

EMPLOYMENT OBLIGATIONS

Employers must meet a range of mandatory legal obligations when employing permanent, casual and contract staff.

Employers are bound by Federal and State legislation that must be complied with when staff are employed. This legislation currently covers areas including:

- Minimum Wages
- Employee entitlements & benefits
- Payroll & taxation
- Termination of employment
- Occupational Health & Safety
- Equal Employment Opportunity (Anti-discrimination)
- Privacy

Breaches of this legislation can result in heavy fines and penalties.

1.0 MINIMUM WAGES

Minimum wages & entitlements are legislated under federal and state laws.

Most employers will be covered primarily by the Federal Fair Work Act 2009 while some will be covered by State legislation.

It is important that employers understand the legislative framework they fall under in order to meet the minimum wages and conditions applicable to their organisation.

1.1 Wage Payments

Many employers are covered by industry and occupational Awards that state the minimum pay rates and entitlements that employers need to provide such as overtime and penalty payments, allowance payments, meal breaks and so on. The Award covering most gymnastics clubs is the *Fitness Industry Award*. *Award Pay Guides* can help employers calculate wages under Awards. Awards and their respective *Pay Guides* are available through the Fair Work Ombudsman website. Click on this link to access both documents <https://www.fairwork.gov.au/employment-conditions/awards/awards-summary/ma000094-summary>

1.2 Superannuation Payments

If an employee meets minimum eligibility criteria under the Superannuation Guarantee Act 1992, quarterly superannuation payments must be made into their nominated superannuation fund or the employers default fund. For more information click on <https://www.ato.gov.au/Business/Super-for-employers/>

Employees must complete the Superannuation Standard Choice Form upon commencement of employment so that superannuation payments can be made. This form can also be completed electronically.

1.3 Taxation

An employee needs to apply for a Tax File Number (TFN) and give it to their employer within 28 days of commencement. They will also need to lodge a TFN Declaration which will provide the employer with information to confirm how much tax will need to be withheld from their pay.

Employers will also need to register with the Australian Tax Office (ATO) for Pay As You Go (PAYG) which will allow you to generally withhold amounts from payments made to employees on behalf of the ATO. This is called PAYG withholding and you must remit it to the ATO at the end of your taxation reporting period.

The ATO website explains these obligations.

2.0 RECORD KEEPING

Employers are required to keep and manage employee records as outlined by employment, taxation, superannuation, safety and privacy legislation.

Some of the records employers need to keep are:

- Employee's address & contact details
- Days/time worked by employees
- Wages & other payments made to employees
- Deductions made from an employee's remuneration i.e. taxation and other deductions
- Leave taken by employees
- Employee pay slips
- Superannuation fund details & payments made
- Employee's Tax File Number & tax declaration

2.1 Pay Slips

When an employee has been paid a pay slips detailing the payment made must be provided within 24 hours after a payment has been made. More information about pay slips can be found via <https://www.fairwork.gov.au/pay-and-wages/paying-wages/pay-slips>

2.2 Privacy

Employers may be required to meet obligations under federal and state legislation to protect employee information and to restrict the flow of personal information to third parties.

3.0 OTHER EMPLOYEE ENTITLEMENTS

Employers have a range of additional employment obligations required by Federal and State Legislation. These are outlined below.

3.1 Maximum Weekly Hours

The Fair Work Act 2009 limits the working week of full-time employees to 38 hours plus reasonable additional hours.

Employers must ensure that employees are not unreasonably required to work beyond these legislated hours.

3.2 Leave Entitlements

The Fair Work Act 2009, Awards and state Long Service Leave legislation outline the minimum leave payments and conditions that must be provided to employees such as

- Annual leave
- Personal leave
- Compassionate Leave
- Parental leave
- Long Service Leave
- Domestic Violence Leave
- Other forms of leave i.e. Community Service Leave, Domestic Violence Leave
- Unpaid leave

The Defence Reserve Service (Protection) Act 1991 also specifies additional leave for employees who work for the Australian Defence Reserves.

Employers are encouraged to have budgets and/or contingency funds in place to cover future unexpected staff absence, injury, accrued annual leave, long service leave and potential redundancy payments.

Note - some leave benefits may also apply to casuals and contractors.

3.3 Public Holidays

The Fair Work Act 2009 and state legislation provides employees with entitlements to a certain number of public holidays as they fall in each state.

Industrial instruments (Awards) may stipulate how employees are paid if they are required to work during gazetted public holidays.

3.4 Casual conversion obligations

Many Awards allow casual employees to request permanent employment in certain circumstances, for example after 12 months employment. Casual staff must be given a copy of the Award conversion clause within their first year of engagement.

3.5 Terminating employment

The Fair Work Act 2009 outlines the period of notice and termination payments required when employment is terminated.

Employees who are made redundant are usually entitled to additional payments and benefits.

Employers must ensure employees are paid within 7 days of ending employment.

3.6 Fair Work Information Statement

Under the Fair Work Act 2009, employers are required to provide all new employees with a document titled the Fair Work Information Statement.

The Fair Work Information Statement should also be given to casual employees for each 12 month period of engagement.

These documents can be found via <https://www.fairwork.gov.au/employment-conditions/national-employment-standards/fair-work-information-statement>

4.0 OCCUPATIONAL HEALTH & SAFETY

Employers are required to take active steps to provide a safe and healthy workplace for workers. These obligations are stated under state-based Occupational Health & Safety Legislation and usually require employers to:

- provide OHS policies demonstrating a strong commitment to workplace safety;
- effectively manage OHS risks and workplace hazards;
- keep a register of injuries and notify the relevant authority in the event of a serious injury or death;
- meet return to work obligations for injured workers.

Many states also require employers to put up the 'If you are injured poster' on their noticeboard.

4.1 Workers Compensation

Employers must take out compulsory Workers Compensation insurance for employees if the employer meets minimum eligibility criteria under state based workers compensation laws.

5.0 EQUAL OPPORTUNITY & ANTI-DISCRIMINATION

Employers are required to ensure employees are not discriminated against during the course of their employment due to factors such as:

- Age;
- Gender identity, intersex status, sex or sexual orientation;
- Lawful sexual activity, sexual orientation or gender identity or vilification;
- Family or carer status;
- Pregnancy or potential pregnancy, breastfeeding;
- Marital or relationship status, spouse or partner identity;
- Race, colour, descent, national or ethnic origin, nationality, ethno-religious origin, immigration; national extraction or social origin;
- Religious belief or activity;
- Political belief or activity;
- Physical features, disability, mental or physical impairment;
- Profession, trade, occupation or calling;
- Defence service obligations;
- Irrelevant criminal record, spent convictions;
- Irrelevant medical record, HIV/Aids vilification;
- Member of association or organisation of employees or employers, industrial activity, trade union activity;
- Victimisation resulting from a complaint; or
- Personal association with someone who has, or is assumed to have, one of these characteristics.

5.1 Gender Equality

Under the Workplace Gender Equality Act 2012, Employers with 100 or more employees in Australia are required to report to the Workplace Gender Equality Agency annually on the gender profile of their workforce.

5.2 Entitlement to Flexible Working Arrangements

The Fair Work Act 2009 permits certain employees the right to request flexible working arrangements (i.e. parents, carers, older workers, disabled workers, workers experiencing domestic violence).