

# EMPLOYERS' TOOLBOX

*A simple step-by-step guide to an employer's legal obligations & responsibilities...*

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**starting out.....**

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### **Starting out:**

1. Contact the ATO and register your ABN Number for PAYGW (Pay as you go Withholding). Find out how to do this [here](#). Your accountant can assist you with registration.
2. Decide if your employees will be full time, part time or casual.
3. Get some Tax File Number Declarations (see [here](#) to find out where you can get them). Get your new employees to complete a form and return it to you. You will then need to complete the second half of the form and return the original copy to the ATO within 14 days of the employee's start date. Here is sample of what the TFN declaration looks like: [Sample TFN declaration](#).
4. Choose a [modern award](#) or enterprise agreement for your employees. Contact the Fair Work Ombudsman to help you with your choice/s.
5. Create an offer of employment letter and employment contract for your new employees. Outline commencement date, position details, status, remuneration, duties & responsibilities, terms and conditions etc. You can find engagement letter templates [here](#). Also see this website for more examples of documents: <http://www.lawlive.com.au/>
6. Provide the employees with a [Super Choice Form](#). They must complete the form and return it to you. There is a section of the form that you must complete also. The form must then be kept with the employee's records.
7. Provide your new employees with the [Fair Work Information Statement](#).
8. Set up your new employees in your accounting software so you can process their pays. If you cannot do this or need help, contact your bookkeeper or accountant.
9. Set up your business in the [Small Business Superannuation Clearing House](#). This is the easiest way to pay your employees' super contributions (provided you have less than 19 employees). If you have more than 19 employees, there are companies that can assist you to process superannuation payments. Be aware, that from 1 July 2014, if you have more than 20 employees, you must adhere to the new data and payment standard that requires employers to pay their employees' super contributions electronically. Read more about this [here](#).
10. Obtain Workers Compensation Insurance. You must cover your employees for possible accidents and injuries endured at work. It is an offence not to maintain this type of insurance. Contact any major insurance company in your state for information on how to proceed.

# **national employment standards and modern awards**

### ***National Employment Standards and Modern Awards:***

To ensure that you meet the minimum national standards of employment in Australia, you must follow the National Employment Standards (NES) including the [Modern Awards](#). The NES is like a safety net for employees and ensures that all employees receive a particular standard of care as well as all of their entitlements whilst they are employed. There are 10 NES entitlements and in summary they include ([taken directly from the NES fact sheet from Fair Work Ombudsman website](#)):

1. ***Maximum weekly hours of work*** – 38 hours per week, plus reasonable additional hours
2. ***Requests for flexible working arrangements*** – an entitlement allowing parents or carers of a child under school age, or of a child under 18 with a disability, to request a change in working arrangements to assist with the care of the child.
3. ***Parental leave and related entitlements*** – up to 12 months unpaid leave per employee, plus a right to request an additional 12 months unpaid leave, plus other forms of maternity, paternity and adoption-related leave.
4. ***Annual leave*** – four weeks paid leave per year, plus an additional week for certain shift workers.
5. ***Personal/carer's leave and compassionate leave*** – 10 days paid personal/carer's leave, two days unpaid carer's leave as required, and two days compassionate leave (unpaid for casuals) as required.
6. ***Community service leave*** – unpaid leave for voluntary emergency activities and leave for jury service, with an entitlement to be paid for up to 10 days for jury service.
7. ***Long service leave*** – a transitional entitlement for employees as outlined in an applicable pre-modernised award, pending the development of a uniform national long service leave standard.
8. ***Public holidays*** – a paid day off on a public holiday, except where reasonably requested to work.
9. ***Notice of termination and redundancy pay*** – up to five weeks notice of termination and up to 16 weeks' severance pay on redundancy, both based on length of service.
10. ***Provision of a Fair Work Information Statement*** – must be provided by employers to all new employees, and contains information about the NES, modern awards, agreement-making, the right to freedom of association, termination of employment, individual flexibility arrangements, union rights of entry, transfer of business, and the respective roles of the Fair Work Commission and the Fair Work Ombudsman.

The main thing to remember here is that when using an employment contract or applying an award with your employee, you cannot provide the employee with less than the 10 NES; you may provide more if you wish but never less! Note, employers found to be contravening the NES can expect to be fined up to as much as \$10,200 for an individual and \$51,000 for a corporation.

As an adjunct to the NES, there are also Modern Awards. Modern Awards replaced federal and state awards on 1 January 2010. The awards are a set of legal documents that set out the minimum employment entitlements for specific industries or occupations. The awards apply to most employees in Australia who are covered by the national workplace relations system but do not apply to employers bound by an agreement. There are currently 122 awards and you can find out more about them and obtain further information [here](#).

