

National Hair and Beauty Campaign 2012-13

Final report – July 2013





Summary	4
Purpose of the campaign	4
Our industry partners	4
Why did we target this industry?	5
What did we do?	5
Information and awareness phase	5
Audit phase	6
What did we find	6
Overall findings	6
Regional findings	7
Our concluding remarks	13
About the Fair Work Ombudsman	14
Appendix A –Additional stakeholders	14
Appendix B – Pre-modern awards	14
Appendix C –Regional maps	16

The year at a glance

Performance snapshot

Glance

858

Assessments completed

Total of

384

Employers compliant

Total of

474

Employers non-compliant

Over

680

Separate contraventions
identified

Over

369K

Recovered for 635 employees

National Hair and Beauty Campaign 2012-2013

Summary

The Fair Work Ombudsman (FWO) receives a significant number of complaints from the hair and beauty industry (the industry) each year.

Based on our complaint findings and the results from our previous National Hair and Beauty Campaign in 2009, we believed it was necessary to revisit the industry and complete further compliance work.

Communication was a key component of the National Hair and Beauty Campaign 2012-13 (the campaign).

Prior to undertaking record-keeping and wages assessments, we communicated with the industry through numerous channels including online advertisements, webinar, podcast, media, letters, emails, forums and via our stakeholder networks.

We aimed to inform all employers and employees in the industry of the campaign and to encourage them to make use of the free information, resources and tools on our website to help them achieve compliance.

In October 2012 we notified the employers we had selected for assessment. Of the 858 assessments completed, we found 384 (45%) to be compliant and 474 (55%) to be in contravention.

The majority (51%) of non-compliant employers had monetary contraventions.

Compliance levels among the regions ranged between 21% in the Australian Capital Territory to 59% in Queensland.

Through this campaign we recovered \$369 770.46 for 635 employees who had been underpaid their entitlements.

Purpose of the campaign

The aim of the campaign was to educate industry employers and employees on the *Hair and Beauty Industry Award 2010* (the award) and assess compliance with the award, *Fair Work Act 2009* (the Act) and the *Fair Work Regulations 2009* (the Regulations).

Specifically, we assessed employers were meeting their:

- record-keeping
- pay slip and
- wages obligations

Our industry partners

In June 2012 we notified industry stakeholders of our intention to conduct a campaign within the industry.

We were pleased to have support from Hair and Beauty Australia Industry Association (HABA), who joined with us to co-brand campaign letters and flyers and promoted the campaign to their members. We also received promotional support from Hairdressing and Beauty Industry Association (HBIA).

A complete list of stakeholders contacted can be found at Appendix A.

National Hair and Beauty Campaign 2012-2013

Why did we target this industry?

We targeted this industry based on:

- our findings from our previous campaign in the industry in 2009
- our analysis of complaints received during 2010 and 2011
- the many vulnerable employees, such as apprentices, employed in the industry

In May 2012, the results from the National Hair and Beauty Campaign 2009 (campaign 2009) were as follows:

- 330 audits had been completed
- 38% of employers had contraventions
- \$239 240 was recovered for 273 employees.

An analysis of complaints received by FWO during 2010/2011 revealed many came from the 'personal care services' industry which includes the hair and beauty industry. 'Personal care services' ranked third in terms of total complaints received by FWO.

Of the 794 complaints received from the 'personal care services', 99% (789) came from the hair and beauty industry. Monetary contraventions were found in 60% of these complaints.

What did we do?

Information and awareness phase

In August 2012 we contacted 17 727 industry employers to notify them of the campaign and the self-help tools available at www.fairwork.gov.au/hairandbeauty. We advised the majority of employers by letter (12 925) and the other 4 802 employers via a direct email.

The letter and email invited employers to register for a webinar. We held the webinar on 24 September 2012 and it was attended by 48

individuals. It provided details of the campaign, the award and information about our online self-help tools. We posted the recording of the webinar, along with the questions raised during the session and our answers, on our [website and our YouTube channel](#). By 24 May 2013, the webinar had been viewed 225 times on YouTube.

We also promoted the campaign via both traditional media channels and social media posts. On 28 November 2012, we held an 'online chat' through our social media page. The online chat targeted young workers and apprentices.

Between October and November 2012, we used Facebook digital advertisements to encourage industry apprentices and trainees to visit the dedicated webpage. The advertisement appeared on 1 014 585 targeted Facebook user profiles and 1586 users clicked through to the dedicated webpage.

In November 2012, to further inform young workers, we distributed 60 000 Avant postcards designed specifically for young workers in the hair and beauty industry, to cafes, bars, tertiary institutes and other relevant venues in each state and territory. The postcards directed young workers to the FWO website, where they could get more information about their rights and entitlements.

