



## Changes to state employment laws in WA

# New pay slip requirements

New provisions are being introduced into the state industrial relations system, which will make it a legal requirement for all employers to provide their employees with pay slips containing specific information. The new provisions will also include penalties for employers for not providing a pay slip, or providing a pay slip that is false or misleading.

These new provisions in the *Industrial Relations Act 1979* (IR Act) have been introduced by the *Industrial Relations Legislation Amendment Act 2021* and will commence early in 2022.

There are also additional employment record obligations – see the **Additional employment record obligations fact sheet** at [www.dmirs.wa.gov.au/new-employment-laws](http://www.dmirs.wa.gov.au/new-employment-laws).

### State employment laws are changing

This fact sheet is part of a suite of information on the changes to state employment laws that will commence early in 2022. For details on the changes visit [www.dmirs.wa.gov.au/new-employment-laws](http://www.dmirs.wa.gov.au/new-employment-laws).

## Pay slip requirements

Under the new provisions in the IR Act, it will be compulsory for all state system employers to provide a pay slip to each employee within **one** working day of paying the employee for work performed. The employer can decide whether to give a hard copy or electronic form of the pay slip.

The one working day requirement does not mean that the employee must physically receive the pay slip within one working day. For example, an employer may post a pay slip to an employee within one day, even though the pay slip may not reach the employee until a later date.

A pay slip will need to include the following information:

- the employer's name and Australian Business Number (if any);
- the employee's name;
- the period to which the pay slip relates;
- the date on which the payment referred to in the pay slip was made;
- the gross and net amounts of the payment, and any amount withheld as tax;
- any incentive based payment, or payment of a bonus, loading, penalty rates or another monetary allowance or separately identifiable entitlement;
- if an amount is deducted from the gross amount of the payment:
  - the name of the person in relation to whom or which the deduction was made;
  - if the deduction was paid into a fund or account - the name, or the name and number, of the fund or account; and
  - the purpose of the deduction;
- if the employee is paid at an hourly rate of pay:
  - the rate of pay for the employee's ordinary hours;
  - the number of hours worked during the period to which the pay slip relates; and
  - the amount of the payment made at that rate;
- if the employee is paid a weekly or an annual rate of pay - 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 that the employer made during the period to which the pay slip relates and the name, or the name and number, of any fund to which the contribution was made; or
  - the amounts of the contributions that the employer is liable to make in relation to the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contributions will be made.

The payslip obligations in the IR Act will apply to all employers, including employers who are currently covered by an industrial instrument (a WA award or agreement) that includes pay slip obligations. If there are inconsistencies between the pay slip obligations in an industrial instrument and the IR Act, the provisions of the IR Act apply to the extent of any inconsistency.

Visit [www.dmirs.wa.gov.au/payslips](http://www.dmirs.wa.gov.au/payslips) for pay slip information, including pay slip templates to assist employers with meeting pay slip requirements.

## Penalties

Employers will face a penalty of up to \$13,000 (or up to \$130,000 in the case of a serious contravention) for individuals or a penalty of up to \$65,000 for bodies corporate (or up to \$650,000 in the case of a serious contravention) for:

- failing to give a pay slip to an employee within one working day of paying the employee for work performed;
- failing to give an employee a pay slip which includes the specified information; and
- providing a pay slip that the employer knows, or could reasonably be expected to know, is false or misleading.

A serious contravention is defined as a situation in which the person knowingly commits the contravention and this conduct is part of a systematic pattern of conduct relating to one or more other persons.

For further information on increased penalties and what constitutes a “serious contravention” see the **Increased penalties and accessorial liability fact sheet** at [www.dmirs.wa.gov.au/new-employment-laws](http://www.dmirs.wa.gov.au/new-employment-laws).

## Accessorial liability

A penalty may also be imposed on a person who has been **involved in** a contravention, including a contravention of a pay slip requirement. This liability may extend to persons such as accountants and HR officers responsible for issuing pay slips to an employer’s employees.

A person is involved in a contravention if the person intentionally participates in the contravention. This requires actual knowledge of the essential matters that make up the contravention. It can, however, also include ‘wilful blindness’ if a person deliberately shuts their eyes to what is going on and fails to make an inquiry of suspicious circumstances.

## Employer burden to disprove an allegation

An employer will have the burden of disproving certain allegations made in proceedings for enforcement (such as an underpayment matter) if the employer was required to give a pay slip in relation to the matter and failed to comply with this requirement.

The burden of disproving an allegation does not apply, however, if the employer provides a reasonable excuse for the failure to comply with the requirement to give a pay slip.

## Disclaimer

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