



# Tasmanian South-East Coast Regional Campaign Report

March 2018

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# TAS SOUTH EAST COAST REGIONAL CAMPAIGN

## WHAT DID WE FIND?



**31%** were non-compliant with their obligations under workplace laws



**13%** of businesses were not paying their employees correctly



**20%** of businesses were non-compliant with payslip and record-keeping requirements



**\$9 580** recovered for 11 employees from 6 businesses

## WHERE DID WE GO?

**55 BUSINESSES  
AUDITED**



**ORFORD  
TRIABUNNA  
SWANSEA  
BICHENO  
SCAMANDER**

## ENFORCEMENT OUTCOMES

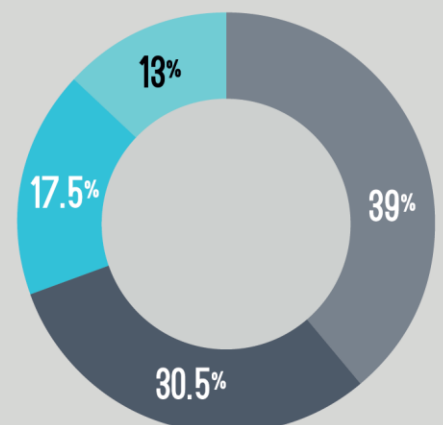


**30%** of non-compliant businesses received enforcement outcomes

## INDIVIDUAL BREACHES

### INDIVIDUAL BREACHES IDENTIFIED

- PAY SLIPS
- HOURLY RATES
- WEEKEND PENALTIES
- OTHER



# Summary

This report provides the results of an education and compliance campaign undertaken by the Fair Work Ombudsman (FWO) on the South and East Coasts of Tasmania. The FWO undertook this campaign due to identified employment growth in the region across numerous industry sectors, including accommodation & food services and manufacturing.<sup>1</sup> These industries are regularly identified by the FWO as having high levels of non-compliance as well as employing a high proportion of workers from vulnerable cohorts, including young and migrant workers.

From the 55 businesses audited:

- 7 (13%) were not paying their employees correctly
- 11 (20%) were not compliant with record-keeping and pay slip requirements
- 17 (31%) were not compliant with all requirements of the *Fair Work Act 2009* (the Act)
- \$9580 was recovered from six businesses on behalf of 11 employees
- Two formal cautions, one compliance notice and two infringement notices (on-the-spot fines) were issued.

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<sup>1</sup> Department of Employment, Labour market information portal, Industry Employment Profiles – Australian regions (four quarter averages of Original Labour Force Survey Data, ANZSIC Divisions)

# Campaign's Methodology

The FWO liaised with stakeholders in the region to discuss the planning, delivery and promotion of the campaign.

The campaign received media coverage through the Launceston Examiner and ABC Radio Launceston. This local media coverage informed a broader audience beyond those specifically included in the campaign. The FWO considers the local media coverage created a greater awareness of the campaign in the community and better prepared businesses to work with the FWO during the campaign.

Businesses were selected at random for participation in the campaign, with a higher weighting assigned to the largest employing industry sectors and those from which the FWO had received higher numbers of RfAs.

Fair Work Inspectors contacted businesses from towns in the region, including Orford, Triabunna, Swansea, Bicheno and Scamander and assessed time and wages records for compliance with the Act, the *Fair Work Regulations 2009* (the Regulations) and the applicable award or agreement. Where breaches were identified, inspectors required the businesses to rectify the issue and provide proof of having done so (including back-paying any underpaid employees).