Finally, we produced a podcast to help educate industry apprentices and trainees about their rights and entitlements. This podcast was posted on the FWO website in late 2012 and by 24 May 2013, it had been downloaded 182 times.

National Hair and Beauty Campaign 2012-2013

Audit phase

In October 2012 we selected businesses for audit. We wrote to inform them of their selection and requested they forward us employment documents for assessment.

When we received the documents we checked them to see if employers were meeting their record-keeping and wages obligations. We contacted employers we believed to have contraventions and asked them to provide us further information. Based on the documents and information, we were able to determine if an employer was compliant or non-compliant.

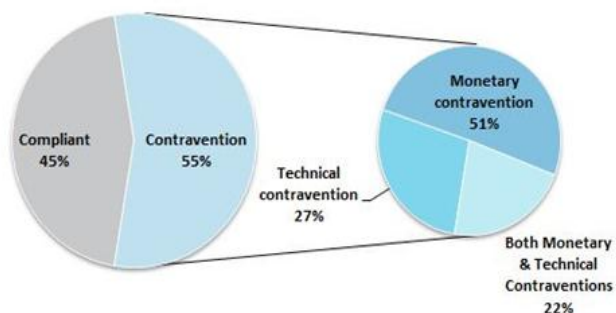
We advised each employer in writing of our findings. Employers with contraventions were asked to voluntarily rectify any contraventions and provide evidence of the same.

What did we find

Overall findings

By June 2013, we had completed 858 audits. Of these, 384 (45%) businesses were found to be compliant and 474 (55%) were in contravention.

Figure 1: Results chart

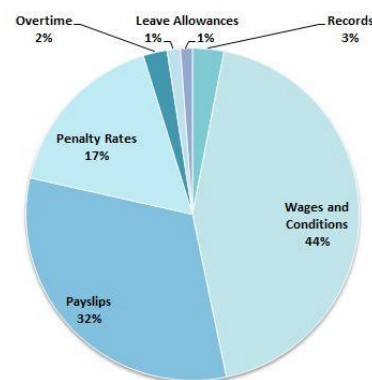


Of the 474 businesses found to be in contravention:

- 240 (51%) had monetary contraventions
- 131 (27%) had technical contraventions
- 103 (22%) had both monetary and technical contraventions.

We found the 474 non-compliant businesses had a total of 689 contraventions. Forty four per cent of these had wages and conditions contraventions and 32% had pay slip contraventions.

Figure 2: Contravention type chart



We recovered a total of \$369 770.46 from 295 businesses on behalf of 635 employees. The amount recovered from individual businesses ranged from under \$10 to over \$16,000. The greatest single recovery was for \$16 064 for a Northern Territory employer who underpaid six staff.

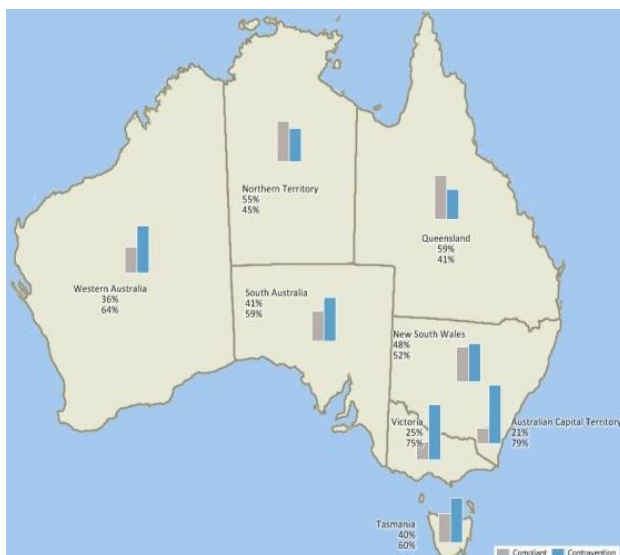
Most employers with monetary contraventions had underpaid their employees less than \$500 in total.

National Hair and Beauty Campaign 2012-2013

Regional findings

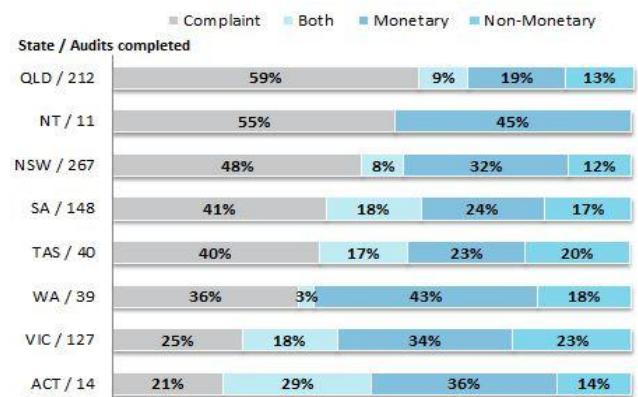
As shown in figure 3 all regions except for Tasmania, Western Australia, Victoria and the Australian Capital Territory were found to have a compliance rate greater than 40%. Only 21% of employers in the Australian Capital Territory were found to be compliant compared to 59% in Queensland.

