

# INDUSTRIAL & EMPLOYEE RELATIONS



## Record Keeping Obligations and Pay Slips Under the Minimum Conditions of Employment Act 1993 and State Awards

Businesses operating in the State Industrial Relations system (Sole traders, unincorporated partnerships and trust arrangements and non-trading incorporated associations and other non-trading not-for-profit) are required to comply with the record keeping obligations set out in the *Minimum Conditions of Employment Act 1993 (Cth) (Act)* and if applicable the relevant Western Australian award.

### Content of Employment Records

Employers must keep employment records for a period of 7 years following the date of an employee's termination.

The records must be legible and in English, they cannot be altered unless it is to correct a genuine error. They can be kept in an electronic format but should be easily printable.

#### 1. General information:

For all employees the record must include:

- the employee's name;
- The employee's date of birth if under 21 years of age; and
- the employee's commencement date;

*Note – Although not a requirement under the Act it is recommended the record includes the employee's job title and the basis of employment (full-time, part-time, temporary or casual).*

If the employee's employment is covered by a Western Australian award (WA award) the record must also include:

- the basis of employment such as full or part-time and permanent, temporary or casual.
- the name of the applicable WA award; and
- the employee's classification under the WA award.

#### 2. Hours of Work

For award free employee the record must include:

- The total number of hours worked each week for an employee with a salary of \$45,000 per year or less.

*Note - It is recommended that employers keep detailed time and wages records to avoid disputes, including start and finish times for each day, meal and crib breaks.*

If the employee's employment is covered by a WA award the record must also include:

- daily start and finish times;
- hours worked each day, and whether the hours were ordinary hours or overtime; and
- meal breaks taken.

Records must be completed each day and on a separate worksheet for each employee.

### 3. Leave

For all employees the record must include:

- Leave taken, paid and/or unpaid, the record must specify the type of leave; and
- All information required to calculate long service leave entitlements and payment.

### 4. Payments

For all employees the record must include:

- rate of pay or salary;
- gross and net amount paid; and
- deductions, including superannuation contributions.

If the employee's employment is covered by a WA award the record must also include:

- any other details necessary to demonstrate compliance with the applicable WA award. This may include overtime hours worked and allowances paid; and
- if an employee request cashing out of Long Service Leave in accordance with the *Long Service Leave Act 1958* the employer must keep a copy of the written agreement. The agreement must include how much leave was cashed out, when it was cashed out and the payment the employee received for the cashed-out leave.

*Note – it is recommended that employer also keep record of any written agreements made in accordance with the Act or a WA award (i.e. agreement for deduction)*

### 5. Termination

There is no specific requirement in the Act around termination records. It is recommended that employer keep record of the employee's termination date and reason for termination to avoid disputes.

### Content of Pay Slips

There is no pay slips requirement under the Act, however issuing pay slips is strongly recommended.

The *Building Trade (Construction) Award* **requires** employers to issue pay slip.

A pay slip usually includes:

- the employer's name;
- the employer's ABN;
- the employee's name;
- the employee's job title or classification;
- the date of payment;
- the pay period to which the payment relates to;
- the gross and net amounts and tax paid;
- superannuation amount the employer is required to make for that pay period;
- the name and number of the superannuation fund the contributions are made;

- overtime and penalty rates paid; and
- allowances and loading paid.

If the employee is covered by a WA award it is recommended to also include:

- the ordinary hourly rate of pay and the number of hours worked against that rate;
- current accruals of annual leave, sick leave and long service leave; and
- the amount and purpose of any authorized deduction from pay.

### Who can request a copy of the employment records?

Employees, former employees and a person authorised in writing by an employee have a right to request a copy of the employee's records.

Industrial Inspector from the Department of Mines, Industry Regulations and Safety are legally authorised to request access to employment records for employees. They are authorised to enter premises where records are held to inspect, seize, take copies or extracts from the records.

Less frequently other courts and regulatory bodies may request copies of employment records.

### Potential consequences of breaching record keeping obligations or not providing records to Industrial Inspectors.

The Industrial Relations Magistrate Court can fine employers who breach record keeping obligations up to \$5,000.

Penalties can also be issued if employers fail to produce records to Industrial Inspectors when required to do so under the applicable process.

### Assistance Available

Master Builders is here to help you. Our industrial and employee relations specialists can provide advice and assistance to help you meet your obligations.

If you require assistance in understanding your record keeping and pay slips obligations, or require templates to assist you in meeting these obligations, please contact the Master Builders team on [iradvice@mbawa.com](mailto:iradvice@mbawa.com)