but was required by the Award to be paid) the Entitlement that is the subject of the contravention – the Entitlement is found in the ‘Details of Contravention’ column of the table above
- (ii) in respect of each such employee identified:
  1. identify the employee’s classification under the Award and their employment status (ie full-time, part-time or casual)
  2. identify the number of hours the employee worked during the Period in respect of which the Entitlement was required to be paid by the Award (**Hours**) – ignore this step if the Entitlement is not paid on an hourly basis
  3. identify the amount the Employer paid to the employee during the Period in respect of the Entitlement (having regard to the Hours, where applicable)
  4. calculate the amount the Employer should have paid to the employee during the Period in respect of the Entitlement (having regard to the Hours, where applicable)
  5. make a payment to the employee of the difference between the amount referred to in (3) and the amount referred to in (4) immediately above
  6. make a record of the information and amounts referred to in (1) to (4) and the amount of the payment referred to in (5) immediately above (**Underpayment Rectification Information**)



**Step 2 – Superannuation**

- (b) calculate additional superannuation contributions required by clause 20.2 of the Award in respect of the amounts required to be paid to employees of the Employer as a result of Step 1
- (c) in relation to each employee who is owed such additional superannuation contributions, pay such additional superannuation contributions to the chosen Superannuation Fund of the employee.

***Reasonable evidence of steps taken to comply with this Compliance Notice***

8. In accordance with section 716(2) of the FW Act, I require you to produce the following reasonable evidence of your compliance with the actions specified in paragraph 7 above:
  - (a) a schedule that sets out:
    - (i) the full name of each employee identified in Step 1
    - (ii) in relation to each such employee, and in respect of each contravention that concerns the employee, the Underpayment Rectification Information
    - (iii) in relation to each such employee, the additional superannuation contributions calculated for the employee and paid to the employee’s Superannuation Fund in accordance with Step 2
  - (b) proof that full payment has been made to each employee identified in Step 1 of the payments required to be made by Step 1 and Step 2, such as a bank transfer showing the transfer of funds to the employee and their Superannuation Fund, or a copy of the employee’s payroll records showing the payments.
9. The evidence referred to above must be provided to the Fair Work Ombudsman by **8 March 2021** by email to **s.22 Irrelevant Information** or by post to GPO Box 9887, SYDNEY NSW 2001, or in person to Level 13, 175 Liverpool St, SYDNEY NSW 2001.
10. You may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information or produce false or misleading documents in response to this Compliance Notice. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

s.22 Irrelevant Information



s.22 Irrelevant Information

**Fair Work Inspector  
Fair Work Ombudsman**





GPO Box 9887 Sydney NSW 2001

17 March 2021

s.22 Irrelevant information

s.47E(d) Certain operations of agencies

By email only to: s.22 Irrelevant Information

Reference number: s.22 Irrelevant Information

## LETTER OF ACKNOWLEDGEMENT OF COMPLIANCE

Dear s.22 Irrelevant

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies (Employer) concerning compliance with the Fair Work Act 2009.

### BACKGROUND

As per previous communications in this matter, an audit was conducted to establish whether the Employer had complied with the *Fair Work Act 2009* (Cth) (FW Act).

As a result of that audit, I reasonably believed that the Employer had contravened has contravened a term of the *Security Services Industry Award 2010* [Award code: MA000016] (Award), as set out in the compliance notice dated 5 February 2021 (Compliance Notice) that was served on the Employer.

### ACKNOWLEDGEMENT OF COMPLIANCE

This letter is to acknowledge that the Employer has complied with the Compliance Notice. As a result, no further action will be taken by the FWO in relation to the contravention detailed in the Compliance Notice.

### NEXT STEPS

Following your compliance with the Compliance Notice, it is very important that you review your practices moving forward to ensure that all of your employees have their minimum entitlements met in accordance with any applicable awards, agreements, determinations and/or orders and the FW Act.

To assist you, we have attached the following materials (a number of which were also previously provided to you):

- (a) A link to the: [Security Services Industry Award 2010](#);
- (b) Historical pay guides – previously provided by email.

This information can also be found on our website ([www.fairwork.gov.au](http://www.fairwork.gov.au)), which contains further tools  
[www.fairwork.gov.au](http://www.fairwork.gov.au) | Fair Work Infoline: 13 13 94 | ABN: 43 884 188 232

to help you understand and comply with your obligations, including:

- (a) a Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements;
- (b) templates and checklists to make record keeping easy; and
- (c) an online learning centre to learn the basics and get new skills.

We recommend that you register at [www.fairwork.gov.au](http://www.fairwork.gov.au) for My Account to save all your information in one place and get priority support when you need it.

We welcome feedback about your experience with us. It helps us to know what we're doing well and what changes we need to make. Tell us what you think about our services, by completing our online feedback form at [www.fairwork.gov.au/feedback](http://www.fairwork.gov.au/feedback).