Figure 3: Regional compliance levels



We conducted the most audits (267) in New South Wales and the least (14) in the Australian Capital Territory. Based on percentages, the Northern Territory had the highest monetary contravention rate (45%) followed by Western Australia (43%). Non-monetary contraventions ranged from 12% to 23% across the regions. Almost 30% of Australian Capital Territory businesses audited had both types of contraventions (monetary and non-monetary).

Figure 4: Regional contravention comparison chart



New South Wales/ Australian Capital Territory

Of the 281 audits we completed in NSW/ACT:

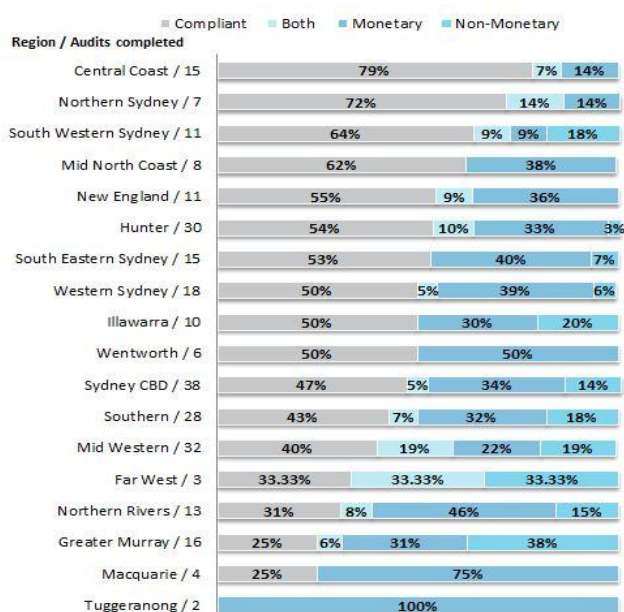
- 131 (47%) employers were compliant
- 150 (53%) employers were in contravention
 - 89 had monetary contraventions
 - 36 had technical contraventions
 - 25 had both monetary and technical contraventions
- \$92 918.66 was recovered for 177 employees

A breakdown of New South Wales and Australian Capital Territory regions found all except Tuggeranong, Macquarie, Greater Murray, Northern Rivers and Far West regions had a compliance rate of 40% or above.

All regions except the Central Coast, Northern Sydney, South Western Sydney, Far West and Mid-Western had a monetary contravention rate greater than 30%. The Greater Murray had the greatest percentage of non-monetary contraventions.

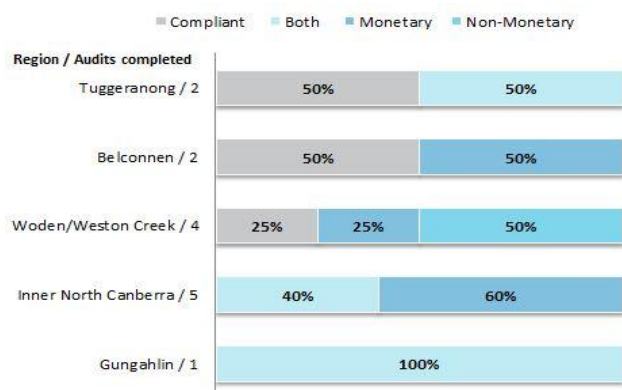
National Hair and Beauty Campaign 2012-2013

Figure 5: Findings for New South Wales



A map of the regions can be found in Appendix C

Figure 6: Findings for the Australian Capital Territory.



All Australian Capital Territory regions had a compliance rate less than 50%. Monetary contraventions between regions ranged from 0% in Gungahlin to 60% in Inner North Canberra.

We found many of the New South Wales and Australian Capital Territory employers with

monetary contraventions had not factored in the July 2012 annual wage increase and were therefore underpaying staff. Surprisingly, some of the employer's accountants were not aware of the wage increase.

Further, we found some juniors and apprentices had not been paid correctly. This usually resulted from their wage not increasing on their birthday or when they progressed to the next year of their apprenticeship.

Saturday rates were also an issue, with some non-compliant employers believing they were not required to pay the penalty rates as their employees were not rostered to work Sunday or Monday.

During this campaign, we had to follow-up numerous employers who failed to forward records to us when requested.

