
Updated Casual Employment Information Statement Compliance with pay slip and record-keeping requirements

SUMMARY

On 20 May 2021, the Fair Work Ombudsman (**FWO**) published an updated version of the Casual Employment Information Statement.

Employers must give the Casual Employment Information Statement to all casual employees before, or as soon as practicable after, commencement of employment.

In addition, it is important for employers to ensure compliance with the record-keeping and pay slip requirements of the *Fair Work Act 2009 (FW Act)* and *Fair Work Regulations 2009 (FW Regulations)* including those relating to casual loadings and other entitlements of casual employees.

New version of the Casual Employment Information Statement

In Employer Advice [NAT 043/21](#), the recent changes to casual employment provisions in the FW Act were explained.

One of the new requirements is that an employer must give each casual employee the Casual Employment Information Statement before, or as soon as practicable after, the employee starts employment as a casual employee with the employer. However, if the employer employs a casual employee more than once in a 12-month period, the employer is only required to give the casual employee the Statement once in the period.

The legislation requires the FWO to publish the Casual Employment Information Statement. A new version of the Statement was published on 20 May 2021. The Statement can be downloaded here: [PDF version](#); [Word Doc](#).

If an employer has already given a casual employee a copy of the previous version of the Casual Employment Information Statement (that was published by the FWO in late-March), the employer is not required to give the employee a copy of the updated version.

The FW Regulations were amended in mid-May to clarify that an employer can give the Statement to employees personally, or the employer can send it to the employee by email, post or fax. If the Statement is sent to the employee by email, the employer can provide a link to the Statement on the FWO's website or on the employer's Intranet.

Providing the Casual Employment Information Statement to each casual employee is in addition to the employer obligation to provide the Fair Work Information Statement to each new employee.

Failure to provide the Casual Employment Information Statement or the Fair Work Information Statement is a contravention of the National Employment Standards and may result in financial penalties, as outlined below.

Under transitional provisions in the FW Act:

- An employer (other than a **'small business employer'**, defined as one that employs less than 15 employees) must give each casual employee who started their employment before

27 March 2021, the Casual Employment Information Statement as soon as practicable after the end of the six-month **transition period** (i.e. as soon as practicable after 27 September 2021). An employer can choose to give the Statement at an earlier time.

- A 'small business employer' must give each casual employee who started their employment before 27 March 2021, the Casual Employment Information Statement as soon as practicable after 27 March 2021.

Record-keeping and pay slip requirements for casuals

Employers should ensure that they are aware of, and comply with, the requirements of the FW Act and FW Regulations regarding pay records and pay slips. A summary of various records that are required to be kept is set out in Attachment A.

With regard to casual employees who are paid a casual loading, the loading is required to be separately identified in pay records and on pay slips.

Maximum penalties

The maximum penalty for a breach of the FW Act is \$66,000 per contravention, or \$666,000 for a 'serious contravention'.

A reverse onus of proof applies if an employer fails to comply with the pay record and pay slip requirements in the FW Act. In such circumstances, if an employee makes a claim for unpaid entitlements, the employer will be required to disprove the employee's claim in Court, rather than the employee bearing the onus of proof.

Do you require further advice?

For further information or assistance, please contact Ai Group.

Ai Group has set up a [special section on our website](#) to provide access to Ai Group advice and assistance relating to the COVID-19 pandemic and the recovery from the pandemic.

A handwritten signature in black ink, appearing to read 'S. Smith'.

Stephen Smith
Head of National Workplace Relations Policy

ATTACHMENT A**EMPLOYEE, PAY, HOURS OF WORK, LEAVE, SUPERANNUATION AND OTHER RECORDS**

Employers covered by the FW Act are required to keep various employee records for a period of at least seven years, including the following records:

General records:

- The employer's name;
- The employee's name;
- Whether the employee's employment is full-time or part-time;
- Whether the employee's employment is permanent, temporary or casual;
- The date on which the employee's employment began; and
- The Australian Business Number (if any) of the employer.

Pay records:

- The rate of remuneration paid to the employee;
- The gross and net amounts paid to the employee;
- Any deductions made from the gross amount;
- If the employee is a casual or irregular part-time employee who is guaranteed a rate of pay set by reference to a period of time worked, the record must set out the hours worked by the employee; and
- Details of any incentive-based payment, bonus, loading, penalty rate, monetary allowance or separately identifiable entitlement that the employee is entitled to.

Overtime records:

- If a penalty rate or loading (however described) must be paid for overtime hours actually worked by an employee, the record must state:
 - the number of overtime hours worked by the employee during each day; or
 - when the employee started and ceased working overtime hours.

Averaging of hours records:

- If the employer and employee agree in writing to an averaging of the employee's hours of work, a copy of that agreement.

Leave records:

- Any leave taken;
- The balance (if any) of the employee's entitlement to each relevant type of leave from time to time; and

- If an employer and employee agree to cash out an accrued amount of leave:
 - a copy of the agreement; and
 - a record that sets out:
 - the rate of payment for the amount of leave that was cashed out; and
 - when the payment was made

Records of superannuation contributions:

- The amount of the contributions made;
- The period over which the contributions were made;
- The dates on which each contribution was made;
- The name of any fund to which contributions were made; and
- The basis upon which the employer became liable to make the contributions, including a record of any election made by the employee as to the fund to which contributions are to be made, and the date of any relevant election.

Records relating to termination of employment:

- Whether the employment was terminated by consent, by notice, or summarily, or in some other manner (which must be specified); and
- The name of the person who acted to terminate the employment.

PAY SLIP REQUIREMENTS

Pay slips must specify:

- the employer's name;
- the employee's name;
- the period to which the pay slip relates;
- the date on which the payment to which the pay slip relates was made;
- the gross amount of the payment;
- the net amount of the payment;
- any amount paid that is a bonus, loading, allowance, penalty rate, incentive-based payment or other separately identifiable entitlement;
- the Australian Business Number (if any) of the employer.

- If an amount is deducted from the gross amount of the payment, the name, or the name and number, of the fund or account into which the deduction was paid;
- If the employee is paid an hourly rate of pay, the rate of pay for the employee's ordinary hours (however described), the number of hours in that pay period for which the employee was employed at that rate, and the amount of the payment made at that rate;
- If the employee is paid an annual rate of pay, the rate as at the latest date to which the payment relates; and
- If the employer is required to make superannuation contributions for the benefit of the employee:
 - the amount of each contribution made during the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contribution was made; or
 - the amounts of contributions that the employer is liable to make in relation to the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contributions will be made.