### Other matter

In my letter dated 5 February 2021, I advised you that the Employer did not comply with sub-clause 10.3 of the Award. Compliance of the Award is required as section 45 of the FW Act. I asked for your email update by 1 March 2021 advising of the progress made by the Employer to comply with sub-clause 10.3 of the Award.

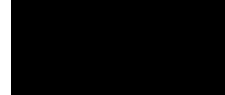
On 9 March 2021, I received an email from your lawyer, attaching a contract of employment (**Contract**). Thank you for the Contract. I write to inform you however that neither the FWO nor I have reviewed the Contract. The Employer is responsible for ensuring that the Contract complies with all requirements of the Award.

Should you wish to discuss this letter, please contact me at **s.22 Irrelevant Information** or on **s.22 Irrelevant Information**

**s.22 Irrelevant Information**

Yours sincerely

**s.22 Irrelevant Information**



**s.22 Irrelevant Information**

**Fair Work Inspector  
Fair Work Ombudsman**



GPO Box 9887, Hobart TAS 7001

30 March 2021

s.22 Irrelevant Information  
s.47E(d) Certain operations of agencies

Reference Number: s.22 Irrelevant Information

## COMPLIANCE NOTICE ISSUED TO s.47E(d) Certain operations of agencies

Dear s.22 Irrelevant Information

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies regarding security services provided during the Victorian Hotel Quarantine Program.

The FWO is an independent agency responsible for ensuring compliance with the *Fair Work Act 2009* (FW Act) and other relevant Commonwealth workplace laws.

### BACKGROUND

An audit was conducted to establish whether s.47E(d) Certain operations of agencies had complied with the FW Act.

As a result of that audit, I reasonably believe that s.47E(d) Certain operations of agencies has contravened terms of the s.47E(d) Certain operations of agencies Agreement 2018 (Agreement), as set out in the attached compliance notice dated 30 March 2021 (Compliance Notice).

To date, the underpayments arising as a result of these contraventions have not been rectified.

On this basis, I have determined that the appropriate enforcement measure in this instance is to issue s.47E(d) Certain operations of agencies with the Compliance Notice under s716 of the FW Act.

### ACTION REQUIRED

The Compliance Notice provides s.47E(d) Certain operations of agencies with an opportunity to rectify the contraventions.

The Compliance Notice sets out a number of actions that s.47E(d) Certain operations of agencies is required to take on or before 30 April 2021. Please consider the actions specified in the Notice carefully.

Complying with the Compliance Notice is not an admission (nor does it constitute a finding) that s.47E(d) Certain operations of agencies has contravened the s.47E(d) Certain operations of agencies Agreement 2018 or the FW Act.

## OBLIGATIONS UNDER THE COMPLIANCE NOTICE

If **s.47E(d) Certain operations of agencies** fails to comply with the Compliance Notice by **30 April 2021** it may contravene section 716(5) of the FW Act (unless it has a reasonable excuse).

In those circumstances, the FWO may (without further notice) commence legal action against **s.47E(d) Certain operations of agencies** and/or individuals involved in **s.47E(d) Certain operations of agencies** failure to comply with the Compliance Notice. A Court may impose penalties of up to \$6,660 in respect of an individual or \$33,300 in respect of a body corporate for each failure to comply with a Compliance Notice.

Alternatively, **s.47E(d) Certain operations of agencies** may apply to the Federal Court, Federal Circuit Court or an eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:

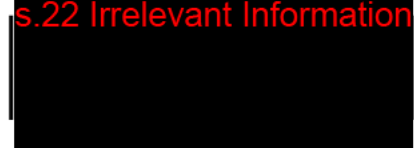
- (a) **s.47E(d) Certain operations of agencies** did not commit the contravention(s) set out in this Compliance Notice
- (b) the Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.

For further general information about Compliance Notices, please refer to our Compliance and Enforcement Policy, which can be found on our website.

Finally, we note that you may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information, or produce false or misleading documents, to the FWO. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

Should you wish to discuss this letter, or clarify any of the issues raised in the Compliance Notice, please contact me on **s.22 Irrelevant Information** or at **s.22 Irrelevant Information**.

Yours sincerely

**s.22 Irrelevant Information**  


**s.22 Irrelevant Information**

**Fair Work Inspector  
 Fair Work Ombudsman**



GPO Box 9887, Hobart TAS 7001

## COMPLIANCE NOTICE

(issued under section 716(2) of the *Fair Work Act 2009* (Cth))

Date of Issue: 30 March 2021

Name of Employer:

s.47E(d) Certain operations of agencies

ABN:

s.47E(d) Certain operations of agencies

Director :

s.22 Irrelevant Information

I **s.22 Irrelevant Information**, being a duly appointed Fair Work Inspector, reasonably believe that **s.47E(d) Certain operations of agencies** (Employer) has contravened terms of the **s.47E(d) Certain operations of agencies** *Agreement 2018 (Agreement)*, as described below. This Compliance Notice requires you to take steps to remedy the contraventions described below.