Queensland

Of the 212 businesses audited in Queensland:

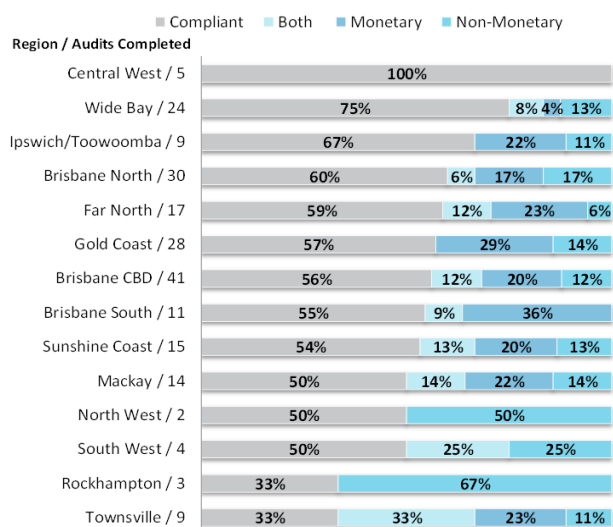
- 124 (58%) employers were compliant
- 88 (42%) employers were in contravention
 - 40 had monetary contraventions
 - 28 had technical contraventions
 - 20 had both monetary and non-monetary contraventions

■ We recovered \$65 048.19 for 132 employees

An overview of the findings by Queensland regions showed that in all regions, compliance was greater than 33%. The regions of Central West and Wide Bay were the most compliant. Brisbane South had the highest rate of monetary contraventions (36%) and Rockhampton the highest rate of non-monetary contraventions (67%).

National Hair and Beauty Campaign 2012-2013

Figure 7: Queensland findings



Those employers with non-monetary contraventions typically failed to include superannuation details, the date on which payment was made or the employer's ABN on their employees' pay slip.

Similar to New South Wales and the Australian Capital Territory one of the most significant issues was the failure of employers to pay Saturday rates. Some employers advised they did not pay Saturday rates because staff had Sunday and Monday off work. Other employers stated they did not pay Saturday penalty rates because they paid staff a higher base hourly rate of pay for all hours worked.

However in some instances the higher base rate of pay did not adequately compensate the employee for working Saturday.

Underpayment of base hourly rates of pay was another common contravention. The underpayment usually resulted from employers not increasing rates of pay in accord with annual minimum wage decisions.

Other practices which resulted in underpayments included employers paying staff 'what others are

being paid' and offering lower hourly rates in exchange for benefits such as cheap/free products or hair/beauty services, neither of which are allowable under the award.

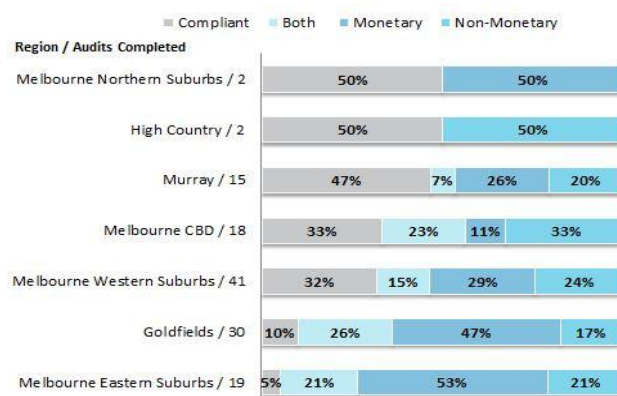
Some employers believed that they continued to operate under the state industrial relations system, not the federal system. This resulted in employers using the incorrect award in determining their employees' entitlements. We also found many employers were unaware of the correct rates of pay for apprentices.

Victoria/Tasmania

Of the 167 audits we completed in Victoria and Tasmania:

- 48 (29%) employers were compliant
- 119 (71%) employers were in contravention
 - 52 had monetary contraventions
 - 37 had technical contraventions
 - 30 had both monetary and technical contraventions
- We recovered \$71 125.22 for 136 employees

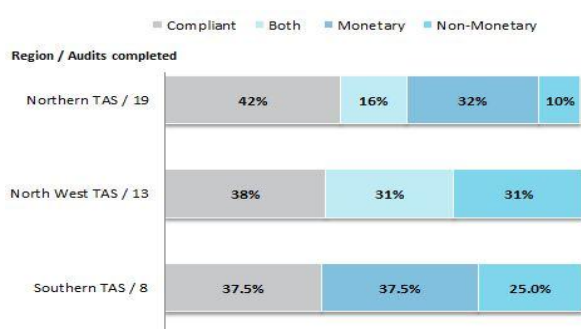
Figure 8: Victorian findings



National Hair and Beauty Campaign 2012-2013

We conducted the majority of audits in Melbourne's Western Suburbs (41 audits). The Melbourne Eastern Suburbs were found to have the highest overall non-compliance (95%) and monetary contravention rate (53%).

