

1786 audits in:

- South-East South Australia
- Launceston and North-East Tasmania
- Inner-Eastern suburbs of Melbourne
- New England and North-West NSW
- Northern Rivers, NSW
- Outer-Western Sydney and the Blue Mountains
- Toowoomba, Queensland



\$985,909 recovered from 498 businesses for 2325 employees



56% in breach of workplace laws:



21% didn't meet pay slip and record-keeping requirements



22% didn't pay employees correctly



13% breached both monetary and non-monetary obligations

Common breaches:



34% pay slips



32% minimum hourly rate



13% weekend / shift penalties

Compliance & enforcement outcomes:



825

Contravention letters



70

Formal cautions



79

Infringement notices
(\$32,830 in penalties)



54

Compliance notices
(\$232,476 back paid to 321 employees)



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Litigation
(outcome pending)

Combined Campaigns Compliance Report

What we did and why

Between July 2017 and November 2018, the Fair Work Ombudsman (FWO) conducted 1786 audits of businesses operating in a range of industries and regions across Australia:

- Fleurieu-Kangaroo Island, Limestone Coast and Murray-Mallee regions of South-East South Australia (201)
- Launceston and North-East Tasmania (55)
- the Inner-Eastern suburbs of Melbourne (266)
- New England and North-West and the Northern Rivers regions of New South Wales (860)
- outer-Western Sydney and the Blue Mountains in NSW (375)
- the Toowoomba region of Queensland (29).

We selected areas based on internal and external data indicating potentially high levels of non-compliance, including:

- volume of disputes lodged with the FWO
- incidence of vulnerable workers, including those from culturally and linguistically diverse backgrounds (CALD), young / mature-age workers, temporary migrants, students / apprentices / trainees, and low-skilled workers
- concentration of hospitality businesses (the fast food, restaurant and cafés (FRAC) sub-sector a key priority for the FWO¹).

Fair Work Inspectors reviewed employment and payroll records, interviewed employers, managers and workers and observed work practises. Pay slip and record-keeping practises were assessed against the requirements of the *Fair Work Act 2009* (the Act), the *Fair Work Regulations 2009* (the Regulations), and applicable awards or registered agreements.

¹ <https://www.fairwork.gov.au/about-us/our-purpose/our-priorities>

Our findings

1000 businesses (56%) were in breach of workplace laws:

- 401 (22%) failed to pay employees correctly
- 374 (21%) were non-compliant with pay slip and record-keeping requirements
- 225 (13%) had breached both their monetary and non-monetary obligations.

The most common breaches identified were:

- failure to provide pay slips as per the Act and Regulations (34%)
- underpayment of the minimum hourly rate (32%)
- non-payment of weekend/shift penalty rates (13%).

Some of the reasons for non-compliance given by employers included:

- 69% unaware of all their obligations
- 11% misinterpreted award requirements
- 6% missed the July annual wage increase.

Hospitality businesses had the highest non-compliance rate of all industry sectors at 64%. Non-compliance rates by industry (for sectors where we audited 30 or more businesses) are shown below.

Table 1. Compliance results by industry

Industry	Total audits	Non-compliance rate	Monies recovered
Accommodation and Food Services	576	64%	\$506,406 (for 1464 employees from 204 businesses)
Wholesale Trade	69	62%	\$27,047 (for 47 employees from 23 businesses)
Agriculture, Forestry and Fishing	69	57%	\$9152 (for 14 employees from 6 businesses)
Domestic construction	100	56%	\$38,895 (for 39 employees from 20 businesses)
Rental, Hiring & Real Estate Services	33	53%	\$15,077 (for 16 employees from 9 businesses)
Retail Trade	437	52%	\$154,680 (for 269 employees from 115 businesses)
Manufacturing	173	49%	\$45,811 (for 94 employees from 40 businesses)
Health and Social Assistance	227	49%	\$35,109 (for 156 employees from 29 businesses)
Other	43	48%	\$26,782 (for 22 employees from 7 businesses)

Compliance results for each region are shown in the table below. Caution should be used when comparing results by area given differences in sample size and composition.

Table 2: Compliance results by region

Location	Total audits	Non-compliance rate	Monies recovered
Launceston and North-East Tasmania	55	71%	\$47,644 (for 93 employees from 28 businesses)
Melbourne Inner-East	266	56%	\$136,301 (for 203 employees from 72 businesses)
South-East South Australia	201	43%	\$28,563 (for 94 employees from 37 businesses)
Northern Rivers (NSW)	601	54%	\$401,645 (for 1042 employees from 177 businesses)
Outer Western Sydney and Blue Mountains (NSW)	375	62%	\$250,526 (for 420 employees from 118 businesses)
New England and North-West (NSW)	259	56%	\$46,627 (for 115 employees from 55 businesses)
Toowoomba (QLD)	29	66%	\$74,603 (for 358 employees from 11 businesses)

Action taken and next steps

Employers were required to fix non-compliance and provide evidence of action taken, for example proof of payment of outstanding employee entitlements.

We recovered a total of \$985,909 from 498 businesses for 2325 employees.

Fair Work Inspectors issued:

- 825 contravention letters
- 70 formal cautions
- 79 infringement notices (\$32,830 in penalties)
- 54 compliance notices (\$232,476 back paid to 321 employees).

We commenced legal action against Available Dental Care Pty Ltd for failing to comply with a compliance notice.² It's alleged that employees were underpaid ordinary hourly and Saturday penalty rates.

Non-compliant employers identified as part of this activity were made aware of FWO's tools and resources. They were also advised that repeated breaches will see a stronger response, including significantly higher financial penalties.

Our compliance monitoring and enforcement activities remain focussed on high-risk industries across Australia.

The FWO expects employers to comply with all basic workplace relations obligations and utilise our free tools and resources, including:

- PACT - calculates employee entitlements, including award pay rates, leave entitlements and termination pay³
- My account - interactive service where employers receive tailored information and updates⁴
- Online Learning Centre - award-winning videos on key subjects like hiring employees, managing performance and record-keeping and pay slip obligations⁵

² <https://www.fairwork.gov.au/about-us/news-and-media-releases/2019-media-releases/november-2019/20191118-available-dental-care-litigation-media-release>

³ <https://calculate.fairwork.gov.au/>

⁴ <https://www.fairwork.gov.au/my-account/registerpage.aspx>

⁵ <https://www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre>

- Templates and guides - tools and resources specifically designed to assist businesses with their payslips and record keeping obligations.⁶

The FWO considers employers who don't take advantage of these free tools and resources to be negligent. A lack of awareness of obligations under the *Fair Work Act 2009* is not a valid reason for non-compliance in the workplace.

⁶ <https://www.fairwork.gov.au/how-we-will-help/templates-and-guides>