### Rights and obligations under this Compliance Notice

1. Failure to comply with this Compliance Notice may contravene section 716(5) of the *Fair Work Act 2009* (Cth) (FW Act) and render you liable for a civil penalty (unless you have a reasonable excuse).
2. You may be liable to a civil remedy if you give false or misleading information or produce false or misleading documents. It is also a serious offence under the *Criminal Code* (Cth).
3. If you do not comply with this Compliance Notice, the Fair Work Ombudsman may, without further notice, commence legal action against you and/or individuals involved in your failure to comply with this Compliance Notice to recover any outstanding monies which this Compliance Notice requires you to pay and to seek civil penalties.
4. Complying with the Compliance Notice is not an admission that you contravened, or have been found to have contravened, the Agreement, the *Security Services Industry Award (Award)* or the FW Act.
5. You may apply to the Federal Court, Federal Circuit Court or eligible State or Territory Court for a review of this Compliance Notice on either or both of the following grounds:
  - (a) you did not commit the contraventions set out in this Compliance Notice;
  - (b) this Compliance Notice does not comply with sections 716(2) or 716(3) of the FW Act.



**Details of the contravention(s)**

6. The Employer, between 3 April 2020 and 5 July 2020 (Period), contravened the clauses of the Agreement set out in the table below.

No	Clause	Details of contraventions
(a)	cl 20.9 & Schedule B of Agreement	<b>Laundry Allowance Entitlement contravention</b> for those employees who were employed by the Employer prior to 1 June 2018 shall be paid the laundry allowance of \$0.61 per shift ( <b>Laundry Allowance entitlement</b> ), failing to pay those employees the Laundry Allowance entitlement.
(b)	cl 18.3.1, 18.3.3, 18.3.5, 18.4 and Schedule B of the Agreement	<b>Productivity Allowance Entitlement contravention</b> for Group 3 employees who were entitled to the productivity allowance of .10 cents per working hour ( <b>Productivity Allowance entitlement</b> ), failing to pay those employees the Productivity Allowance entitlement.
(c)	cl 18.3.1, 18.3.3 & 18.3.5 as set out in Schedule D of the Agreement in conjunction with penalty rates set out in cl 20.2 of the Security Services Industry Award 2020	<b>Public Holiday Span Penalty for Casual Employee contravention</b> failing to pay: (a) <b>s.22 Irrelevant Information</b> on Anzac Day 25 April 2020 and Queen's Birthday 8 June 2020. a 150% penalty rate in addition to the ordinary time rate (100%) plus casual loading (25%) for ordinary hours worked during the Public Holiday Span ( <b>Public Holiday Span Penalty entitlement</b> ). <b>Public Holiday Span</b> means 0000 hrs to 2400 hrs on a public holiday

**Required action under this Compliance Notice**

7. In accordance with section 716(2) of the FW Act, I require you by **30 April 2021** to:

**Step 1 – calculate and rectify underpayments**

- (a) in respect of the contravention referred to in row (a) of the table above:

- (i) identify each employee employed by the Employer who was not paid (but was required by the Agreement to be paid) the Entitlement that is the subject of the contravention – the Entitlement is found in the 'Details of Contravention' column of the table above
- (ii) in respect of each such employee identified:
  1. identify the employee's classification under the Agreement and their employment status (ie full-time, part-time or casual)
  2. identify the number of hours the employee worked during the Period in respect of which the Entitlement was required to be paid by the Agreement (**Hours**) – ignore this step if the Entitlement is not paid on an hourly basis



3. identify the amount the Employer paid to the employee during the Period in respect of the Entitlement (having regard to the Hours, where applicable)
  4. calculate the amount the Employer should have paid to the employee during the Period in respect of the Entitlement (having regard to the Hours, where applicable)
  5. make a payment to the employee of the difference between the amount referred to in (3) and the amount referred to in (4) immediately above
  6. make a record of the information and amounts referred to in (1) to (4) and the amount of the payment referred to in (5) immediately above (**Underpayment Rectification Information**)
- (b) repeat the same process described in Step 1(a) for each of the contraventions referred to in rows (b) to (c) of the table above

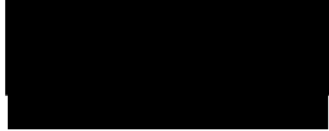
### **Step 2 – Superannuation**

- (c) calculate additional superannuation contributions required by clause 31 of the Agreement in respect of the amounts required to be paid to employees of the Employer as a result of Step 1
- (d) in relation to each employee who is owed such additional superannuation contributions, pay such additional superannuation contributions to the chosen Superannuation Fund of the employee.

