



FACT SHEET

Employee Records and Pay Slip Requirements

Updated: August 2017
Replaces: October 2016

All private sector employers are required by law to maintain accurate records and issue pay slips to all employees. The *Fair Work Act 2009* ('the Act') and *Fair Work Regulations 2009* detail those requirements.

The following requirements have applied from 1 July 2009 to all incorporated employing entities. Unincorporated employing entities have had to comply with the below requirements since 1 January 2010 when the Queensland Government referred its industrial relations powers to the Commonwealth.

EMPLOYEE RECORDS

Employers are legally required to keep employee records for a period of 7 years from the date an entry in an employee's record is changed or 7 years from the date the employee's employment is terminated. An employee record that is made and kept by an employer must be:

- (a) In a legible form and in the English language; and
- (b) In a form that is readily accessible to an inspector.

An employee record that an employer must make and keep must contain the following information for each employee:

GENERAL

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

PAY

1. The record relating to the employee must contain details of:
 - (a) The rate of remuneration paid to the employee; and
 - (b) The gross and net amounts paid to the employee; and
 - (c) Any deductions made from the gross amount paid to the employee.
2. If the employee is a casual or an irregular part-time employee who is guaranteed a rate of pay set by reference to a period of time worked, the record must contain the hours worked by the employee.
3. If the employee is entitled to be paid
 - (a) An incentive-based payment; or
 - (b) A bonus; or
 - (c) A loading; or
 - (d) A penalty rate; or
 - (e) Another monetary allowance or separately identifiable entitlement;the record relating to the employee must contain details of the payment, bonus, loading, rate, allowance or entitlement.

OVERTIME

If a penalty rate or loading (however described) must be paid for overtime hours actually worked by an employee, the record relating to the employee must state:

- (a) The number of overtime hours worked by the employee during each day; or
- (b) When the employee started and ceased working overtime hours.

AVERAGING OF HOURS

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

LEAVE

If the employee is entitled to leave, the employer must make and keep a record that sets out:

- (a) Any leave taken by the employee; and
- (b) The balance (if any) of the employee's entitlement to that leave from time to time.

If the employer and employee agree to cash out an accrued amount of leave, an employer must keep the following:

- (a) A copy of the agreement;
- (b) A record of the rate of payment for the amount of leave cashed out and when the payment was made.

SUPERANNUATION

If the employer is required to make superannuation contributions for the benefit of the employee, the record relating to the employee must contain the following:

- (a) The amount of the contributions made; and
- (b) The period over which the contributions were made; and
- (c) The date on which each contribution was made;
- (d) The name of any fund to which a contribution was made;
- (e) The basis on which the employer became liable to make the contribution, 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.

INDIVIDUAL FLEXIBILITY ARRANGEMENT

If an employer and employee agree in writing on an individual flexibility arrangement under the Act, the employer must record and keep:

- (a) a copy of the agreement
- (b) a copy of a notice or agreement that terminates the agreement.

GUARANTEE OF ANNUAL EARNINGS

If an employer gives a guarantee of annual earnings (section 330 of the Act), the guarantee is a type of employee record that the employer must make and keep. If an employer revokes a guarantee of annual earnings under section 330, the employer must make and keep a record of the date of revocation.

TERMINATION

If the employee's employment is terminated, the record relating to the employee must contain the following:

- (a) Whether the employment was terminated:
 - By consent; or
 - By notice; or
 - Summarily; or
 - In some other manner, specifying the manner; and
- (b) The name of the person who acted to terminate the employment.

RECORD KEEPING FOR TRANSFER OF BUSINESS

At the time at which the connection between the old employer and the new employer occurs (the transfer), the old employer must provide the new employer with each employee record concerning a transferring employee that the old employer was required to keep.

If the transferring employee becomes an employee of the new employer after the time at which the connection between the old employer and the new employer occurs, the new employer must ask the old employer to give the new employer the employee records concerning the transferring employee. An old employer must comply with any such request.

The new employer who receives transferred employee records must keep the records as if these had been made by the new employer at the time at which these were made by the old employer. The new employer is not required to make employee records relating to the transferring employee's employment with the old employer.

INSPECTING AND COPYING OF A RECORD

An employer must make a copy of an employee record available for inspection and copying (in legible form) on request by the employee or former employee to whom the record relates. The employer must tell the employee or former employee where the record is kept.