Figure 9: Tasmanian findings



In Tasmania all regions had a compliance level below 43%. There were no monetary contraventions recorded in North West Tasmania.

Non-compliance with pay slip obligations was a common contravention identified in both states. In Victoria we found cases where apprentices had been underpaid. Although employers typically raised apprentice's wage when the apprentice had progressed a level, some employers forgot to raise apprentice's wages with the annual wage increase.

In both regions, it was pleasing not to find any employers hiring prospective staff on unpaid 'work experience' arrangements. We found that employers were aware that unpaid work experience could only be provided to students as required by their approved vocational training. Employers who had students completing vocational training in their salon, demonstrated that where the student has completed work outside of the training arrangements, the student was paid for the time worked.

In Victoria, we found a small number of 'chair hire arrangements'. We examined these arrangements further and were satisfied that they were genuine. One business was found to have a chair hire arrangement and employment relationship with the same worker. One day a week the worker worked as an employee and the others he hired a chair and provided services to his own clientele.

One area the Victorian industry needs to improve is their understanding of their obligations when employees attend compulsory in-house training, product nights and workshops. Employers who require their staff to attend such events need to pay their staff accordingly.

In house training wage rate?

Michelle* operates a hair salon in Victoria, which employs 20 casual employees.

Of the 20 employees, 16 are employed as Advanced Beauty Therapists and four as Salon Assistants under the award.

Michelle's records showed the Advanced Beauty Therapists had attended training during the audit period and were paid a flat rate of \$18.00 per hour for the training. This rate of pay was less than what the Advanced Beauty Therapists would have been entitled to under the award. Michelle confirmed the training was in-house product training and that it was compulsory for employees to attend. The inspector explained to Michelle that if the training was compulsory, it would be counted as time worked and the appropriate award rate for their classification would apply. Michelle rectified the issue and repaid her staff their entitlements.

*Pseudonym

National Hair and Beauty Campaign 2012-2013

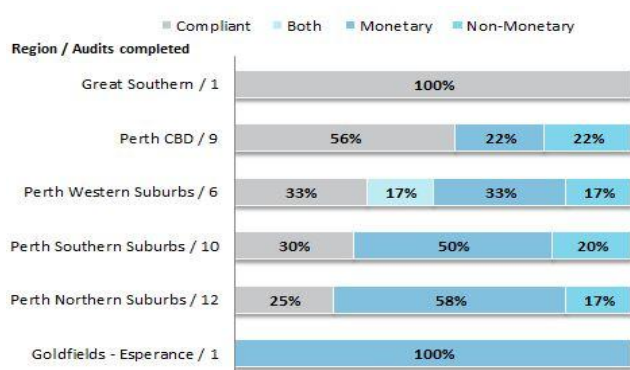
In Tasmania, we found a number of cases where employees and employers had negotiated a flat rate for all hours worked. Where we found the flat rate was not enough to cover the employees' minimum wages, we asked the employers to back-pay their affected employees.

Western Australia

Of the 39 audits we completed in Western Australia:

- 14 (36%) employers were compliant
- 25 (64%) employers were in contravention
 - 17 had monetary contraventions
 - 7 had technical contraventions
 - 1 had both monetary and technical contraventions
- We recovered \$27 491.82 for 53 employees

Figure 10: Western Australian findings



Monetary contraventions were identified in almost all Western Australian regions. Employers in the Perth Western Suburbs (17%) were found to have both monetary and non-monetary contraventions.

We found many businesses either did not employ staff or only employed family members.

It was encouraging to find that nearly all the businesses we audited knew the name of the correct award to determine their employees' entitlements.

We identified a number of technical contraventions related to pay slips either missing content or not being provided to employees. Most of those employers with such contraventions provided beauty therapy services rather than hairdressing services.

The majority of businesses met the minimum rate of pay. However we found a few businesses were not aware they had to pay penalty entitlements as their previous award did not provide for such rates.

Many employers had individual flexibility arrangements in place with employees. While these arrangements did not appear to result in any financial disadvantage to employees, in many cases they were not set in place in accordance with the award flexibility terms provided for in the modern award. In such circumstances we educated and provided employers with information regarding individual flexibility arrangements.

National Hair and Beauty Campaign 2012-2013

Annually review your workplace obligations

The audit of Graham's* records revealed he had both pay slip and monetary contraventions. When we explained the contraventions to Graham, he stated that he believed his business was covered by the Western Australian industrial relations system and was not under the Fair Work Ombudsman's jurisdiction. Consequently Graham was unaware of his obligations under the award, the Act and the Regulations.

At first Graham was frustrated and upset that he would have to back-pay his staff. He explained he believed he was doing the right thing by acting on the pay rate advice received from his accountant.

