

New year, new powers to tackle wage theft affecting one million workers

Employers can face jail time or fines of up to \$7.85 million under new laws criminalising wage theft that come into operation today, after a long union campaign.

More than one million Australian workers experience wage theft by being paid below the national minimum wage or the lowest junior or casual rates in the awards system.

This includes one in three casual workers – or 875,000 casual employees – who are mostly working in the retail and hospitality sectors and 538,200 permanent workers, according to ACTU analysis of ABS data.

From today, an employer will now commit a criminal offence if they deliberately underpay their staff.

A company can face fines of up to \$7.85 million, or three times the amount of the underpayment, whichever is greater. An individual can face up to ten years in prison, and fines of up to \$1.56 million, or three times the amount of the underpayment, whichever is greater.

Civil penalties for wage underpayments will also increase today by as much as 25 times for larger companies engaged in serious contraventions that could now be fined up to \$4.95 million.

Overall estimates of the extent of wage theft vary widely given that it is a practice deliberately hidden by employers. Audits by the Fair Work Ombudsman estimate the figure is between \$850 million to \$1.55 billion in stolen wages each year.

Superannuation theft is also estimated to cost 2.8 million Australian workers \$5.1 billion a year and nearly \$41.6 billion over the last nine years, according to the Super Members Council.

The new laws, introduced in the Closing Loopholes legislation in late 2023 are a direct response to widespread cases of wage theft that in many industries have become a standard business model. The new anti-wage theft laws cover all employers and employees covered by the Fair Work Act. The Director of Public Prosecutions and the Australian Federal Police will handle prosecutions, with investigations primarily conducted by the Fair Work Ombudsman.

Other measures to combat wage theft introduced by the Albanese Government include making it much easier for workers to access small claims tribunals to pursue wage underpayments and the upcoming pay day super reforms.

Peter Dutton and the Coalition have voted against all changes to combat wage theft.

Quotes attributable to ACTU Acting Secretary, Joseph Mitchell:

“The tough laws that come into force today will make a huge contribution to ending wage theft as a business model.

“After a decade of inaction on wage theft and national scandals at places like 7-eleven, Commonwealth Bank and at universities this action is welcome. Workers deserve every dollar of their pay and super should get the money that is owed them.

“Businesses are on notice and need to pay their workers properly, especially vulnerable younger workers.

“That shouldn’t be a controversial thing to say, especially in a cost-of-living crisis. But apparently, it’s a bridge too far for Peter Dutton and the Opposition that has voted against these laws and presided over the explosion of wage theft as a business model during their near-decade in government.”

ENDS

NOTE:

ACTU analysis of workers’ underpayment is based on ABS Characteristics of Employment Survey data released in December 2024.

The Survey asks respondents to provide a dollar amount of their last pay, before tax or deductions, and how many hours of work they completed to earn that pay.

The ACTU analysis of those figures demonstrates that a little over one in three casual workers is currently being paid below national minimum wage or minimum junior rates of pay, including the 25 percent loading they should receive for foregoing job security and paid leave.

Media Contact: David Imber (0413) 274 204