



Employment record obligations for award free employers

This publication outlines the legal employment record keeping obligations for employers who operate in the state industrial relations system and whose employees **are not** covered by a WA award, registered industrial agreement or other agreement (**award free**).

Information on record keeping for WA award employers is available in the – *Employment record obligations for WA award employers* publication available at www.dmirs.wa.gov.au/employmentrecords. If you do not know whether a WA award applies to your business visit the Wageline website for information www.dmirs.wa.gov.au/wageline or contact Wageline on 1300 655 266.

The state system covers businesses that operate as:

- ✓ sole traders (e.g. Jane Smith trading as Jane's Café)
- ✓ unincorporated partnerships (e.g. Jane and Bob Smith trading as Jane's Café)
- ✓ unincorporated trust arrangements (Jane and Bob Smith as trustees for Jane's Café)

This publication is **not** relevant to businesses and organisations in the national 'fair work' industrial relations system which operate as:

- ✗ Pty Ltd businesses that are trading or financial corporations
- ✗ incorporated partnerships or incorporated trusts
- ✗ incorporated associations and other non-profit bodies (that are trading or financial corporations)

If the business is in the national system visit the Fair Work Ombudsman website www.fairwork.gov.au

Disclaimer

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Six steps of employment record keeping

Employers are legally required to record and keep employment records for all employees. All employment records must be written in English. Employment records can be written or electronic, as long as they are in a format that can be printed.

Employers can be fined up to \$5,000 by the Industrial Magistrates Court for not keeping employment records or for keeping inadequate or fraudulent records. It is the employer who is legally required to keep the correct employment records. If the employer uses a third party, such as a book keeper, to manage payroll, the legal responsibility is still on the employer to ensure that the required information is collected and maintained.

All employment records must be kept for each employee during the period of employment and for at least seven (7) years after the period of employment has ended. If the business is sold, the records should be transferred to the new employer.

This publication outlines the **six steps of employment record keeping** for employees who are award free.



Step 1 Record employee details

Under the *Minimum Conditions of Employment Act 1993*, employers must record each employee's details including:

- Employee's name
- Date of birth if under 21 years of age
- The date the employee commenced with the employer

In addition to these legal obligations, it is useful to record additional details including:

- Employee's occupation or job title
- Employment status – full time or part-time or casual
- Employee's contact details – mobile phone, email, mailing address
- Emergency contact details – who should you call if the employee is injured or unwell?

Template 1 – Employment Details – is available at the end of this publication and an electronic version is available at www.dmirs.wa.gov.au/employmentrecords



Step 2 Record hours of work and pay

Employers must keep records for each award free employee which detail:

- The total number of hours worked each week for an employee with a salary of \$45,000 per year or less
- Any leave taken whether paid, unpaid or partly paid
- All deductions and the reasons for them
- Gross and net amounts paid to the employee

It is also recommended that employers record the start and finish times of employees and all unpaid breaks for each work day to establish that employees have been paid correctly.

Template 2B – Weekly time and wages record – Award free employees– is available at the end of this publication and an electronic version is available at www.dmirs.wa.gov.au/employmentrecords



Step 3 Issue a payslip

Providing a payslip to each employee is **recommended** so as to provide employees with information on the wages paid each pay period.

Standard inclusions on a payslip are:

- Employer name and ABN
- Employee name and job title or job classification
- Date of payment
- Period of payment
- The ordinary hourly rate of pay and the number of hours worked at that rate
- Allowances such as overtime, penalty rates and shift allowances
- Deductions from pay including the amount, types of deduction and who it was sent to
- Gross wage, net wage and tax deducted
- Superannuation details, including the amount of superannuation contribution made by the employer (and any employee contribution), and the name of the fund.

It is unlawful to deduct money from an employee's pay if the deduction is not authorised.

If an employee makes a written request for pay related information, the employer is required to provide that information not later than the end of the next pay period after the request is made.

Template 3B – Payslip – Award free employees is available at the end of this publication and an electronic version is available at www.dmirs.wa.gov.au/employmentrecords



Step 4 Record leave details

It is a **legal obligation** for employers to keep a record of all leave taken by each employee whether paid or unpaid.

Leave taken by the employee throughout their period of employment may include:

- annual leave
- paid or unpaid sick leave or carer's leave
- long service leave
- parental leave
- bereavement leave
- leave without pay

Full details of leave obligations, entitlements and conditions are contained in the *Minimum Conditions of Employment Act 1993* and in the *Long Service Leave Act 1958*.

Template 4 – Leave record – is available at the end of this publication and an electronic version is available at www.dmirs.wa.gov.au/employmentrecords

Full time, part time and casual employees are all entitled to long service leave under the state *Long Service Leave Act 1958*. Information on long service leave is available at www.dmirs.wa.gov.au/longserviceleave.

The *Long Service Leave Act 1958* requires an employer to keep a record of all details required to calculate an employee's entitlement to, and payment for, long service leave. These details include employment records showing:

- the date on which the employee commenced employment with the employer
- the gross and net amounts paid to the employee, and all deductions and reasons for them
- details of any written agreement made between the employer and the employee to forgo ("cash out") the employee's entitlement to accrued long service leave including how much leave was cashed out, when it was cashed out and the payment the employee received for the cashed out leave
- any other necessary details



Employees in the construction industry are covered by the construction industry portable paid long service leave scheme. For information please visit www.myleave.wa.gov.au



Step 5 Provide records to industrial inspectors when required to do so

There is a **legal obligation** on employers to provide access to employment records for the employee, anyone authorised in writing by the employee, and state industrial inspectors.

