



**BOX**  
ADVISORY  
SERVICES

# HIRING YOUR FIRST EMPLOYEE GUIDE

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## ABOUT THIS GUIDE

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The first few stages in the life of your growing business are crucial. One of the critical areas to look out for is the selection and hiring of new employees. Being one of the first, these people set the tone of the company and create a culture that is yet to exist.

Achieving entrepreneurial success isn't just about picking anyone for your company. It's also about making sound decisions and implementing the right strategy in attracting the best prospective employees.

# STEP 1

## ENSURE YOU'RE LEGAL

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As an employer, you have the obligation to comply with laws relating to the conditions, rates, and taxes.

In Australia, the minimum wage rates vary, depending on the industry award, with additional penalty rates for work performed on weekends, holidays, or beyond the normal number of hours (overtime). While the wage rate may be negotiated privately between the employer and employee, it may not, as a general rule, be below the minimum wage rates mandated by the awards. Above this, all employers are required to comply with the National Employment Standards.

To best understand your employer obligations, you must first understand the fundamental framework of employment minimum standards. The National Employment Standards (NES) are enforced by the Fair Work Ombudsman (FWO) – a minimum standard that all businesses must comply by. This covers minimum standards for all employees in the national workplace relations system.

Now, let's begin to understand what the 10 standards involve..



# NATIONAL EMPLOYMENT STANDARDS

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## HOURS OF WORK

Maximum weekly working hours conditions apply regardless of any award, agreement or contract. An employer must not request or require an employee to work more than the following hours of work in a week unless the additional hours are reasonable:

- Full-time employee: 38 hours
- Non-full-time employee: the lesser of 38 hours or their ordinary hours of work in a week



## ANNUAL LEAVE

Annual leave refers to when an employee is paid while having time off from work. No awards or other agreements can offer less than this. Note, all employees except casual employees get paid annual leave.

Full-time employees receive 4 weeks of annual leave per year, based on their ordinary hours, whilst part-time employees' annual leave is accumulated pro-rata in relation to the number of hours they work. This leave is accumulated from the first day of employment.

## MATERNITY & PARENTAL LEAVE

Parental leave entitles employees to receive time off work when a child is born or adopted. These entitlements include maternity leave, paternity leave, adoption leave, special maternity leave, a right to return to a former job, a safe job and no safe job leave.



The most common parental leave taken is when an employee gives birth or their spouse gives birth. Employees are entitled to 12 months of unpaid parental leave and can also request an additional 12 months of leave. All employees, male or female, are entitled to parental leave.

Employees can take parental leave if they have worked for their employer for at least 12 months.

# NATIONAL EMPLOYMENT STANDARDS

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## LONG SERVICE LEAVE

Employees receive long service leave after an extended period of working for the same employer. Each state and territory have different time periods that constitute long service leave and how much long service leave is received by the employee after this period is served.



## NOTICE OF TERMINATION AND REDUNDANCY PAY

A notice period is considered the length of time that an employee or employer must give to end employment. The FWO website has a handy calculator that can be used to calculate notice and redundancy notice periods and pay. This involves both dismissals and resignations.

[Click here to access the FWO Calculator](#)

In order to end an employee's employment (such as firing or terminating), an employer must give written notice of their last day of employment. They can either deliver this personally, employee's last known address, or send it by pre-paid post to the employee's last known address. Employees do not need to give notice in writing and can be given verbally!

In certain circumstances, notice can be paid out instead of worked. This may include incentive-based payments, loadings, allowances, penalty rates, and other identifiable monetary amounts had the employee worked until the end of the notice period.

If an employee's employment is ended whilst on probation, they still must be paid out notice based on their length of service.

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# NATIONAL EMPLOYMENT STANDARDS

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In cases of serious misconduct, an employer does not have to provide any notice of termination. However, they must pay the employee all outstanding entitlements as mentioned above.