If the employee record is kept at the premises at which the employee works or the former employee worked, the employer must:

- (a) Make the copy available at the premise within 3 business days after receiving the request; or
- (b) Post a copy of the record to the employee or former employee within 14 days after receiving the request.

If the employee record is not kept at the premises at which the employee works or the former employee worked, the employer must:

- (a) Make the copy available at the premise; or
- (b) Post a copy of the record to the employee or former employee

as soon as practicable after receiving the request.

An employee or former employee may interview the employer or an employer's representative about an employee record the employer has, or will, make.

PAY SLIPS

The *Fair Work Regulations 2009* requires employers to issue to an employee a written pay slip relating to each payment by the employer of an amount to the employee as remuneration.

The pay slip:

- (a) Must be issued within 1 day of the payment to which the pay slip relates being made to the employee; and
- (b) May be issued in electronic form or as hard copy.

The employer must include:

- (a) The name of the employer; and
- (b) The name of the employee; and
- (c) The period to which that pay slip relates; and
- (d) The date on which the payment to which the pay slip relates was made;
- (e) The gross amount of the payment;

- (f) The net amount of the payment;
- (g) Any amount paid to the employee that is a bonus, loading, allowance, penalty rate, incentive-based payment or other separately identifiable entitlement; and
- (h) On and after **1 January 2010** — the Australian Business Number (if any) of the employer; and
- (i) The details in respect of each amount deducted from the gross amount of the payment including the name, or the name and number, of the fund or account into which the deduction was paid; and
- (j) If the employee is paid at an hourly rate of pay:
 - i. The ordinary hourly rate; and
 - ii. The number of hours in that period for which the employee was employed at that rate; and
 - iii. The amount of the payment made at that rate;
- (k) If the employee is paid at an annual rate of pay - that rate as at the latest date to which the payment relates;
- (l) If the employer is required to make superannuation contributions for the benefit of the employee:
 - i. The amount of each contribution that the employer has made for the benefit of the employee during the period to which the pay slip relates, and the name, or name and number, of any fund to which that contribution was made; or
 - ii. 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 name and number, of any fund to which those contributions will be made.

ACCURACY

An employer must ensure that a record that they are required to keep under the Act or Regulations is not false or misleading to the employer's knowledge. As soon as the employer becomes aware that any record contains an error, the employer must correct it and make a notation of the corrected error.

WHAT ARE THE PENALTIES FOR NON-COMPLIANCE?

Fair Work Inspectors can issue employers with an infringement notice for failing to meet pay slip and record keeping requirements. This is similar to an on the spot fine. The maximum fines payable from an infringement notice are:

- \$630 per breach – for an individual;
- \$3,150 per breach – for a corporation.

Employers should be mindful that failure to comply with an infringement notice issued by a Fair Work Inspector may result in further action being taken against them which may include a civil penalty for failing to meet the pay slip and record keeping requirements under the Act.

An employer who fails to keep employee records and payslips for the required time (as noted above) or does not keep employee records or payslips in the required format will be liable for a maximum civil penalty of 30 penalty units per breach. A penalty unit under the Act equates to \$210 per penalty unit. This equates to a maximum penalty of \$6,300 per breach.

CONTACT THE QHA

QHA's Employment Relations Department staff are available to discuss Employee Record and Pay Slip requirements.

1. **Timesheet Template**

The QHA has developed a *Timesheet Template*, which is available to download for FREE from the QHA website: www.qha.org.au

2. **Fair Work Compliance Audit**

QHA's Employment Relations Department offers a comprehensive and professional *Fair Work Compliance Audit* service to assist members to become compliant with Fair Work recording requirements.

Consultancy work, such as the *Fair Work Compliance Audit* is charged at an hourly rate of \$205.00 per hour plus GST for financial QHA members. A higher fee applies to non-member consultancy work.

Please note that travel to visit the workplace site will incur additional travel costs.

Further Assistance

Financial QHA members are encouraged to contact the QHA's Employment Relations Department (refer the contact details at the bottom of this page) for a confidential discussion about the information in this Fact Sheet, or to discuss any queries relating to specific workplace matters.

The information contained in this document is intended for general information only. Whilst due care has been taken in preparing this document, no responsibility is accepted by the author for the accuracy of the information therein contained.

All liability is expressly disclaimed for any damage which may arise from any person acting on any statement or information contained herein.

© Queensland Hotels Association
August 2017