The inspector provided information to Graham about the Fair Work system and demonstrated the tools and resources available at www.fairwork.gov.au to help him comply with his obligations. The inspector also helped Graham register to receive the FWO e-Newsletter, so Graham would be aware of the next wage rate increase. Graham voluntarily rectified all contraventions, paying his employees \$4 816 in outstanding entitlements.

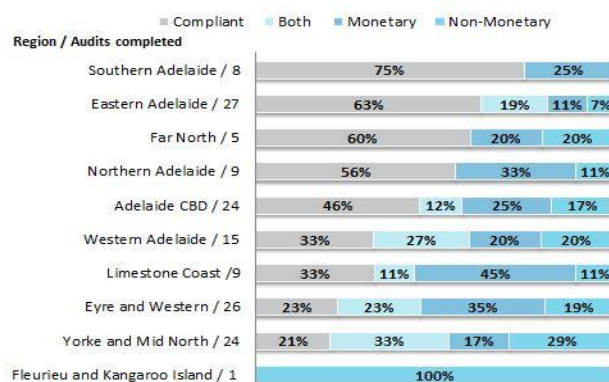
*Pseudonym

South Australia/Northern Territory

Of the 159 audits we completed in South Australia and Northern Territory:

- 67 (42%) employers were compliant
- 92 (58%) employers were in contravention
 - 40 had monetary contraventions
 - 25 had technical contraventions
 - 27 had monetary and non-monetary contraventions
- We recovered \$113 186.57 for 137 employees

Figure 11: South Australian findings



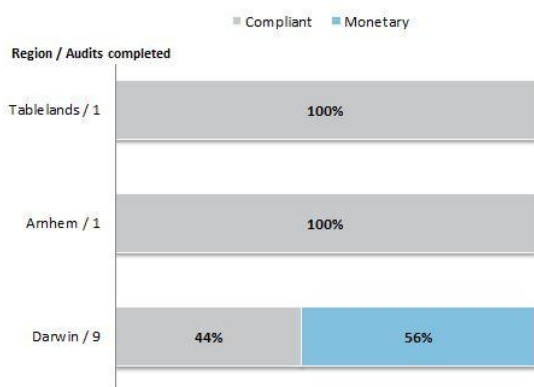
Monetary contraventions were found in nearly all regions in South Australia. The greatest percentage (45%), of monetary contraventions was identified on the Limestone Coast.

All regions except for Southern Adelaide were identified as having non-monetary contraventions. Southern Adelaide also had the greatest level of compliance (75%).

The majority of audits in the Northern Territory were conducted in Darwin (9). Interestingly, all contraventions found in the region were monetary.

National Hair and Beauty Campaign 2012-2013

Figure 12: Northern Territory findings



We were disappointed that in both South Australia and Northern Territory the response to our initial request for records was poor. Almost half of those employers contacted failed to respond by the required date. We also found many hair and beauty businesses did not employ staff.

Most of the monetary contraventions involved underpayment of hourly rates, usually underpayments of less than a \$1 per hour. In a number of cases the employers had rectified their own underpayment issues prior to providing us their records.

We found that the majority of employers were complying with the record-keeping and pay slip requirements. Many of those employers with compliant record-keeping practices contracted their pay roll services to specialist pay roll companies.

The technical contraventions we found related to compliance with pay slip obligations. Some employers did not issue pay slips.

Overall, we found many hair and beauty businesses to be very receptive to the audit and welcoming our help.

A commitment to rectify contraventions

Lisa,* a regional South Australian hairdresser employs a number of staff including two apprentices.

Our inspectors assessed Lisa's records and identified both pay slip and monetary contraventions.

Lisa had not included all of the correct information on her employees' pay slips as required by the Regulations. We notified Lisa about this and asked her to agree in writing that she would issue compliant pay slips in the future.

Lisa had also underpaid three of her staff including two apprentices. The apprentices were underpaid their minimum Saturday penalty entitlement and a full-time employee was underpaid both her ordinary rate of pay and her Saturday penalty entitlement. The underpayments arose due to Lisa being unfamiliar with her responsibilities under the award.

We explained the underpayment to Lisa and she voluntarily paid her employees their due entitlements.

*Pseudonym

Our concluding remarks

We are concerned that the compliance rate in the industry remains poor. The compliance rate found during this campaign (45%) is less than in the 2009 campaign (62%) but is similar to our complaint finding profile.

We were disappointed that some employers remain ignorant of the need to pay their employees for compulsory in-house and external training, when it is not part of vocational training.

