

Driving harmonious, productive, cooperative and compliant workplace relations in Australia – Fair Work Ombudsman



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Fair Work Ombudsman



Fair Work
OMBUDSMAN

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About the Fair Work Ombudsman (FWO)

- Is a federal government agency, known as the national workplace relations regulator for nearly **14 million Australian workers** and **one million employing businesses**
- Provides education, assistance and advice about workplace rights and obligations
- Helps resolve workplace issues
- Has tailored tools and resources for employers



Where entitlements come from

Fair Work Laws

Fair Work Act 2009 + Regulations

(includes National Employment Standards)

Awards or agreements

Over 100 awards

Enterprise
agreements or other
registered agreements

Individual arrangements

Individual flexibility
arrangement or Contract of
employment

Common workplace issues in the transport industry

- Incorrect pay rates, including not applying FWC annual wage increases to minimum pay rates
- Failure to pay employees for time worked or relevant allowances
- Withholding entitlements on termination
- Unlawful deductions
- Misclassification under award or agreement



Payment of wages

- Employees must be paid *at least* monthly by one or more of the following methods:
 - cash
 - cheque
 - electronic funds transfer
- “Cash in hand” is different to payment in cash
- Wages must be paid in money

Pay slips - www.fairwork.gov.au/payslips

- Every employer has to issue pay slips within one working day of pay day
- Can be either in electronic form or hard copy
- Must contain certain information



Record-keeping - www.fairwork.gov.au/recordkeeping

- Employers have to keep employment records (e.g. time and wage) for 7 years.
- Employment records have to be:
 - readily accessible to a Fair Work Inspector
 - legible
 - in English.
- Employment records can't be:
 - changed unless the change is to correct an error
 - false or misleading.

Compliance and Enforcement Policy

FWO's Approach:

- Helping resolve issues
- Publicly available Compliance & Enforcement Policy (**C&E Policy**)
- Strategic use of enforcement tools (Compliance Notices, Infringement Notices, Enforceable Undertakings, Litigation)
- C&E Policy sets out FWO approach to self-reported non-compliance



Enforceable Undertakings (EU)

- EUs are a simple mechanism (written agreement) for the FWO to deal with contraventions of the *Fair Work Act 2009*
- EU's include undertakings (actions) to be taken by the contravening person and often include implementing appropriate systems and governance processes to ensure the problem does not occur again
- The FWO will generally only accept Enforceable Undertakings in limited circumstances. These may include matters involving self-disclosure and where a person has demonstrated a willingness to rectify underpayments, address any other impact of their contraventions and fully cooperate with the FWO.

Compliance Notice (CN) and Infringement Notice (IN)

- Fair Work Inspectors (**FWI**) have powers to issue Compliance Notices (**CN**) and Infringement Notices (**IN**)
- A CN requires the recipient to calculate and rectify any underpayments
- An IN is a monetary penalty issued by an FWI, most usually for record-keeping contraventions
- If a CN or an IN is complied with, the FWO cannot commence litigation proceedings
- If a person fails to comply with a CN the FWO can commence legal proceedings for non-compliance with the CN or in the case of an IN for the relevant record-keeping contraventions.

Education

- The FWO has resources to assist employers, employees and their representatives to meet their obligations in the first place, and to help workers understand their rights and obligations.
- The FWO heavily promotes activities in the media.
- Shares information and resources through various channels, including social media, paid advertising, email subscriber notifications and our website.
- Run regular webinars tailored to different audience groups and industries at www.fairwork.gov.au/webinars.



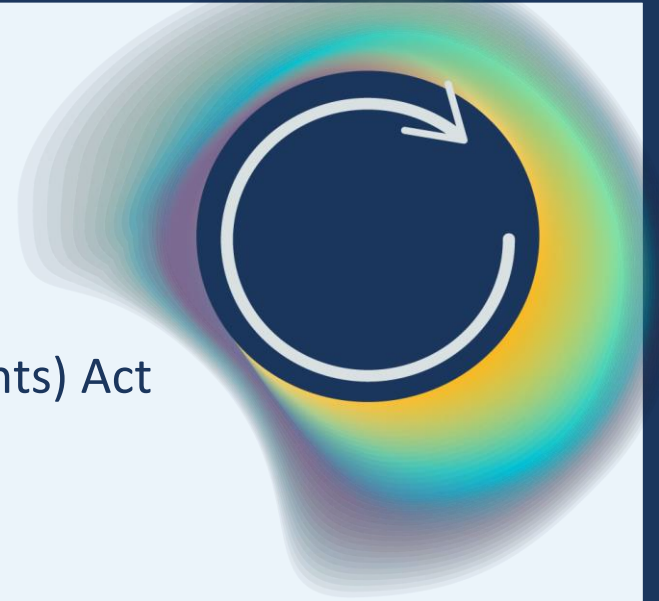
Staying up to date with legislation changes

