

Underpayment of wages

Young Workers Legal Service

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An underpayment arises when you are paid incorrectly or not paid at all. There is a minimum rate of pay for every job and these are set out in Awards or Enterprise Agreements. Awards or Agreements also set out any allowances or loadings which you may be entitled to.

You can check that you are being paid correctly by looking at your payslip and contacting the Fair Work Infoline on 13 13 94. The Infoline is confidential and free.

Sometimes, even though you're being paid the correct rate of pay, your employer may make deductions from your pay. If a deduction is made, ask yourself:

- Have I given my employer written permission to deduct this money?
- Is the deduction in accordance with an Enterprise Agreement?
- Is the deduction authorised by or under an Award or by an order of Fair Work Australia?
- Is the deduction authorised by or under a Commonwealth, State or Territory law or an order of a court?
- Is the deduction for my benefit?

If you answered no to one or more of these questions, there is a chance that the deduction may be unlawful. However, be aware that deductions for tax are lawful.

Generally speaking, even if the deduction is authorised by an Enterprise Agreement or Award an employer cannot make a deduction from someone's pay if:

- The deduction is for the benefit of the employer or someone related to the employer and is unreasonable in the circumstances, or
- You or your guardian or parent (if you are under 18 years of age) hasn't authorised the deduction in writing

What should be on my payslip?

Your employer must give you a payslip and it must include:

- Your name and classification
- Your employer's full name and Australian Business Number (ABN)
- Date of payment of wages
- Period covered
- Number of hours being paid for
- Ordinary and overtime rates and the amounts paid at that rate
- If you are paid an annual rate of pay, that rate as at the last day in the pay period

- All deductions made
- Details about superannuation
- Gross wages (the amount before tax) paid
- Net wages (the amount after tax) paid, and
- Allowances, loadings, penalty rates and other amounts paid

Where can you get help?

If your underpayment is a small one, you haven't received a payslip or you are concerned about the content of your payslip, the best place to start is to contact your employer or Payroll Officer and ask for the error to be corrected. If that doesn't work, or if the underpayment is a long standing one, you can contact us on (08) 8279 2233 or the Fair Work Ombudsman on 13 13 94 for more help.

Helpful hints

- Keep a diary of days and hours worked
- Keep copies or records of your employment details, pay slips, your Enterprise Agreement or Award and your superannuation and tax documents
- Ask your employer questions if you are unsure
- You can complain to the Fair Work Ombudsman or you can attempt to recover the money through the Industrial Relations Court of South Australia

Remember that you can contact us on (08) 8279 2233 or the Fair Work Ombudsman on 13 13 94 for more help.

This material has been funded by the Australian Government through a Fair Work Ombudsman initiative to produce educative materials on the Fair Work Act 2009.

The Fair Work Ombudsman (FWO) is committed to providing useful, reliable information to help you understand your rights and obligations under workplace laws.

The information contained in this publication within the FWO's jurisdiction as set out in the Fair Work Act 2009 is:

- *general in nature and may not deal with all aspects of the law that are relevant to your specific situation; and*
- *not legal advice.*

Therefore, you may wish to seek independent professional advice to ensure all the factors relevant to your circumstances have been properly considered.

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