



Infringement Notices

Australia's new workplace relations system

From 1 July 2009, most Australian workplaces are governed by a new system created by the *Fair Work Act 2009*.

The Fair Work Ombudsman helps employees, employers, contractors and the community to understand and comply with the new system. We provide education, information and advice, investigate workplace complaints, and enforce relevant Commonwealth workplace laws.

What is an infringement notice?

An infringement notice is similar to an on-the-spot fine. It may be issued to an employer who contravenes relevant Commonwealth workplace laws covering obligations relating to employee records and pay slips.

Fair Work Inspectors from the Fair Work Ombudsman may issue infringement notices where they reasonably believe an employer has contravened the record-keeping and pay slip obligations contained in the *Fair Work Act 2009* and the *Fair Work Regulations 2009*.

What are the maximum infringement notice fines?

The maximum fines payable from an infringement notice are:

- \$330 per contravention for an individual
- \$1,650 per contravention for a body corporate.

Who can issue infringement notices?

A person appointed as a Fair Work Inspector can issue infringement notices.

An infringement notice must be given within 12 months after the day on which the contravention(s) is alleged to have occurred.

Which record-keeping and pay slip obligations can attract an infringement notice?

Infringement notices may be issued if an employer does not:

- make and keep employee records for seven years
- include the information required for employee records

- issue pay slips to employees within one working day of paying an amount
- include the information required for pay slips.

These record-keeping and pay slip obligations ensure that accurate records are kept so Fair Work Inspectors and employees can check that the correct pay, leave and conditions are being received.

For further information on record-keeping and pay slip obligations, please see the *Fair Work Ombudsman Fact Sheet – Employer obligations in relation to employee records and pay slips*. The Fair Work Ombudsman has also created various templates to help employers meet their record-keeping and pay slip obligations. These templates are available on the Fair Work Ombudsman's website www.fwo.gov.au

When is an infringement notice likely to be issued?

In general, the Fair Work Inspector may decide not to issue an infringement notice if it is the first time the employer has contravened record-keeping and pay slip obligations, or if the issue is minor in nature.

Instead, they may seek to resolve the matter with the employer and/or give the employer a contravention letter (a formal warning). An example of a minor matter is an employer's failure to record the full name of an employee when the identity of the employee is not in dispute. Seeking to resolve the matter with the employer provides a chance to fix any problems, and the Fair Work Inspector will often revisit the employer to ensure the issue has been resolved.

However, if the Fair Work Inspector finds the contravention is wilful, repetitive, or a way to avoid paying employees what they are owed, an infringement notice may be issued or they may recommend the matter be taken to court. This is regardless of whether it is a first time contravention.

Paying an infringement notice

If a Fair Work Inspector issues an employer with an infringement notice, the employer must pay the specified penalty amount within 28 days of being served the notice. Within this time period, employers may apply for an extension of time to pay the penalty.

The maximum extension that may be granted is 28 days. All applications for an extension should be made in writing and sent to:

Attention: Nominated Person
Fair Work Ombudsman
GPO Box 9887
In your capital city

The Nominated Person must provide a response within 14 days of receiving the application. If the request for an extension is refused, the employer will then have seven days from the date of being notified of the refusal in which to pay the penalty.

Can an infringement notice be withdrawn?

Employers may apply to have the infringement notice withdrawn. Applications must be made within 28 days of being served the infringement notice. They must be made in writing to the Nominated Person of the Fair Work Ombudsman.

While the Nominated Person must provide a response within 14 days of receiving the application, if there is no response within 14 days, the application for withdrawal has been refused. If the application to have the infringement notice withdrawn is refused, the employer must pay the specified penalty within the 28 days (or any approved extension period).

Payment options

Employers have a number of payment options available to them, including BPay and Government EasyPay (phone on **1300 130 379**), as indicated on the back of the infringement notice. If you have received an infringement notice and are unable to pay by these means, please contact the Fair Work Infoline on **13 13 94**.

Once the infringement notice has been paid, no further proceedings can be brought against the employer for the alleged contravention for which the infringement notice was issued.

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: **13 13 94**

Monday to Friday, between 8.00am–6.00pm

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

- For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94
- Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94