Recent updates include:

- Secure Jobs, Better Pay Amendments to the Fair Work Act
- The Fair Work Legislation Amendment (Protecting Worker Entitlements) Act 2023
- Paid Family and Domestic Violence leave entitlements
- Closing Loopholes No. 1 and No. 2.

Stay up-to-date

- You can **subscribe for email updates** and media releases at www.fairwork.gov.au/emailupdates.
- Visit www.fairwork.gov.au/closing-loopholes for more information on these changes
- **Register for our webinars** at www.fairwork.gov.au/webinars.



Employer Advisory Service (EAS) – www.fairwork.gov.au/EAS

WHO Free, tailored written advice service for small business employers

WHAT The EAS can help employers understand the *Fair Work Act*, including the new changes, Awards and the National Employment Standards.

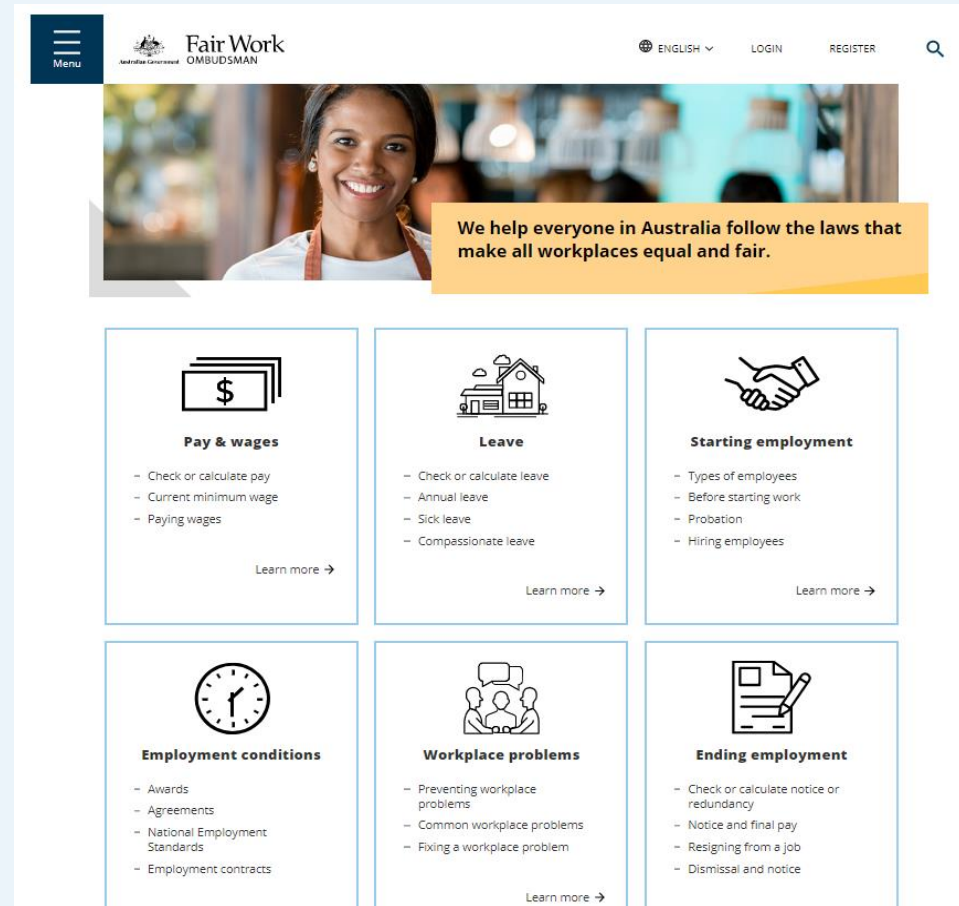
WHY The EAS could be considered for

- New employers
- Employers needing more information and would benefit from receiving written advice about pay and conditions for future reference
- Confirming pay and entitlements are correct

