

# FAQ'S BUILDING AND CONSTRUCTION INDUSTRY EMPLOYER RETURNS

## WHAT IS AN EMPLOYER RETURN?

It is an annual activity where NSW building and construction employers are required to update their worker records stored by the Corporation.

Service for all workers (even if that person only worked for you for a single day) must be updated.

This will ensure that workers records are up to date and benefits paid under the *Building and Construction Industry Long Service Payments Act 1986*, are calculated accurately.

## WHO NEEDS TO COMPLETE AN EMPLOYER RETURN?

All employers in the NSW Building and Construction Industry have a legal obligation under Section 20 of the *Building and Construction Industry Long Service Payments Act 1986* ('The Act').

A building and construction employer is defined by Section 3 of the Act.

## WHY DO I HAVE TO COMPLETE ONE?

Completing an **Employer Return** is a legal requirement. Other reasons include the following:

- If you pay a worker long service leave under the 1955 Act, you can apply to the Corporation for reimbursement. However, if you did not record/update the worker's service with the Corporation, it will be excluded from your payment
- It is the main method of recording service for all of the industry's workers so that we can make sure that they can accrue long service credits and eventually access the benefits of the scheme either directly or via their employers
- It does not cost you anything to complete a return (except a small amount of time) and it brings a benefit to your own workers and contributes towards a better industry in general.

## HOW DO I COMPLETE AN EMPLOYER RETURN?

### ONLINE - EMPLOYER RETURN

To complete your **Employer Return** online:

- **GO** to our **Online Services** at [www.longservice.nsw.gov.au/online-portal](http://www.longservice.nsw.gov.au/online-portal)
- **CHOOSE** **Employer Login**
- **LOGIN** using your employer number and password
- **SELECT** **Employer Return** from the left hand column
- **COMPLETE** the **Outstanding** tab for current workers.

**If you are not registered to complete your return online, a paper return will be posted in the first week of July to the mailing address you provided.**

**You will need to complete it and send the original document back to us.**

## WHEN IS AN EMPLOYER RETURN DUE?

They are due 31 July each year for the previous financial year.

## WHAT HAPPENS IF I DO NOT COMPLETE MY EMPLOYER RETURN BY 31 JULY?

If you do not submit your return by 31 July each financial year, you will be targeted by the Corporation for an audit of your records (books and/or other documents). You will be required to bring these records to the Corporation's office. Failure to respond to notices that are served may result in prosecution action.

### EMPLOYER RETURN COMPLIANCE SCHEDULE

The Employer Return Compliance schedule has been reviewed to reduce the number of non-compliant employers who are failing to meet their legal obligations. It is our intention to enforce available penalties for failure to complete returns within a reasonable time frame.

In short the process will work like this;

- **July** - Notification that Employer Returns are available to be completed
- **August** - Statement of Obligations sent
- **September** - Notice of Inspection issued.

## WHAT IS A 'STATEMENT OF OBLIGATIONS'?

A **Statement of Obligations** is, in effect, a formal warning that you have not met your legal obligations (as we have not received an Employer Return from you), that the Corporation has noted that you have not complied, and it intends to pursue the matter until resolved.

If this **Statement of Obligations** is ignored, and the return still not completed before the end of August, the Corporation will escalate the matter by issuing **Notice of Inspection** to all non-compliant employers.

## WHAT IS A 'NOTICE OF INSPECTION'?

It is a legal notice that the Corporation serves on an employer to require them to produce at a time and place specified, any books, records or other documents that are required to be kept by the employer for the purposes of verifying worker service.

In short, it requires an employer to attend the offices of the Corporation with the specified worker records so that an audit can be conducted.

## WHAT IS AN AUDIT?

An inspector from the Corporation will interview the employer and examine books and records to determine whether the legal obligations are being complied with. Employers are required to keep various books and records for 6 years.

The records required to be kept for workers under a contract of employment (wages or salary) are:

- A)** Time sheets or attendance records showing the attendance at work of the worker
- B)** Books and records containing the following particulars:
  - Name and address of the worker
  - Registration number of the worker
  - Kind of work performed by the worker
  - Name of the award if the worker is paid under an award
  - Total number of days of building and construction work performed by the worker each week.

\* In the event that an audit determines that the employer still needs to submit a return, prosecution action may be undertaken.



## PENALTIES FOR NON-COMPLIANCE

- Failing to register the commencement of employment of a worker within 7 days of employment commencing.  
**Maximum penalty \$2,200.**
- Failing to notify the employment termination of a worker within 7 days of termination.  
**Maximum penalty \$2,200.**
- Failing to confirm by 31 July each year workers employed as at 30 June preceding.  
**Maximum penalty \$2,200 per worker.**
- Failing to notify the Corporation before making a long service benefit available to an employee under the Long Service Leave Act 1955.  
**Maximum penalty \$2,200.**
- A person shall not wilfully delay or obstruct an authorised officer from the Corporation in the performance of their duties.  
**Maximum penalty \$5,500.**
- Failing to keep required books and records.  
**Maximum penalty \$2,200.**
- A person shall not neglect or fail to produce books and records at such time and place as may be directed by the Corporation.  
**Maximum penalty \$5,500.**
- Making a false or misleading statement in any application, certificate, claim, objection, appeal, book or record made, furnished or maintained under this Act.  
**Maximum penalty \$5,500.**
- Making a false or misleading statement in any information furnished in purported compliance with a requirement made under the Act or for the purpose of obtaining any exemption, concession, benefit or advantage under the Act.  
**Maximum penalty \$5,500.**