Redundancy occurs when an employer either no longer requires an employee's job to be done by anyone or becomes insolvent/bankrupt

## PERSONAL CARERS LEAVE AND COMPASSIONATE LEAVE

Employees are entitled to take time off to help deal with personal illness, caring responsibilities and family emergencies. Personal leave, otherwise known as sick leave, entitles full-time employees to two (2) weeks of paid sick leave. Part-time employees are calculated pro-rata according to the number of hours worked.

Compassionate (or bereavement) leave refers to when an employee's immediate family or household dies or contractors/develops a life-threatening illness or injury.

All employees are entitled to two days of compassionate leave each time this occurs.

Full-time and part-time employees receive paid compassionate leave whilst casual employees receive unpaid compassionate leave.

## REQUESTS FOR FLEXIBLE ARRANGEMENTS

Certain employees have the right to request flexible working conditions (hours, patterns and/or locations of work). Employers can only refuse these on reasonable business grounds.

For example, if you the employee is a parent of a child returning to work after parental leave or they are a carer for the family. Changes can be made to number of hours, pattern or location of work.



# NATIONAL EMPLOYMENT STANDARDS

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## COMMUNITY SERVICE LEAVE

Voluntary emergency management activities or jury duty can be taken by employees. Except for jury duty which is paid by the government, community service leave is unpaid.



## PUBLIC HOLIDAYS

It's important to factor in public holidays as your employees receive different entitlements on these days.

A list of public holidays in your state or territory can be found [here](#)



## FAIR WORK INFORMATION STATEMENT

Employers must give a copy of the statement before commencing employment. This outlines their conditions of employment outlining their rights and responsibilities.

A copy of the Fair Work Information Statement can be downloaded [here](#)

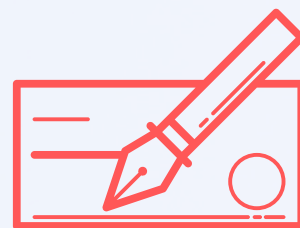


For more information on the National Employment Standards and how a standard relates to your industry, [click here](#) to access the FWO website.

# STEP 2

## Pay

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Whilst most business owners are most interested in the cost of payroll to their business, wages only formulates a small part of your employer obligations.

In most industries, minimum pay rates are governed by modern awards. This includes wages, allowances, penalty rates, and loadings. To ensure you are complying with the modern award, the FWO website has a pay calculator for you to find your relevant classification and pay rates. No agreements can override the minimum pay rates set in the modern award.

Apprenticeships and traineeships have different pay rates. These employees can only be paid apprentice pay rates if they have a formal training contract with their employer. This must be registered and recognised by a state/territory training authority such as TAFE. The pay calculator can assist in finding out what pay rates are involved for apprentices and trainees.

Employees must be paid at least monthly and can be paid by one, or a combination of cash, electronic funds transfer or cheque/money order. Employees cannot be 'paid in kind' (e.g. food or favours).

[Click here for access to all modern awards](#)

[Click here to access the FWO pay calculator](#)

# STEP 3

## Employee-Related Taxes

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As a business, you have a key role in assisting your employees in ensuring they meet their end of financial year tax liabilities, as well as the businesses. It is also important that as a business, you are verifying the status of your potential employees to ensure they are legally permitted to work in Australia.

There are at least three employee-related taxes you should remember:

- Pay As You Go (PAYG) withholding is made against your employees' wages for income tax purposes. You need to register with the Australian Taxation Office (ATO) if you're a new employer. It is your employer obligation to withhold the correct amount of income tax for your employees prior to paying them their wage. Income tax is paid to the ATO when lodging your Business Activity Statements (BAS).
- Payroll Tax is a state/territory tax based on the wages you paid to your employees if your total wage bill across Australia exceeds the threshold set in specific states/territories where your employees are located. The payroll tax rates and thresholds differ from one state to another. You need to register with the Revenue Office of the state(s) where you need to pay the tax, such as the NSW Office of State Revenue if you operate a small or medium-sized business in NSW. Refer to our comprehensive guide to Payroll Tax in Australia.
- Fringe Benefits Tax is calculated against the benefits you give to employees other than wages or salary. These benefits include a car, housing allowance, medical insurance, holiday pays and employee meals. You will also need to register with ATO for fringe benefits tax, if you provide such benefits to your employees.



