**Guide for employers**

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**Who do the NES apply to?**

The NES apply to all employees covered by the national workplace relations system (however only certain entitlements apply to casual employees).

There are two NES entitlements that apply to all full-time and part-time employees, whether they are covered by the national workplace relations system or not.

These are:

* parental leave and related entitlements (this also applies to casual employees who have been employed for at least 12 months by an employer on a regular and systematic basis and with an expectation of ongoing employment)
* notice of termination.

However, only certain NES entitlements apply to casual employees, which are:

* two days unpaid carer’s leave and two days compassionate leave per occasion
* maximum weekly hours
* community service leave (except paid jury service)
* to reasonably seek a day off on a public holiday
* provision of the Fair Work Information Statement.

In addition, casual employees who have been employed for at least 12 months by an employer on a regular and systematic basis and with an expectation of ongoing employment are entitled to:

* make requests for flexible working arrangements
* parental leave.

**How do the NES apply?**

The NES apply to all employees covered by the national workplace relations system regardless of the applicable industrial instrument or contract of employment. Terms in awards, agreements, and employment contracts cannot exclude or provide for an entitlement less than the NES, and have no effect.

However, awards and agreements are specifically allowed to affect the operation of the NES in certain ways.

For example, they may specify terms that deal with:

* averaging an employee’s ordinary hours of work
* the cashing out and taking of paid annual leave
* the cashing out of paid personal/carer’s leave
* the substitution of public holidays
* situations in which redundancy pay entitlements do not apply.

They may also supplement the NES by providing entitlements that are more favourable for employees.

In addition, employers and award/agreement-free employees (meaning they are not covered by an award or agreement) may also make agreements that affect the operation of the NES in certain ways.

They may make agreements about the following:

* averaging of hours of work
* the cashing out or taking of paid annual leave
* the substitution of public holidays
* extra annual leave in exchange for foregoing an equivalent amount of pay
* extra personal/carer’s leave in exchange for foregoing an equivalent amount of pay.

Otherwise, employment contracts can only have effect to the extent that they provide entitlements that are similar or more favourable to the employee.

An employer must not contravene a provision of the NES. A contravention of a provision of the NES may result in penalties of up to $10,200 for an individual and $51,000 for a corporation.

**Further information**

The Fair Work Ombudsman has published a fact sheet on each NES entitlement. For further information on a specific NES entitlement, please see the relevant fact sheets at [**www.fairwork.gov.au**.](http://www.fairwork.gov.au/)

For further information, visit [**www.fairwork.gov.au**](http://www.fairwork.gov.au/) or contact the Fair Work Infoline on **13 13 94**.

**Contact us**

Fair Work Online: [**www.fairwork.gov.au**](http://www.fairwork.gov.au/)

Fair Work Infoline: **13 13 94 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



**air Work Infoline:** 13 13 94 [**www.fairwork.gov.au**](http://www.fairwork.gov.au/)

he Fair Work Ombudsman is committed to providing you with advice that you can rely on.

he information contained in this fact sheet is general in nature. If you are unsure about how it applies to your situation you can call our foline on 13 13 94 or speak with a union, industry association or a workplace relations professional.

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****8. Prepare a Return to Work Program, in consultation with the treating medical practitioner and the injured worker, when required.

9. Refer the worker to a workplace rehabilitation1 provider when required.

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1For the purposes of this System the term ‘workplace rehabilitation’ means ‘vocational rehabilitation’ as defined in the *Workers’ Compensation and Injury Management Act 1981.*

claim form within five working days.

10. Monitor progress towards the return to work goal.

11. Communicate regularly with the insurer in relation to the injured worker’s claim.

**Day-to-Day Management**

The person who has day-to-day responsibility for injury management is\*:

Name:

Contact Details:

11. Communicate regularly with the insurer in relation to the injured worker’s claim.



|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| *RETURN TO WORK PROGRAM continued…/2*  Actions to be Completed to Enable the Injured Worker to Return to Work   |  |  |  | | --- | --- | --- | | **Action** | **Person Responsible** | **Completion/**  **Review Date** | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |
| Vocational Rehabilitation Details  *Note: these details are only included if the worker, the employer and the treating medical practitioner have agreed to a referral to an approved vocational rehabilitation provider.*  Name of Approved Vocational Rehabilitation Provider:  Telephone: Email:  Date of Referral: \_\_\_\_\_\_/\_\_\_\_\_\_/\_\_\_\_\_\_ |
| **AGREEMENT BY PARTIES AT THE WORKPLACE*:***  I agree to the terms of this return to work program.  **WORKER’S SIGNATURE:**  Date: \_\_\_\_\_\_/\_\_\_\_\_\_/\_\_\_\_\_\_  **EMPLOYER’S SIGNATURE:**  Name of person signing on behalf of employer:  Position:  Date: \_\_\_\_\_\_/\_\_\_\_\_\_/\_\_\_\_\_\_ |