National Hair and Beauty Campaign 2012-2013

This issue has also been highlighted in a report recently commissioned by the Fair Work Ombudsman titled "[The Nature, Prevalence and Regulation of Unpaid Work Experience, Internships and Trial Periods in Australia – Experience or Exploitation?](#)"

In accord with the report's nomination of the hair and beauty industry as an industry sector of concern in relation to unpaid trial work and unpaid training, the FWO has been working closely and cooperatively with the Hair and Beauty Industry Association and Hair and Beauty Australia to develop guidelines and information that can be provided to members and the industry more widely to assist them in ensuring they have a greater understanding of other obligations and responsibilities in this regard.

The majority of contraventions identified have occurred due to employers not being familiar with their obligations. Contraventions involving apprentices were less than we had expected.

We anticipate the information and assistance we provided to employers when we assessed their records has made them aware of their obligations and where to find information on workplace responsibilities.

We therefore expect that when we return to complete a follow-up audit of the industry, we will find an improvement in the level of compliance.

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 vision is fair Australian workplaces, and our mission is to work with Australians to educate,

promote fairness and ensure justice in the workplace.

Our education and compliance campaigns target specific industries to assist them achieve compliance with national workplace laws. Our focus is usually industries that need assistance with compliance and employ vulnerable workers.

We like to work with relevant industry associations and unions to deliver our campaigns. We rely upon their 'real world' knowledge and communication channels to design and deliver our education activities and products.

This report covers the background, method and findings of the National Hair and Beauty Campaign 2012-13.

For further information and media enquiries please contact the media team at media@fwo.gov.au.

If you would like further information about the Fair Work Ombudsman's targeted campaigns please contact, Steve Ronson, Executive Director - Dispute Resolution and Compliance (steven.ronson@fwo.gov.au).

Appendix A –Additional stakeholders

Shop Distributive and Allied Employees Association

Appendix B – Pre-modern awards

AT 806816 Hairdressing and Beauty Services - Victoria Award 2001

AT 818691 Hairdressing and Beauty Industry (Northern Territory) Award 2002 Other Services

National Hair and Beauty Campaign 2012-2013

AP806816 Hairdressing and Beauty Services - Victoria - Award 2001 Other Services

AP783495 Hairdressing and Beauty Industry (Australian Capital Territory) Award 1998 Other Services

AN170042 Hairdressing, Health and Beauty Industry Award Other Services

AN160153 Hairdressers Award 1989 Other Services

AN150062 Hairdressers and Beauty Salons Award Other Services

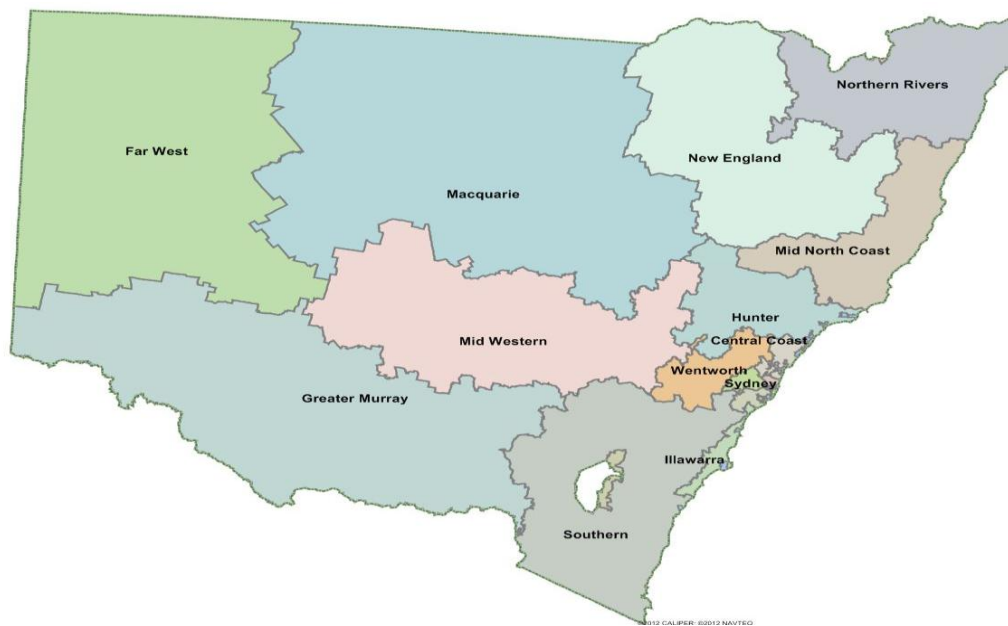
AN140140 Hairdressers Industry Award - State 2003 Other Services