## STEP 4

### Super Contributions

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The Superannuation Guarantee Contribution is designed to provide for the retirement of your employees by setting aside money for them at a rate of 9.5% on their ordinary earnings. You are obliged to pay the super contributions if your employee is:

1. Over the age of 18 (or if under 18 but works for more than 30 hours per week); and
2. Earns at least \$450 (before tax) each monthly.

Super contributions can be paid at least quarterly to an employee-nominated Superfund and are applicable for casual, part-time and full-time employees.

Your employee can file a complaint with the ATO if you're not paying their super contributions, resulting in penalties against your business.

Recently, the ATO introduced SuperStream, which requires you to pay super contributions electronically and send the associated data electronically. This allows employers to make all contributions in a single transaction.

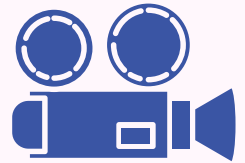
[Click here for to learn more about SuperStream](#)



## STEP 5

### Recordkeeping

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Paperwork can add a huge burden for small business owners. However, they are a necessary evil to ensure that as an employer, you are compliant and doing the right thing for employees. Employers with employees are required to make and keep accurate, complete records for all their employees, as well as issue pay slips to each employee. Your mandatory record-keeping employee obligations include:

- Be in a form that is readily accessible to a Fair Work Inspector
- Be in legible form and in English
- Kept for seven years
- Not be altered unless for the purpose of correcting an error
- Not be false or misleading

As prescribed by the Fair Work Act 2009 and Fair Work Regulations 2009, the following must be kept in employee records:

- General records (name, contract, commencement date)
- Pay records
- Hours of work records
- Leave records
- Superannuation records
- Guarantee of annual earnings records
- Flexibility arrangement records
- Termination records
- Transfer of business records (change of business ownership)

Note: As of 1 July 2019, all payroll information is to be lodged via Single Touch Payroll each time a payroll run has been completed.

# STEP 6

## Working Conditions & Safety



The topic of work health and safety is a dry but important aspect of running a business. Negligence in your primary duty of care for your employees can result in some messy legal ramifications!

### DUE DILIGENCE

Due diligence refers to a legal requirement to keep your employees and visitors safe while they are at work. This ensures the business complies with its work health and safety (WH&S) obligations under the NSW Work Health and Safety (WHS) Act 2011.

SafeWork NSW outlines some reasonable steps you must take, including the following:

- Maintain the latest knowledge of work health and safety matters for your specific business
- Understand the hazards and risks associated with your operation
- Ensure your business utilises appropriate measures to eliminate or minimise risks to health and safety whilst business is undertaken
- Ensure appropriate processes to receive information in relation to incidents, hazards and risks are in place, and can be responded to in a timely manner: think incident reporting
- Ensure your business has processes that comply with any WHS obligations
- Regular auditing to ensure these steps are carried out





# STEP 6

## Working Conditions & Safety

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### PRIMARY DUTY OF CARE

Similar to due diligence, primary duty of care refers to your responsibility as an employer and colleague, to observe and act on minimising/eliminating all risks to health and safety.

- Workers Compensation
- Every employer must have the following:
  - Workers compensation insurance.
  - Display the 'if you get injured at work' poster
  - Have a return to work program
  - Maintain a register of injuries. SafeWork NSW has a standard template that can be used
- Provide help if there's been an injury

The State Insurance Regulatory Authority conducts regular compliance checks and site visits. Failure to comply can result in penalties of up to \$750 per instance.