### ***Reasonable evidence of steps taken to comply with this Compliance Notice***

8. In accordance with section 716(2) of the FW Act, I require you to produce the following reasonable evidence of your compliance with the actions specified in paragraph 7 above:
  - (a) a schedule that sets out:
    - (i) the full name of each employee identified in Step 1
    - (ii) in relation to each such employee, and in respect of each contravention that concerns the employee, the Underpayment Rectification Information
    - (iii) in relation to each such employee, the additional superannuation contributions calculated for the employee and paid to the employee's Superannuation Fund in accordance with Step 2
  - (b) proof that full payment has been made to each employee identified in Step 1 of the payment(s) required to be made by Step 1 and Step 2, such as a bank transfer showing the transfer of funds to the employee and their Superannuation Fund, or a copy of the employee's payroll records showing the payment(s).
9. The evidence referred to above must be provided to the Fair Work Ombudsman by 7 May 2021 by delivery to GPO Box 9887, Hobart TAS 7001 or email at s.22 Irrelevant Information
10. You may be liable to a civil penalty or other civil remedy under the FW Act if you give false or misleading information or produce false or misleading documents in response to this Compliance Notice. You may also be liable for a criminal offence under the *Criminal Code* (Cth) if you do so.

s.22 Irrelevant Information



s.22 Irrelevant Information

Fair Work Inspector  
Fair Work Ombudsman

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act



GPO Box 9887, Hobart TAS 7001

11 May 2021

s.22 Irrelevant Information

s.47E(d) Certain operations of agencies

s.47E(d) Certain operations of agencies

s.22 Irrelevant Information

s.47E(d) Certain operations of agencies

Via email:

s.22 irrelevant information

Reference number: s.22 Irrelevant Information

## LETTER OF ACKNOWLEDGEMENT OF COMPLIANCE

Dear s.22 Irrelevant Information,

I refer to the compliance activity undertaken by the Fair Work Ombudsman (FWO) into s.47E(d) Certain operations of agencies concerning the relevant Commonwealth workplace laws during the Victorian Hotel Quarantine Program.

### BACKGROUND

As per previous communications in this matter, an audit was conducted to establish whether s.47E(d) Certain operations of agencies had complied with the *Fair Work Act 2009* (Cth) (FW Act).

As a result of that audit, I reasonably believed that s.47E(d) Certain operations of agencies had contravened terms of the s.47E(d) Certain operations of agencies Agreement 2018 (Commonwealth workplace laws) as follows:

- Clause 20.9 – Not providing employees entitled to a Laundry Allowance Entitlement their paid laundry allowance;
- Clauses 18.4 – Not providing employees entitled to a Productivity Allowance Entitlement their paid productivity allowance; and
- Failing to pay s.22 Irrelevant Information the Public Holiday Span Penalty for a Casual Employee.

As a result of my reasonable belief that contraventions of Commonwealth workplace laws had occurred, s.47E(d) Certain operations of agencies was served with a compliance notice dated 30 March 2021 regarding the contraventions detailed above (Compliance Notice).

## ACKNOWLEDGEMENT OF COMPLIANCE

This letter is to acknowledge that **s.47E(d) Certain operations of agencies** has complied with the Compliance Notice. As a result, no further action will be taken by the FWO in relation to the contraventions detailed in the Compliance Notice.

## NEXT STEPS

Following your compliance with the Compliance Notice, it is very important that you review your practices moving forward to ensure that all of your employees have their minimum entitlements met in accordance with any applicable awards, agreements, determinations and/or orders and the FW Act.

To assist you, we refer to information that can be found on our website ([www.fairwork.gov.au](http://www.fairwork.gov.au)), which contains further tools to help you understand and comply with your obligations, including:

- (a) a Pay and Conditions Tool (PACT) to accurately calculate pay, leave and other entitlements;
- (b) templates and checklists to make record keeping easy; and
- (c) an online learning centre to learn the basics and get new skills.

We recommend that you register at [www.fairwork.gov.au](http://www.fairwork.gov.au) for My Account to save all your information in one place and get priority support when you need it.

We welcome feedback about your experience with us. It helps us to know what we're doing well and what changes we need to make. Tell us what you think about our services, by completing our online feedback form at [www.fairwork.gov.au/feedback](http://www.fairwork.gov.au/feedback).

Should you wish to discuss this letter or any of your obligations further, please contact me on **s.22 Irrelevant Information** or at **s.22 Irrelevant Information**

Yours sincerely

**s.22 Irrelevant Information**

**s.22 Irrelevant Information**

**Fair Work Inspector  
Fair Work Ombudsman**