

YOUR **RECORD KEEPING** AND **PAYSLIP** OBLIGATIONS

Under new laws, there is a reverse onus of proof meaning employers will now have to disprove wage claims made against them in a court.

NEW LAWS make it more important than ever for employers to comply with payslip and record keeping obligations.

In September 2017, changes were made to the Fair Work Act to protect vulnerable workers. The changes followed the 7-Eleven scandal and other cases of systematic underpayment and non-compliance with workplace laws.

Under the new laws, employers who don't meet record keeping or payslip obligations – and can't give a reasonable excuse – now need to disprove wage claims made against them in a court. This is referred to as a 'reverse onus of proof'.

If an employee claims there is a breach and the employer didn't keep the right records, make those records available, or give them a payslip, the employer needs to prove that they did pay the employee correctly or gave them the right entitlements.

The new laws were utilised for the first time in January 2019 when the the Fair Work Ombudsman (FWO) commenced proceedings in the Federal Circuit Court against an employer that was audited by Fair Work Inspectors.

FWO alleges that between October and December 2017 the employer breached workplace laws by failing to keep proper time and wages records and failing to issue payslips to employees. It also alleges that nine workers were underpaid their entitlements under the relevant Modern Award.

The employer faces penalties of up to \$63,000 per contravention. Individual company directors are also facing penalties of up to \$12,600 for their alleged involvement. This is despite the alleged underpayments being rectified.

YOUR OBLIGATIONS

It is apparent that FWO will make full use of the new laws to protect the minimum entitlements of workers. If the proceedings are successful, it is likely to lower the barriers to future prosecutions.

FWO periodically audits businesses as part of its compliance and education campaign. We are aware that some of our members have been audited as part of FWO's proactive auditing activity.

Employers should be prepared. In order to discharge the reverse onus of proof, and avoid being involved in any legal action, it is now more important

than ever to comply with payslip and record keeping obligations.

MORE INFORMATION

To read more about the payslip and record-keeping go to www.fairwork.gov.au/pay/payslips-and-record-keeping.

If you have any questions, please contact the Professional Services team by emailing professionalservices@amansw.com.au. 

REVIEW YOUR REPORTING

Another good reason to review your payroll and record keeping systems is the new Single Touch Payroll (STP) reporting requirements.

Employers with 20 or more employees have been required to report through STP since 1 July 2018. The requirements will be extended to employers with 19 or less employees starting 1 July 2019. STP reporting is done directly through an employer's payroll software. It allows employers to report their employees' payroll and super information from their internal payroll

systems to the ATO each payday. You can read more about STP at www.ato.gov.au/Business/Single-Touch-Payroll/.

How do you comply? If you have an existing payroll solution (e.g. a software system such as Xero or MYOB), talk to your provider as your payroll software may need to be updated to offer STP reporting. If you don't have an existing payroll solution (e.g. because you have been doing manual or paper-based reporting), then you will need to consider your payroll software options.

The ATO acknowledges that this comes at an additional cost for employers and has asked software developers to build low cost solutions at or below \$10 per month for smaller employers by 1 July 2019. It is anticipated that the transition to digital connectivity will bring significant time savings in payroll processing.

The 1 July 2019 deadline is fast approaching. To avoid getting caught in a rush to become compliant, you may want to look into the STP reporting requirements sooner rather than later.