

## Fact Sheet for Franchisors Protecting Vulnerable Workers Act 2017

### What is the Protecting Vulnerable Workers Act 2017?

It is legislation that has been passed by Parliament and amends the Fair Work Act 2009 to including the following:

- New 'serious contravention' penalty of up to \$630,000 per breach for a company (10 times the current maximum penalty);
- Increases penalties for pay slip and record keeping offences – up to \$63,000 per contravention (double the current maximum penalty) and the same for a serious contravention (20 times the current maximum penalty);
- Reverses the onus of proof for underpayment claims against employers who have failed to keep relevant employee records and pay slips. Employers will now be required to prove they have paid the employee correctly;
- Give franchisors and holding companies more responsibility for breaches of workplace relations laws and instruments by franchisees and subsidiaries; and
- Grant the Fair Work Ombudsman (FWO) compulsory interview powers.

### Who does this apply to?

Franchisors can now be held responsible for employee underpayments by their franchisees where the franchisor knew or reasonably should have known about the contraventions and failed to take reasonable steps to prevent them. This applies to a 'responsible franchisor entity'.

### What is a Responsible Franchisor Entity?

A person is a responsible franchisor entity for a franchisee entity of a franchise if:

1. The person is a franchisor (including a sub franchisor) in relation to the franchise; and
2. The person has a significant degree of influence or control over the franchisee entity's affairs.

### What constitutes 'Reasonable Steps'?

1. The size and resources of the franchisor
2. Steps taken to ensure the franchisees knew and understood their relevant obligations
3. Arrangements to assess or audit franchisees' compliance

### What should you do now?

1. Do the new laws apply to you?
2. Are you a responsible franchisor entity?
3. What 'reasonable steps' can you take to prevent a contravention?

## Top 10 'Reasonable Steps' for Franchisors

1. Train your franchisees;
2. Audit and monitor your franchisees' compliance;
3. Support and assist your franchisees and their employees eg. assist your franchisees to calculate correct pay rates, resolve disputes;
4. Keep your franchisees updated about their workplace law obligations and refer your franchisees to reliable workplace law advice;
5. Incorporate Fair Work resources into operations your manual or intranet etc;
6. Ensure your franchise business model takes into account the costs of lawfully employing adequate numbers of staff;
7. Ensure your franchise agreements require franchisees to comply with workplace laws and allow auditing and monitoring for compliance;
8. Consider introducing software to assist your franchisees to comply with workplace law obligations;
9. Provide your franchisees with compliant template documents and resources; and
10. Consider negotiating a registered agreement with Fair Work for consistency of employment conditions across the franchise network.