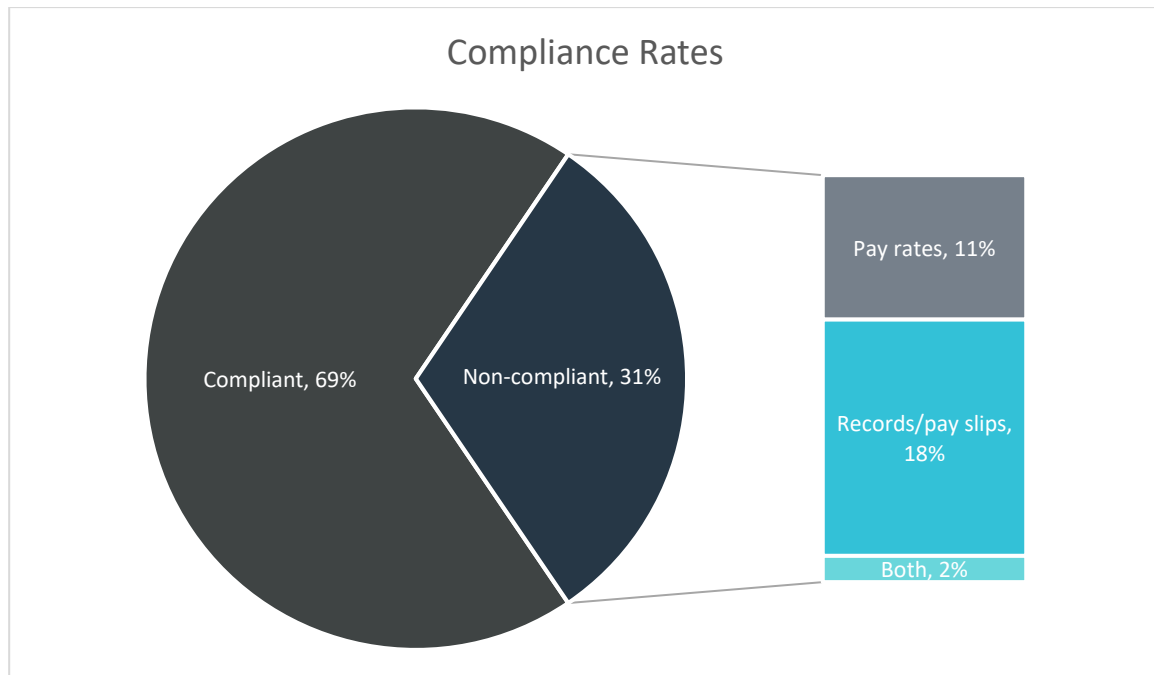
Businesses the FWO audited in the region were covered by awards that included:

- Fast Food Industry Award 2010
- Building and Construction General On-site Award 2010
- General Retail Industry Award 2010
- Hospitality Industry (General) Award 2010.

Inspectors also provided businesses with information and resources to help them comply with their obligations under Australian workplace laws. In particular, businesses were provided with the online resources freely available on the FWO website [www.fairwork.gov.au](http://www.fairwork.gov.au), including [pay rates](#), [hiring employees](#), [My account](#) and [online training courses](#).

# Key Findings

The campaign found that 31% of businesses were non-compliant with their obligations under workplace laws.



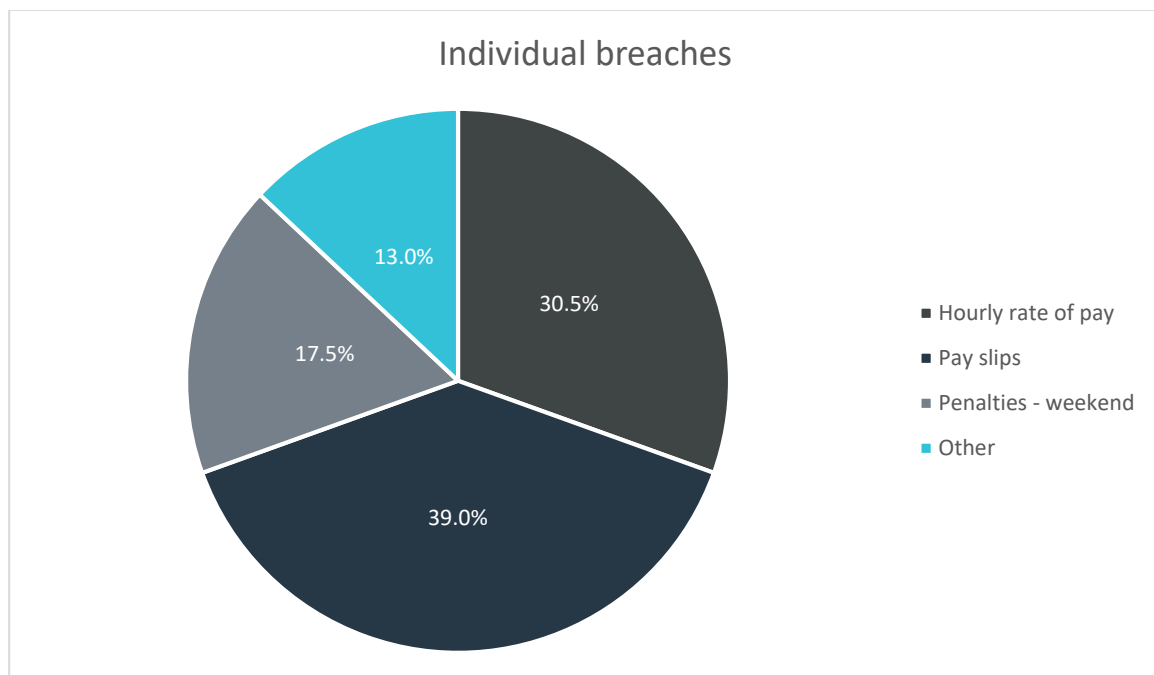
Of the 55 businesses audited:

- 38 (69%) businesses were compliant with all requirements
- 17 (31%) businesses had at least one breach:
  - 10 (18%) had breaches relating to records/pay slips
  - six (11%) had breaches relating to pay rates
  - one (2%) had both pay rate and record/pay slip breaches.

