

Fair Work Act Compliance Quiz

Are your employment practices at risk of non-compliance? The scary thing is, sometimes you can be, but not even know it!

This document is designed to assist employers across all businesses conduct an initial and basic self-audit of their compliance with the *Fair Work Act 2009*.

If you can't confidently tick off each question below, it's a sure sign you need to take action - and soon.

(1) Industrial Instrument Compliance

Employees in your business may be covered by one or more of the following industrial instruments: modern award, enterprise agreement, workplace agreement, state award, or pre-2010 certified agreement. These instruments spell out an employee's minimum legal entitlements and employment conditions which, in addition to the Fair Work Act provisions, are enforceable by law.

- Are you confident every employee is employed under the correct Industrial Instrument (Modern Award/s, Registered Agreement etc)?
- Are you confident that all minimum employee entitlements and employment conditions are being provided for in your organisation, as stipulated in the relevant Industrial Instrument? (pay rates, penalty rates, allowances, meal breaks, span of work hours etc)?

(2) The National Employment Standards (NES)

There are 10 minimum employment entitlements that must be provided to all employees. Not even an award, employment contract, enterprise agreement or other registered agreement can provide for conditions that are less than the national minimum wage or the NES. They cover: max weekly hours; requests for flexible working arrangements; annual, personal, carers, parental, compassionate, long service and community service leave; public holidays; notice of termination; redundancy pay, and provision of the Fair Work Information Statement.

- Are you confident your employees' work hours, leave entitlements, and other conditions meet each of the 10 minimum employment standards?

(3) Employment Contracts/Agreements:

An employment contract is a legal and binding agreement between an employer and employee that sets out terms and conditions of employment and ensures everyone is on the same page *prior* to an employee commencing. Without an employment contract in place that has been signed by both parties, employers run many risks including but not limited to loss of intellectual property, trade secrets, confidential employee or client information; misunderstandings on employment conditions and internal policies and protocols that may even bring the business in to disrepute; the soliciting of clients and employees after an employee's employment ceases.

- Is a written agreement provided to every employee outlining the conditions of their employment?
- Is every employees' Employment Contract fully compliant with current legislation? Ie. Has been reviewed in the last 12 months?

(4) Workplace Policies:

Workplace policies are the most effective way to set and communicate the rules and principles that guide managers and employees on what is expected of them with respect to standards of behaviour and performance. An absence of the right policies can adversely affect decision making and delegation in routine situations, consistency of performance, and leave the business legally exposed to breaches of employment legislation.

- Are you confident you have the right employment policies in place to afford you and your business maximum protection?
- Do your employees know where and how to access your organisation's employment, and health and safety policies?
- Do you have records to prove that your employees have read and acknowledged them?

(5) Record Keeping:

Employers are legally required to keep accurate and complete employee records and to not do so is in breach of legislation. Employees must also be given a copy of their employment records should they request it.

- Do you keep completely secure and up-to-date employee records for up to 7 years?
- Are you aware of all the content requirements for an employee's record?
- Do you have a process in place for employees to apply for leave?
- Are you aware what information must be provided on employee pay slips and the timeframe in which employees must receive them?

(6) Lawful Employment Practices

When employee performance and/or conduct is in breach of employment conditions outlined in HR documentation such as their employment contract, workplace policies, codes of conduct, ethical standards, or other agreements related to a specific role, workplace or industry, it is essential these performance or conduct issues are managed in accordance with employment legislation. To not do so leaves the business legally exposed.

- Are you confident your processes and documentation for managing employee underperformance, serious misconduct, bullying and harassment, workplace investigations and dismissal are legally sound?
- Are you aware of the minimum period of employment after which an employee can submit an unfair dismissal claim in a business of your size?

If you have not ticked any questions above, you are potentially in contravention of your workplace obligations as an employer.

HR Tactics strongly advise you to seek advice on your practices in those areas and consider scheduling a full audit of your compliance with the following:

- Fair Work Act (2009)
- Modern Award/s relevant to your business
- Registered Agreement

HR Tactics specialises in offering this type of advice across all industries. Contact us for a confidential discussion if you have any queries or concerns regarding the above or wish to arrange a full compliance audit

Contact us anytime at:
T: 0406 146 116 E: jackie@hrtactics.com.au W: www.hrtactics.com.au