# Pay slip

**Date of payment:** **<insert date>**

**Pay period**: **<insert date>** to **<insert date>**

**Employer’s name:** <insert>

**ABN:** <insert>

**Employee’s name:** <insert>

**Employment status:**\* <insert status e.g. full-time, part-time, casual>

**Name of <Award/Agreement>:**\* <insert>

**Classification under the <Award/Agreement>:**\* <insert>

**Hourly rate:** $00.00 **Annual Salary:** $00,000

**Bank details:**\* <insert employee’s bank details>

**Annual leave entitlement:** <xx days/hrs> as at <insert last date of current pay period>\*

**Personal/carer’s leave entitlement:** <xx days/hrs> as at <insert last day of current pay period>\*

*You should modify this table according to your employee’s entitlements. You can add extra lines if required.*

|  |  |  |  |
| --- | --- | --- | --- |
| Entitlements | **Unit** | **Rate** | **Total** |
| Wages for ordinary hours worked | 00 hours | $00.00 | $00.00 |
| <Insert any leave taken during the pay period> | 00 hours\* | $00.00\* | $00.00 |
| TOTAL ORDINARY HOURS = <xx> hours *any leave taken should also be included here.* | | | |
| <Insert name of entitlement **>** | 00 hours\* | $00.00**\*** | $00.00 |
| <Insert name of entitlement> | 00 hours\* | $00.00\* | $00.00 |
| Gross payment | | | $**00.00** |

*Entitlements can include loadings, penalty rates, shiftwork allowances, overtime, allowances, incentive based payments, termination entitlements and any other separately identifiable amount.*

|  |  |
| --- | --- |
| Deductions | |
| Taxation | $00.00- |
| <Insert any other deductions>  *Each deduction needs to be listed separately. You can add extra lines to this table if required.* | $00.00- |
| Total deductions | $**00.00-** |
| **Net payment** | $**00.00** |

|  |  |
| --- | --- |
| *Employer superannuation contribution – <Insert superannuation contribution>* | |
| *<Insert account/fund name (or name and number of fund)>* | |
| *Contribution* | *$00.00* |

*Note: Pay slips must be issued to employees within one working day of the day they are paid.*

\**The Fair Work Ombudsman acknowledges that the inclusion of information marked with an asterisk (\*) is not a requirement under the Fair Work Regulations 2009, effective 1 July 2009. This template is provided as a best practice model.* \

What are the pay slip obligations?

Pay slips must be issued to each employee:

* within one working day of pay day, even if an employee is on leave
* in electronic form or hard copy.

It is best practice for pay slips to be written in plain and simple English.

[Back to top](https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/record-keeping-pay-slips)

What information must be included on the pay slip?

Pay slips must contain details of the payments, deductions, and superannuation contributions for each pay period. The following information must be included on all pay slips issued to each employee as prescribed by the *Fair Work Act 2009* and the Fair Work Regulations 2009.

A pay slip must include all of the following:

* the employer's name
* the employer's ABN (if any)
* the employee's name
* the date of payment
* the pay period
* the gross and net amount of payment
* any loadings, monetary allowances, bonuses, incentive-based payments, penalty rates, or other separately identifiable entitlement paid.

Additionally, where relevant, a pay slip must include any of the following:

* If the employee is paid an hourly pay rate, the ordinary hourly pay rate and 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 last day in the pay period
* Any deductions made, including the name, or the name and number, of the fund or the account of each deduction
* 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 required to make during the pay period
  + the name, or name and number, of any superannuation fund into which the contributions were made or will be made.

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Proper procedures can reduce the likelihood of bullying claims especially in cases of performance management.

Bullying complaints frequently arise when a worker is being performance managed – the worker construes (reasonable) performance management actions taken by the manager as bullying behaviour or seeks to deliberately disrupt the performance management process by raising bullying allegations.

Safe Work Australia reports that about 10 per cent of workers have felt bullied at work and the Fair Work Commission reports that about 80 per cent of bullying complaints are made against a manager.

Bullying under the *Fair Work Act 2009 (Cth)* arises when an individual repeatedly behaves unreasonably towards a worker, or a group of workers and that behaviour causes a risk to health and safety. *Reasonable management action* is not regarded as bullying.

 While there is always a potential risk a worker may do this, a manager who is legitimately performance managing a worker and is only taking *reasonable management action* should be able to successfully rebut any bullying allegations.

**Six ways to stop bullying**

1. Identify what is and is not appropriate behaviour, and what actions can be taken in a business wide policy/procedure.
2. Provide training to all staff on workplace policies and procedures, and ensure refresher courses are held from time to time.
3. Provide targeted training and assistance to managers to equip them to pre-empt and resolve matters sooner rather than later.
4. Promote communication and genuine engagement between management and the workforce about preventing and addressing workplace bullying.
5. Utilise HR data such as worker’s compensation claims, patterns of absenteeism or staff turnover to identify any potential problems, including workloads and staffing levels.
6. Lead by example and promote effective management practices and communication.

Actions to be taken in relation to the incidence or any allegation of workplace bullying, must include:

1. Respond to all matters in a timely manner and in accordance with any policy/ procedure.
2. Don’t victimise the complainant.
3. Ensure procedural fairness and natural justice to all those involved.
4. Consider training and mentoring of the perpetrator.
5. Consider support for the person who has been bullied.

As HR, you should continue to review the effectiveness of these measures.