AN140026 Beauty Therapy Industry Award - State 2003 Other Services

AN120242 Hairdressers, etc (State) Award Other Services

Appendix C –Regional maps

Map of New South Wales

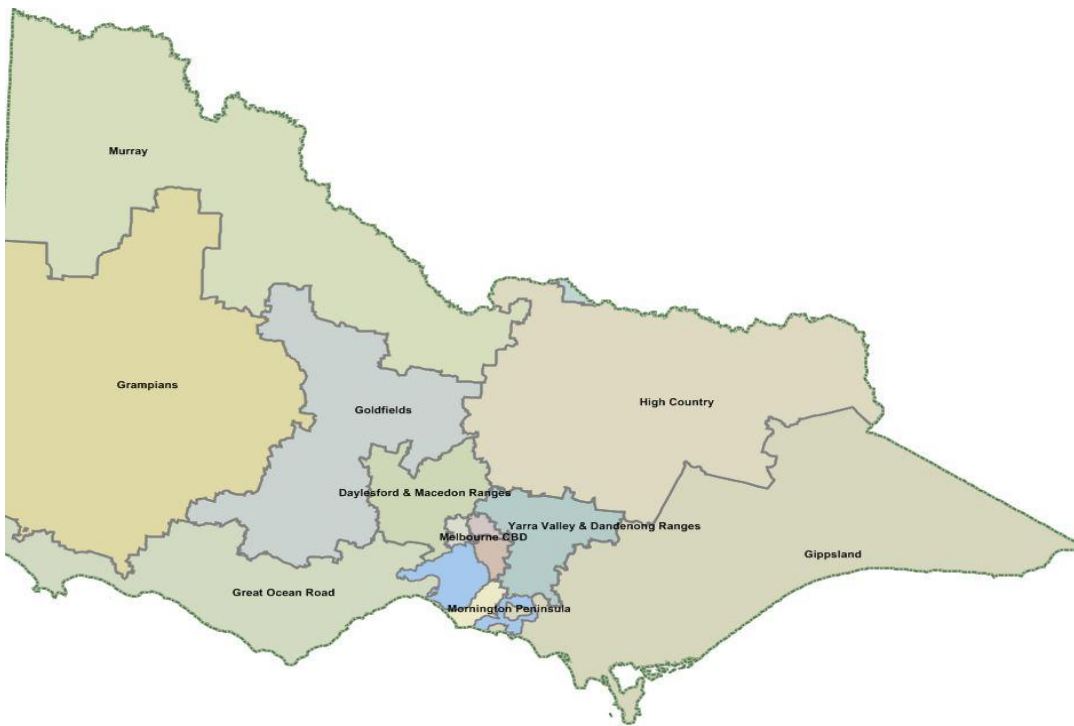


Map of Australian Capital Territory



National Hair and Beauty Campaign 2012-2013

Map of Victoria



Map of Tasmania

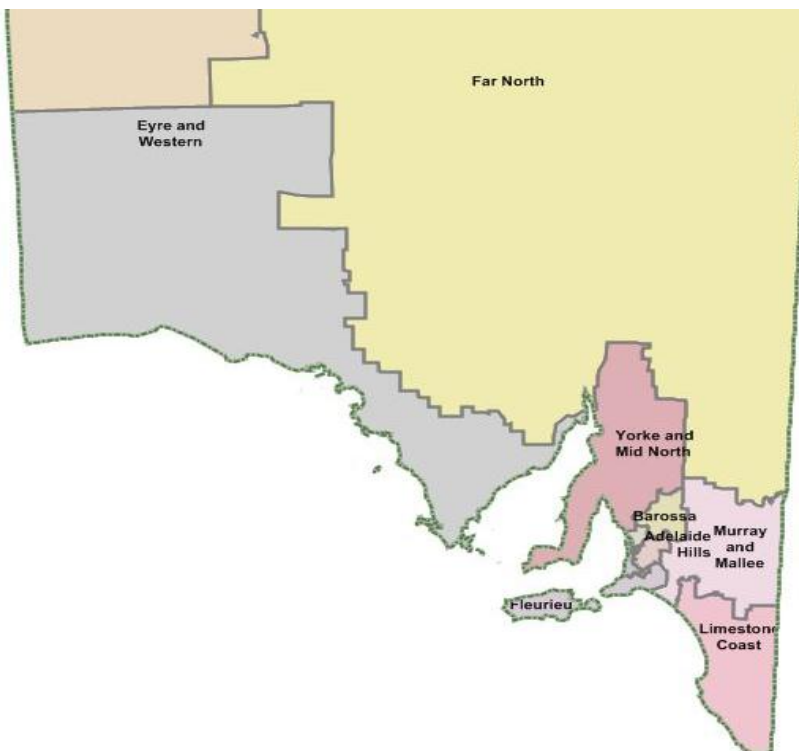


National Hair and Beauty Campaign 2012-2013

Map of Queensland



Map of South Australia



National Hair and Beauty Campaign 2012-2013

Map of Western Australian Government



Map of Northern Territory