State industrial inspectors are Government officers with authority under the *Industrial Relations Act 1979* and the *Minimum Conditions of Employment Act 1993* to access time and wages records to determine whether correct entitlements are being paid. They have statutory powers to investigate complaints from employees, and employers are obliged to provide records when required to do so.

Significant penalties up to \$5,000 can be applied by the Industrial Magistrates Court for not keeping employment records or for keeping inadequate or fraudulent records.

In a recent case, a Perth doctor was ordered by the Industrial Magistrates Court to pay a penalty of \$4,000 plus disbursements for obstructing an investigation by industrial inspectors.



Step 6 Keep your records for 7 years

All employment records must be kept for at least seven years for both current and past employees. The employer must also ensure that records relating to long service leave are kept during the period of employment and for seven years from the date employment ends.

Under the *Long Service Leave Act 1958*, the length of employment for an employee's long service leave entitlements is based on the total time with the business, rather than one specific employer. If an employer sells a business, all employment records should be provided to the new owner so they can ensure they meet all their long service leave obligations to employees.



Wageline's record keeping templates help state system employers meet their legal obligations for employment records.

The templates are available at www.dmirs.wa.gov.au/employmentrecords

Template 1 – Employment details

Employer name:		ABN:	
Employee's personal details			
Full name:		Address:	
Date of birth:		Emergency contact:	
Email:		Relationship:	
Phone (home):		Phone (mobile):	
Phone (mobile):		Bank name:	
Nominated super fund:		Account name:	
Membership number:		BSB:	Account number:
Employment details			
Commencement date:		Date employment ceased:	
Name of WA award: <i>(if applicable)</i>		Job classification / Level: <i>(e.g. Food and Beverage Attendant Level 2; apprentice carpenter, senior hairdresser)</i>	
Employment status:	Full time <input type="checkbox"/>	Part time <input type="checkbox"/>	Casual <input type="checkbox"/>
	Fixed term <input type="checkbox"/>	Apprentice <input type="checkbox"/>	Trainee <input type="checkbox"/>
	Payment method: <i>(e.g. cheque/EFT)</i>		
	Pay period: <i>(e.g. weekly)</i>		

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Template 2B - Weekly time and wages record - Award free employees

Employment details			
Employee's name:		Employer's name:	
Date of birth (if under 21):		ABN:	
Employment status: <i>(Full time, part time or casual)</i>		Business trading name:	
Pay period dates:		Pay date:	

Day and date	Ordinary hours						Leave	
	Start Time	Start of unpaid meal break	End of unpaid meal break	Other break	Finish time	Total hours <i>(exclude unpaid breaks)</i>	Leave type	Leave hours
WEEKLY TOTAL ORDINARY HOURS:							TOTAL:	

Template 2B - Weekly time and wages record - Award free employees - Page 2

Deductions		Employer superannuation contribution	
Deduction type	Amount	Name of fund	
PAYG tax	\$		
Other deductions <i>(please specify)</i>	\$	Contribution	\$
Other	\$		
Total deductions	\$	Final pay	
<i>Permitted deductions are any amount the employer is authorised, in writing, by the employee to deduct and pay on behalf of the employee or any amount the employer is authorised or required to deduct by law or a court order.</i>		Gross pay	\$
		Total deductions	\$
		Net pay paid to employee	\$

For more information please visit the Wageline website www.dmirs.wa.gov.au/wageline or call Wageline on 1300 655 266.

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Template 3B - Payslip - Award free employees

Employment details			
Employee's name:		Employer's name:	
Date of birth (if under 21):		ABN:	
Employment status: <i>(Full time, part time or casual)</i>		Business trading name:	
Pay period dates:		Pay date:	

Wages	Total hours	Rate per hour (\$)	Total (\$)
Ordinary time rate		\$	\$
Allowance		\$	\$
Leave <i>(type)</i>		\$	\$
Leave <i>(type)</i>		\$	\$
GROSS PAY			\$
Deductions		Employer superannuation contribution	
Deduction type	Amount	Name of fund	
PAYG tax	\$		
Other deductions <i>(please specify)</i>	\$	Contribution	\$
Other	\$		
Total deductions	\$	Final pay	
<i>Permitted deductions are any amount the employer is authorised, in writing, by the employee to deduct and pay on behalf of the employee or any amount the employer is authorised or required to deduct by law or a court order.</i>	Gross pay	\$	
	Total deductions	\$	
	Net pay paid to employee	\$	

For more information please visit the Wageline website www.dmirs.wa.gov.au/wageline or contact Wageline via 1300 655 266.

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Template 4 – Leave record

Employment details			
Employee's name:		Employer's name:	
Date of birth (if under 21):		ABN:	
Name of WA award:		Trading name of business:	
Job classification / Level: <i>(e.g. Food and Beverage Attendant Level 2; apprentice carpenter, senior hairdresser)</i>		Employment status: <i>(Full time, part time, casual)</i>	

Type of leave <i>(Annual leave, long service leave, paid sick/carers leave, parental leave, unpaid carer's leave, leave without pay, bereavement leave)</i>	Opening balance	Details of leave taken				Reasonable proof provided <i>(if required)</i>			Leave balance Hours/minutes	
		Type of leave taken	Hours/minutes	Date	Hours	From	To	Yes		No

Leave loading may be payable on annual leave if the employee is covered by a WA award.

All leave taken should also be recorded in the time and wages record for the relevant pay period (use Template 2).

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