



# Employment Contracts and Agreements

When engaging practice staff it is essential that business operators clearly understand their obligations in order to establish and continue successful employment arrangements.

Consideration needs to be given to:

- Legislative requirements
- Job descriptions
- Pay rates, leave and conditions
- Record keeping
- Performance management

## Legislative requirements

Employers and employees working in Western Australia are covered by the state or national industrial relations systems. Each has different employment laws, awards and minimum conditions. Employment agreements are required to meet state or federal legislation and incorporate the benefits.

The Western Australian state system is regulated by the *Industrial Relations Act* and *Minimum Condition of Employment Act* and state awards apply.

The national system is regulated by the *Fair Work Act* and national modern awards apply.

Certain national employment laws (ie unlawful dismissal) still apply to employees covered by the Western Australian state industrial relations system. These are governed by the Fair Work Act 2009, which is available from the ComLaw website.

## Which system?

Which system you are in is based on whether the employer is a 'constitutional corporation'.

The Western Australian state system covers employers who are not 'constitutional corporations' and their employees. In general terms, this includes employers who are sole traders, and some partnership and trust arrangements.

The national industrial relations system broadly covers employers who are constitutional corporations and their employees.

Legal advice should be sought to establish whether your business is governed by state or national conditions.

## Conditions of employment

### State

In the Western Australian state system, all employees are covered by one of the following employment arrangements:

- state awards applying to certain industries and occupations;
- registered industrial agreements applying to specific businesses;
- registered employer- employee agreements applying to individual employees; or
- 'common-law' contracts of employment where no award or agreement applies.

Whilst all care has been taken in preparing this document, this information is a guide only and subject to change without notice.

Practice Assist is an initiative of



WA Primary Health Alliance is supported by funding from the Australian Government under the PHN Program.

Rural Health West is funded by the Australian Government and the WA Country Health Service.

## **National**

From 1 January 2010, employers and employees in the national workplace system are covered by the National Employment Standards (NES).

Under the NES, employees have certain minimum conditions. Together with pay rates in modern awards (which was effective from 1 January 2010) and minimum wage orders, the NES makes up the safety net that cannot be altered to the disadvantage of the employee.

The NES include minimum entitlements to leave, public holidays, notice of termination and redundancy pay.

In addition to the NES, an employee's terms and conditions of employment can come from:

- Modern awards;
- Agreements;
- Pre-modern awards; and
- State or federal laws

## **More information**

### **Government of Western Australia Department of Commerce**

Telephone: 1300 65 52 66 Labour relations

Website: <http://www.commerce.wa.gov.au/>

For information about pay rates and conditions of employment under the state industrial relations system contact:

### **Wageline**

Telephone: 1300 655 266

Website: <https://www.commerce.wa.gov.au/labour-relations/contact-wageline>

For information about wages and conditions of employment under the national industrial relations system contact:

### **Australian Government Fair Work Ombudsman**

Telephone: 13 13 94

Website: [www.fairwork.gov.au](http://www.fairwork.gov.au)