

RECORD-KEEPING - REQUIREMENTS TO RECORD PAY AND SUPERANNUATION CONTRIBUTIONS

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Under the Fair Work Act 2009 (Cth) (FWA), employers who engage employees must make and maintain accurate and complete records for all employees including, but not limited to, the recording of pay and superannuation contributions.

Record-keeping

To avoid any penalties, pay and superannuation contribution records must comply with the provisions set out in the FWA and the Fair Work Regulations 2009 (Cth) (Regulations). These are as follows:

- must be kept for 7 years;
- in a legible form;
- in English;
- readily accessible to a Fair Work Inspector;
- must not be changed unless to correct an error; and
- must not be false or misleading.
- Pay records: Under the FWA and Regulations, pay records must also include all of the following:
 - employer's name;
 - employee's name;
 - whether the employee is full-time or part-time;
 - whether the employee is permanent, temporary or casual;
 - the date on which the employment began;
 - ABN of the employer;
 - the rate of pay paid to the employee;
 - the gross and net amounts paid;
 - any deductions from the gross amount;
 - the details of any incentive-based payment, bonus, loading, penalty rate, or other monetary allowance or separately identifiable entitlement paid;
 - if the employee is casual or an irregular part-time employee who is guaranteed a rate of pay set by reference to a period of time worked, the hours worked by the employee must be recorded;
 - the number of overtime hours worked by the employee during each day or when the employee started and ceased working overtime hours;
 - the leave taken and leave balance (adequate records must also be kept of any cash out arrangement);
 - the superannuation contributions (see below); and
 - if applicable:
 - the agreement to average the hours of work;
 - the individual flexibility arrangement and any notice or agreement that terminates the agreement;
 - the guarantee of annual earnings; and
 - the manner of termination and the name of the person who terminated the employee.

Pay slips

Pay slips must be issued to each employee within one working day of pay day, even if an employee is on leave. Pay slips can be in hard copy or electronic form. Under the FWA and Regulations, pay slips must include all of the following:

- employer's name;
- employee's name;
- period to which the pay slip relates;
- date of payment;
- gross and net amount of payment;
- any bonuses, loadings, allowances, penalty rates, incentive-based payments or other separately identifiable entitlement paid; and
- employer's ABN.

Further, if applicable, a pay slip must include any of the following:

- any deductions made from the gross amount, including 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;
 - the number of hours worked at that rate; and
 - the amount of payment made at that rate;
- if the employee is paid an annual rate of pay (salary), the rate as at the latest date to which the payment relates;
- if the employer is required to make superannuation contributions for the benefit of the employee:
 - the amount of each contribution the employer made or is liable to make during the period to which the pay slip relates; and

the name, or name and number, of any fund into which the superannuation contributions were made or will be made.

Superannuation contribution records

Under the superannuation guarantee, employers are currently required to contribute 9.5% of an employee's ordinary time earnings to an employee's superannuation fund.

The FWA and Regulations require superannuation contribution records to include all of the following:

- the amount of the contributions paid;
- the period over which contributions were paid;
- the dates payments were made;
- the name of the fund that the contributions were made; and
- the basis on which the employer became liable to make the contribution, including a record of any election made by the employee (including the date) to have their superannuation contributions paid into a particular fund.

Please note, "contributions" does not include contributions in respect of a defined benefit interests in defined benefit funds.

What happens if you fail to keep the required records?

If employers fail to keep and maintain the required employee records/pay slip obligations, or if those records are incorrect, Fair Work Inspectors can issue fines (infringement notices).

The maximum fine payable is \$630 per contravention for an individual or \$3,150 per contravention for a body corporate. However, if the employer continues to fail to meet the reporting requirements, or the failure is serious or willful, Fair Work Inspectors may refer the matter to the courts.

Need assistance?

Employer Assist provides HVIA members with advice on employee records including the requirements to record pay and superannuation contributions.

Please contact Employer Assist on 1300 694 842 or hvia@employerassist.com.au if you have any question relating to this article or to discuss any issues that arise in your business.

We look forward to hearing from you.

Emma Dalley and the ***HVIA Employer Assist*** team