

# Workplace Relations Compliance - You are on notice

## You are on notice – comply or run the risk of serious consequences well beyond back-pay!

Industrial Relations Minister and Attorney-General Christian Porter has warned businesses that they are on notice to ensure workplace relations compliance.

If the recent high-profile cases tell us anything, underpayments most often occur due to inadvertent error.

“...if there is a major business in Australia who doesn't consider itself on notice that they have to invest and improve their systems of payments, and their platforms, and their technology, and their auditing, then that system, that company would have rocks in its head... you're on notice.”

### Employers can get things wrong in a any number of ways including by:

1. not understanding their obligations arising under the *Fair Work Act 2009 (Cth)*, *Fair Work Regulations 2009 (Cth)*, or any applicable modern award or enterprise agreement;
2. failing to apply yearly minimum wage increases for employees covered by a modern award;
3. failing to understand and properly pay for overtime, penalty rates, shift rates, allowances and leave loading under a modern award or enterprise agreement. Where an award or agreement covered employee is working more than 38 hours a week, early in the morning, late at night or on weekends and/or public holidays, they will most likely be entitled to additional remuneration;
4. failing to understand what portion of minimum entitlements are “bought out” by an annualised salary and not having appropriate contractual off-setting provisions;
5. incorrectly classifying employees under a modern award or enterprise agreement. Classification needs to be considered on commencement, where an employee takes on additional duties, and where an employee is promoted. Just because someone is called a “manager” does not necessarily mean they are award / agreement free;
6. failing to correctly categorise employees as full-time, part-time or casual, for example, by using casual employees on a full-time basis for a prolonged period of time;
7. failing to consider whether independent contractors are more likely to be considered employees at law;
8. failing to have in place robust and up-to-date employment contracts and position descriptions;
9. not having payroll systems configured correctly and accurately to reflect terms and conditions imposed by modern awards or enterprise agreements; and
10. failing to have in place good systems for record keeping and auditing.



The above is only a brief overview of some of the legal compliance issues that employers need to consider. Never has there been a more important time to be on top of your compliance.

Get on top of it **NOW**.

Gadens' Employment Advisory team can assist employers in ensuring they are compliant with minimum standards and all workplace laws, including by undertaking compliance reviews and audits and advising on obligations. Speak to us about a spot check today.



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