[Click here for a list of insurers](#)

[Click here to download the poster](#)

[Click here for more information on return to work programs](#)

[Click here for the register of injuries template](#)



# STEP 7

## Recruiting

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Hiring your first employee is extremely pivotal in setting precedence in ensuring your business has the best opportunity to grow, but also to assist in creating the right culture in the workplace.

A difficult to manage employee becomes a tremendous burden on a business owner, when in fact, they should be assisting in relieving pressure. It's important to think about what method would suit you best to pick a candidate that's right for your business.

Some questions you should be asking in selecting a suitable candidate:

- What type of role do I need filled? Create a clear job description
- Where will you advertise the role?
- How do I attract the right people? Will it be online? Social media? Recruitment agencies?
- Will you require a full-time, part-time or casual employee?
- What kind of recruiting process will you use? Will it be multi-stage interviewing or a simple one-time interview?
- Will this candidate create the right culture in my business?
- What are the employee contract conditions?
- What values are important to my business?

### LEGAL ELIGIBILITY TO WORK

Once you have decided on making an offer to a prospective employee, on a surface level it appears to be a match made in heaven. However, it's imperative you conduct your due diligence to avoid headaches later down the track. Some further questions include:

[Click here to register for VEVO](#)

Are they an Australian citizen, permanent resident or a foreign national with a visa?

These can be checked with VEVO for those on a working visa

Do they have a Tax File Number?

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# STEP 7

## Recruiting

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If your employees do not have the relevant rights to work, you could potentially be putting your business at risk. You could be investigated by the Fair Work Commission and the Australian Border Force for breaching employment and immigration laws. Under provisions of the Migration Act, you must take reasonable steps to check the working status of your potential employees. Records must also be kept of their working status and must be regularly checked until their employment ends with you.

### **BACKGROUND CHECKS**

Did you know relying entirely on your instincts is simply too risky? When it comes to hiring employees, it's best not to trust your gut completely. It can hurt your business. Or worse, your reputation. You can't risk that!

In a typical pool of candidates, there will be under qualified individuals in the mix. In many cases, these applicants may have inflated claims as to their skill, knowledge, attitude, and work experience.

So, what do you do?

Your solution: perform background checks.

[Veritascheck](#)

[Crimcheck](#)

This includes looking into news articles, educational credentials, employment background, criminal record.

You can easily get this information from the following:

- Using a search engine to find any articles about the applicant
- Reference check with previous employers and education providers
- National Criminal check via Veritascheck or Crimcheck

# STEP 8

## Training & Onboarding

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The recruitment process does not end once the new employee has signed the employment contract. To ensure that all new employees are performing all tasks consistently within the company, make sure that the new employee is fully acquainted with his/her duties and responsibilities to ensure tasks are performed efficiently. Below is a list of things to do to onboard your staff member:

- Conduct an induction
- Dress codes
- Employee handbooks
- Set expectations such as key performance indicators (KPIs)
- Work health and safety policy
- Give a copy of the Fair Work Information Statement and code of conduct
- Employment contract or letter of offer
- Accompanying job responsibilities and/or description
- Standard operating procedures and process manuals



## FINAL WORD

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There's a lot to digest when it comes to understanding your obligations as a potential employer. There is a lot of red tape revolved around protecting both the employer and employee. Fully understanding this will minimise risk and maximise the ability for your business to grow and prosper.

If there are still aspects of this process that stump you, do not hesitate to book in a free consultation with the Box AS Team!

Good luck!

*David Mach*



Box Advisory Services was founded with the aim to deliver outstanding and affordable services to contractors, consultants and small businesses in Australia. We are specialist accountants for small businesses who will take the time to get to know you and provide you with prompt and bespoke advice. Our success derives from our commitment to building a strong client relationship combined with quality, commitment and reliability. It is our comprehensive understanding of clients' businesses and their industry that allows us to provide the quality of advice and service they require.

Here at Box Advisory Services, we believe that we are the #1 contractor and small business accounting firm in Australia. Our approach is to think outside the box and keep it personable with our clients.

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