# **superannuation guarantee**

### **Superannuation:**

1. You must pay 9.5% super of the employees' ordinary times earnings (amount earned for ordinary hours of work). This includes commissions, shift loadings, allowances but not overtime payments. Note, the super guarantee rate is gradually increasing to 12% in the coming years- see the table below:

<b>YEAR</b>	<b>RATE %</b>
2013-14	9.25
2014-21	9.5
2021-22	10
2022-23	10.5
2023-24	11
2024-25	11.5
2025 onwards	12

2. Super is paid to employees 18 and over.
3. Super is paid to employees earning \$450 gross or more per month.
4. Super must be paid to complying super funds every 3 months and if paid by the due date, is tax deductible. Remember, as mentioned above, using the clearing house for super payments is the easiest way to pay your liability.
5. When to pay:

<b>Quarter</b>	<b>Period</b>	<b>Payment Cut-off Date</b>
1	July to Sept	28 October
2	Oct to Dec	28 January
3	Jan to March	28 April
4	April to June	28 July

4. What if you can't pay the super liability on time? If you don't pay on time you will have to lodge a *Superannuation Guarantee Charge Statement Quarterly* and pay the super guarantee charge to the ATO. This charge is made up of the super contribution due, 10% annual interest and \$20 administration fee per employee per quarter. Also, any late super contributions and the super guarantee charge **are not tax deductible**.

**how to pay your  
employees,  
annual  
obligations and  
record-keeping**



### ***How to pay your employees:***

1. You need to work out how much to withhold from your employees' wages. To do this you need to review their TFN declarations as these will indicate whether or not the employee has opted for the tax free threshold. You will also need [tax tables](#) and the [tax withheld calculator](#). If you are using accounting software, the software will calculate the tax amount for you.
2. You will need to record the employees' payments on payslips that you will provide to employees every pay day. A payslip template can be found [here](#). Again, if you are using accounting software, the software will generate an appropriate payslip for you.
3. If your employee is employed on a part-time or full-time basis, then you must record annual and personal leave for him. Leave is accrued from the first day of employment and needs to be shown on the payslip. Here is a template that you can use to record the leave details of each employee - see "Employee Leave Records" template on [this page](#) under the heading "Annual Leave and Long Service Leave". To help you calculate the right amount leave for your employees the Fair Work Ombudsman has this [calculator](#) available.

*\*\*In general, a full time employee is entitled to 4 weeks annual leave per year and 10 days personal leave per year. Other leave applicable includes 2 days' unpaid carer's leave and 2 days' compassionate leave. Part-time employees receive a pro-rata entitlement to personal leave and annual leave based on the number of hours they work. Please note, an employee's modern award may indicate other leave arrangements. These must be taken into account when working out your employee's leave entitlements.*

4. Ensure that you include the correct amount of superannuation contribution on the payslip as well as the name of the super fund to which it will be paid. Note, if you are using accounting software, the super contribution will be automatically calculated for you.
5. Pay your employee the "net" amount on the employee's payslip i.e. the gross amount less tax withheld. Payments are best made electronically via online banking.

### ***Annual Obligations:***

After June 30, you must provide your employees with [payment summaries](#). These are a summary of all payments made to your employees including the tax amount withheld in the preceding 12 months up to and including June 30. The summaries must be provided to employees by 14 July. You will also be required to complete a PAYG payment summary statement to the ATO by 14 August. See [here](#) for further information. Completing the payment summaries and the summary statement can be very complicated for some businesses. It is best to obtain advice from your accountant and bookkeeper about this aspect before proceeding.

### ***Record Keeping:***

You must keep the following employment records for 5 years as directed by the ATO:

- copies of tax file number declarations or withholding declarations
- copies of any contracts you have with contractors
- records of wages, allowances and other payments made to workers
- copies of payments and reports provided to the ATO

- copies of payment summaries
- super records, including payments you made and records that show you have met your choice of super fund obligations
- records of fringe benefits provided, tax calculations, worksheets, declarations, elections and supporting details

Decide at the start how and where you will keep these records. Develop a system whereby all documents are kept in the same way so as not to accidentally lose any important data.

# useful resources

## ***Resources:***

[ATO Guide for Employers](#)

[Employers Home Page ATO](#)

[Employers Obligation Guide](#) (document download from Fair Work Ombudsman website)

[Employment Section](#) (Fair Work Ombudsman)

[Employment legal contracts and documents](#)

[Fair Work Ombudsman](#)

[Fair Work Information Statement](#)

[Leave Calculator](#)

[Leave Record Template](#)

[Letter of Engagement Template](#)

[Modern Awards](#)

[National Employment Standards](#)

[Payslip Template](#)

[Small Business Superannuation Clearing House](#)

[Super Calculator](#)

[Super Choice Form](#)

[Tax Withheld Calculator](#)

[Tax Tables](#)

## ***Sources Used:***

1. Fair Work Ombudsman Website
2. Australian Taxation Office Website
3. lawlive.com.au