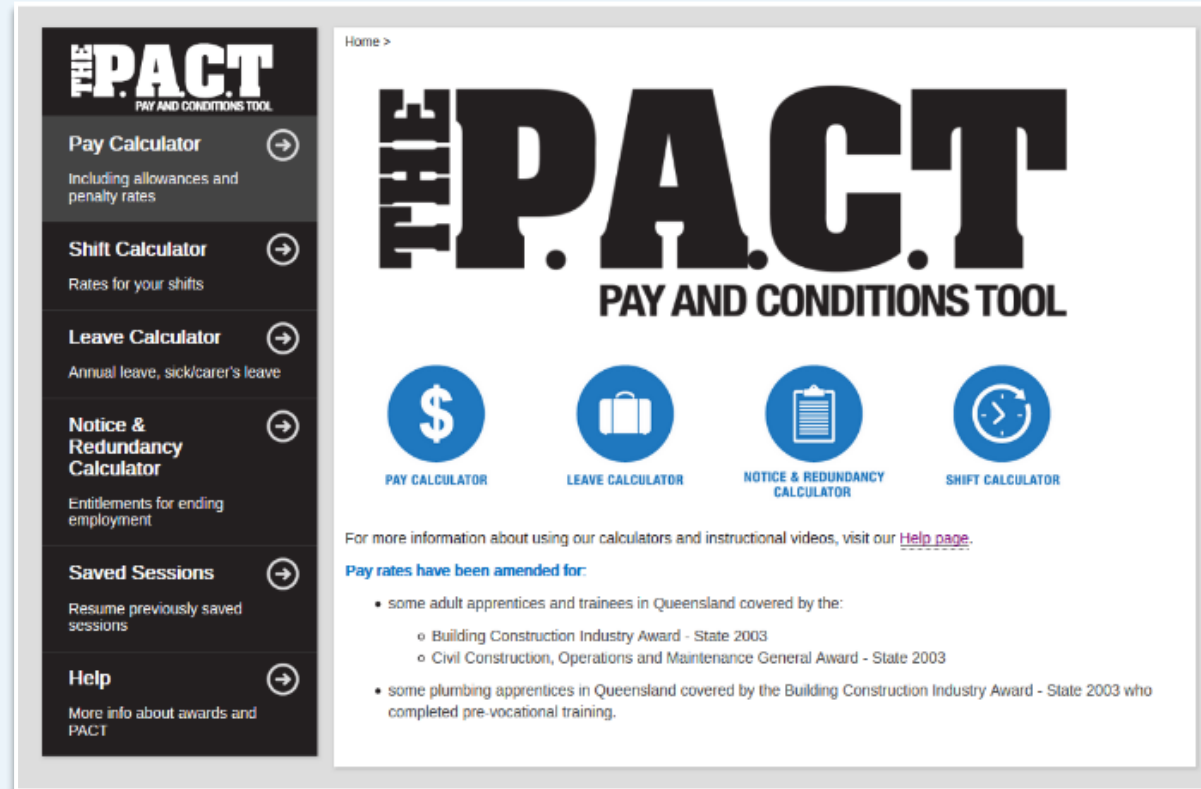
HOW Access the EAS Enquiry Form from our webpage

Call or make an online enquiry and ask to be referred to the EAS

Our website - www.fairwork.gov.au



Pay and Conditions Tool - www.fairwork.gov.au/PACT



Small Business Showcase - www.fairwork.gov.au/smallbusiness



Useful tools and resources

- Register My account for tailored information and priority service www.fairwork.gov.au/register
- Small Business Showcase www.fairwork.gov.au/smallbusiness
- Employer Advisory Service www.fairwork.gov.au/EAS
- Pay and Conditions Tool (PACT) www.fairwork.gov.au/PACT
- Templates, guides and fact sheets www.fairwork.gov.au/resources
- Online learning centre www.fairwork.gov.au/learning
- Franchises www.fairwork.gov.au/franchises
- Workplace problems www.fairwork.gov.au/workplace-problems
- Upcoming webinars www.fairwork.gov.au/webinars
- Language help www.fairwork.gov.au/languages





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- Fair Work Infoline 13 13 94 or Translating and Interpreting Service (TIS) 131 450
- Register for My account at www.fairwork.gov.au/register
- Subscribe to email updates at www.fairwork.gov.au/emailupdates
- Find out about our free webinars at www.fairwork.gov.au/webinars

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