

# Fact Sheet 4

## Are You a Victim of Wage Theft?

Since 1 July 2021, an employer who underpays you or doesn't give you your entitlements can be guilty of wage theft.

Victoria's wage theft laws only apply to employees – people who work for an employer under an agreement (or contract). If you are an independent contractor (you work for yourself or run your own business), then the wage theft laws do not apply to you.

### What is wage theft?

It is a crime (wage theft) in Victoria if your employer:

- Deliberately and dishonestly underpays you, or
- Deliberately and dishonestly withholds your wages, superannuation, or other payments and entitlements, or
- Makes a false record of your employment to get a financial advantage, or
- Doesn't keep your payment record to get a financial advantage.

For wage theft, an employer must be deliberately dishonest. A careful employer who makes an honest mistake in paying wages is not a wage thief.

### What are your employee entitlements?

When lawyers use the words 'employee entitlements' they are talking about your:

- Wages or salary
- Allowances and gratuities
- Annual leave (holidays)
- Long service leave
- Meal breaks
- Superannuation

These cannot be less than the minimum amount that is required under the law.

For more information, **read our Fact Sheet on Rights at Work.**

### What should you do if your employer has underpaid you?

If you think you have been underpaid, you can:

- Talk to your employer to see if you can resolve the issue. Sometimes employers make honest mistakes. Talking about it with your employer can be a quick way to fix the problem.
- If you are a member of a union, contact your union and ask them to help.
- Call the **Fair Work Ombudsman** on **13 13 94** and ask for help.
- If you think that your employer is being deliberately dishonest, contact the Wage Inspectorate Victoria. This is an important place to get help for wage theft. You can call **1800 287 287** or use the **Wage Inspectorate Victoria Online Form** to:
  - Ask about wage theft
  - Report that you have been a victim of wage theft

The Wage Inspectorate website has information in different languages- visit **Language Help | Wage Inspectorate Victoria**. If you need an interpreter to help you, call **131 450** and then get the interpreter to call the Wage Inspectorate on **1800 287 287**.

- Talk with a lawyer.
- Make a claim in the Magistrates' Court or (if a bigger amount of money is involved) the County Court. You may need help to do this.

### What will happen if you tell the Wage Inspectorate that you are a victim of wage theft?

The Wage Inspectorate will consider what you have told them and then:

- Investigate and take action against your employer.
- Give you information about getting back money that you are owed.
- Refer you to another organisation that can help you, such as the Fair Work Ombudsman or the Australian Taxation Office.

But in some cases, the Wage Inspectorate won't take any action. This usually happens when there is not enough information.

The Wage Inspectorate will try to contact you within 21 days.

### What information do you need to give to the Wage Inspectorate?

You should give as much information as you can to the people at the Wage Inspectorate. Because wage theft is a criminal offence, it will be helpful if you have things like:

- Your employment contracts
- Some pay slips
- A tax PAYG payment summary
- Your bank statements
- Timesheets or some other record of the hours you worked
- Emails, text messages and other communications with your employer or the agency involved in your employment.

The people at the Wage Inspectorate might also ask you to give a witness statement. If your employer is put on trial, you might be asked to go to court and give evidence.

## Can you get money that is owed to you from your employer?

If you contact the Wage Inspectorate, your employer might decide to pay you. BUT the Wage Inspectorate cannot force them to pay you. If you want to get money that is owed to you, you should:

- Contact the Fair Work Ombudsman
- Contact your union (if you are a member of one)
- Lodge a claim in the Magistrates' Court or County Court. You may need help to do this.

To recover unpaid superannuation, contact the **Australian Taxation Office**.

## How do I know how many hours I have worked? The Record My Hours app (mobile app)

Sometimes employers don't keep good records, and this can make it hard for you to claim your wages and entitlements.

To help you to keep a record, the Fair Work Ombudsman has created an app for mobile phones so that you can keep a record of the hours you work and know what you should be paid. The app is for both iPhone and Android users. You can find it by searching 'Record my hours' in your app store. The app is available in 18 languages.

## How does the app work?

The app uses your phone's location services to let you set your workplace location and record when you start and finish work, based on your location. The app can do lots of other things too.

But this automatic recording does not work for all jobs or in places without mobile or Wi-Fi coverage. If this happens to you, you can enter your hours in the app yourself.

If you want to know more about the app you can watch this video: **Record My Hours-YouTube Tutorial**.

## Other places you can go for help:

### JobWatch Employment Rights Legal Centre

JobWatch is an independent, not-for-profit organisation which helps Victorian, Queensland, and Tasmanian workers with their rights at work.

If you are in Melbourne, call **9662 1933**.

If you are in rural Victoria, Queensland or Tasmania, call **1800 331 617**.

### Victoria Legal Aid (VLA)

Victoria Legal Aid helps people with legal problems, including problems about their employment. Call them on **1300 792 387**.

### Deakin CREATE

Deakin CREATE supports people from a refugee background to rebuild their careers through obtaining employment and accessing vocational training and education. You can visit our website on:

**Deakin Centre for Refugee Employment, Advocacy, Training and Education (CREATE)**.

Note: The contents of this publication are for reference purposes only. They do not constitute legal advice and should not be relied upon as such. Specific legal advice about your specific circumstances should always be sought separately before taking any action based on this publication.



# CREATE

Centre for Refugee Employment, Advocacy, Training and Education

[deakincreate.org.au](http://deakincreate.org.au)

Deakin University CRICOS Provider Code: 00113B