This means that:

- 7 (13%) businesses were not paying their employees correctly
- 11 (20%) businesses were not compliant with record-keeping and pay slip requirements
- \$9580 was recovered from six businesses on behalf of 11 employees.

### Individual breach types



The 17 businesses that were found to be non-compliant had a total of 23 individual breaches. The most common breaches related to pay slips (39%), underpayment of hourly rate (30.5%) and penalty rates-weekend (17.5%).

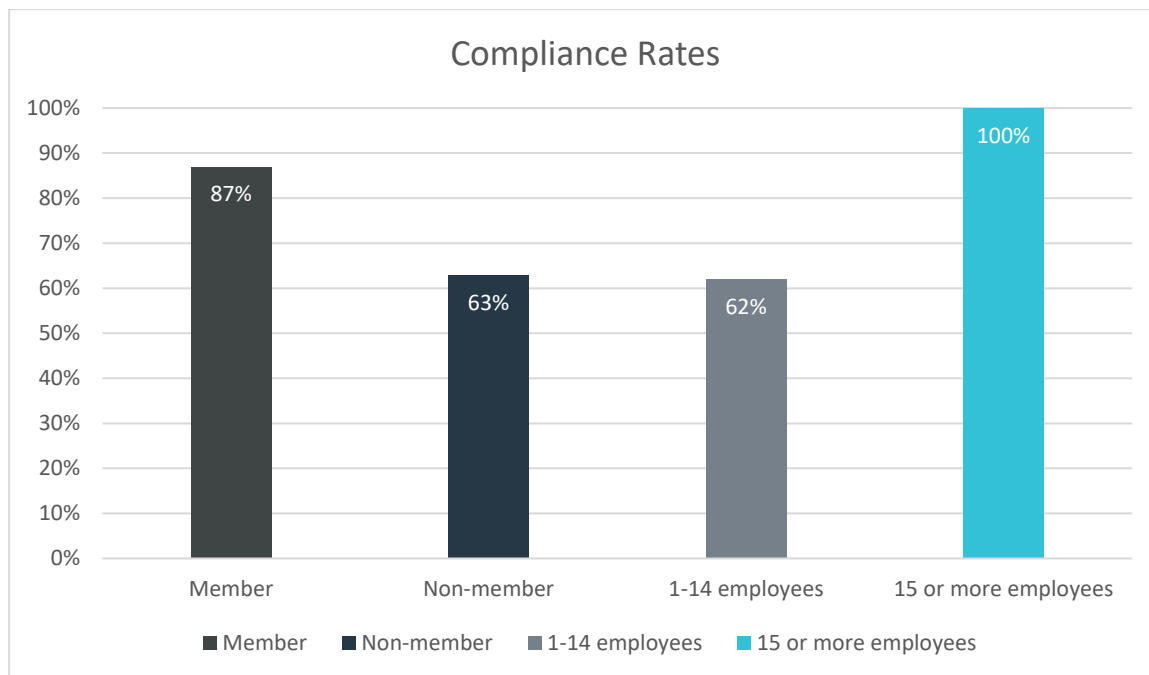
Individual monetary recovery amounts ranged from \$111.70 to \$3834.99. The majority of pay slip breaches related to the omission of one item, such as superannuation fund name, employer name or ABN.

### Association membership and business size

The FWO has found that businesses are more likely to be compliant with workplace laws when they have access to specialised workplace relations advice such as through membership to an employer organisation, access to accounting or legal advice or a dedicated human resources professional within the business. Larger businesses are more likely to have the resources to employ a human resources or payroll professional in-house.

The campaign found that larger businesses (with 15 or more employees) were 100% compliant, whereas the compliance rate for smaller businesses was 62%.

Businesses that were members of an industry or employer association had a higher compliance rate (87%) than businesses that were not members (63%).





# Outcomes

The FWO had a number of compliance and enforcement outcomes as a result of the non-compliance found in the audits, including:

- two formal cautions
- two infringement notices
- one compliance notice.

A range of case studies are below to illustrate the compliance outcomes from the campaign.

## Case study – Formal caution

Two formal cautions were issued as part of the campaign.

Formal cautions are issued when the FWO has found non-compliance with the FW Act and it is considered appropriate to put a business on notice that future non-compliance could result in the FWO seeking financial penalties. If the FWO becomes aware of any further instances of non-compliance, the fact that the business was issued with a formal caution (in writing) will be taken into account in deciding whether to commence civil proceedings against the business, and it may be used as evidence in any penalty determinations.

A Fair Work Inspector audited a local take away business that had eight employees, all covered by the *Fast Food Industry Award 2010*. On reviewing the records provided, the inspector identified a number of breaches.

The business employed two casual workers and they were receiving a flat hourly rate for all hours worked. The flat rate was insufficient to cover their minimum entitlements as per the award. In addition, although the award allows for an employer to provide and deduct for accommodation, the owner of the business had failed to document these agreements and show the deductions.

To assist in rectifying the issues, the inspector provided the correct rates of pay and directed the employer to back-pay any outstanding entitlements. The employer was also advised to document all agreements and record all deductions.

The employer back paid two employees a combined total of \$2 018.11.

As there were multiple breaches, a formal caution was issued on the business.

### Case study – Infringement notice

An infringement notice is a fine given to a business for non-compliance with record-keeping or pay slip requirements of the Act and the Regulations. A total of \$360 in infringement notices were issued during the campaign.

A Fair Work Inspector audited a retail store and identified that the pay slips provided to their employees were not compliant with the Regulations. The pay slips (provided for the audit) failed to include the employer's name, the period to which the payment related to, and did not contain superannuation fund names or contribution amounts.

The employer could not provide a reason for why they did not comply as they had been provided information in relation to pay slip requirements from a previous FWO audit and had continued to issue non-compliant pay slips.

As the employer demonstrated an inability to change their behaviour an infringement notice was issued for failing to meet the requirements for pay slips.

### Case study – Compliance notice

A compliance notice is a written notice legally requiring a business to rectify breaches of the Act. Failure to comply with a compliance notice results in the FWO commencing legal proceedings. A total of \$3445.90 was recovered from one business for four employees as a result of the compliance notice issued.

A motel from the region was included in the audit. The business had eight employees who were covered by the *Hospitality Industry (General) Award 2010*. On reviewing the records (provided for the audit), inspectors identified that four casual employees were being underpaid. The employees' base pay rates did not meet the minimum requirements of the award which meant they were also underpaid penalty rates for evening and weekend work.

The employer was provided the correct rates (and the soon to take effect annual wage increase) and directed to conduct calculations. The calculations were checked by FWO and they showed that the four casual employees had been underpaid a combined total of \$3579.44.

Due to the multiple breaches and that half of the business's employees had been underpaid, the employer was issued with a compliance notice for the amounts owed to the employees. The employer cooperated with FWO and rectified the underpayment in accordance with the compliance notice.

# Conclusion

The campaign revealed that 31% of businesses in the region were non-compliant with their workplace obligations, with the majority of breaches in relation to record keeping/pay slip breaches (18%) and underpayments (11%)

Larger businesses and members of industry or employer associations were more likely to be compliant with their workplace relations obligations than small businesses, which often lack ready access to professional support. This demonstrates the importance of the FWO's continuing focus on providing advice and assistance to small businesses, particularly in locations such as the South-East Coast of Tasmania where the proportion of small businesses is high.

The results of this campaign will inform future education and audit activities, which may include businesses from the region. All businesses found to be non-compliant during this campaign will be considered for inclusion in the FWO's ongoing National Compliance Monitoring Program.

The FWO will continue to educate employers on their obligations and encourage them to contact the FWO and others for assistance and advice on workplace relations matters, and also encourages businesses to use information, tools and resources available at [www.fairwork.gov.au](http://www.fairwork.gov.au) that are designed to make compliance easier.

The website contains online learning modules for example, that cover an array of topics, including a record-keeping and payslip module, which helps employers (especially small business without HR support) learn how to make, update and manage employment records for their business.

The FWO will continue to work with businesses across the South and East Coasts of Tasmania to encourage sustained, conscious compliance with workplace laws.

# About the Fair Work Ombudsman

The Fair Work Ombudsman is an independent agency created by the *Fair Work Act 2009* on 1 July 2009. Our main role is to promote harmonious, productive and cooperative workplace relations.

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

These campaigns can focus on particular industries, regions and/or labour market issues and are conducted on national or regional levels.

This report covers the background, method and findings of the Tasmania South-East Coast Regional Campaign. For further information and media enquiries please contact the media team at [media@fwo.gov.au](mailto:media@fwo.gov.au)

If you would like further information about the Fair Work Ombudsman's campaigns please contact Glenn Jordan, Executive Director - Proactive Compliance and Education at [glenn.jordan@fwo.gov.au](mailto:glenn.jordan@fwo.gov.au).