

Fruit and veg supplier to Melbourne celebrity chefs underpaid worker \$23,000

(www.fairwork.gov.au/%E2%80%9C#twitter) 20 June 2017

A Victorian fruit and vegetable wholesaler that supplies to high profile Melbourne hotels and restaurants is overhauling its workplace practices after a Fair Work Ombudsman investigation found it underpaid a worker more than \$23,000.

Flavours Fruit and Veg has back-paid the worker in-full and agreed to commission a professional audit of its pay practices covering the previous three years and rectify any underpayments discovered.

In addition, the business has made a \$5000 donation to community legal centre Jobwatch.

The business has agreed to the measures as part of an Enforceable Undertaking (EU) entered into with the Fair Work Ombudsman.

Fair Work Ombudsman inspectors investigated the matter after receiving a request for assistance from a worker who had been employed as a packer at Flavours Fruit and Veg's warehouse at Tullamarine between July 2014 and August last year.

Inspectors found that the worker, aged in her 50s, was often paid flat rates of below \$20 for all hours worked, which resulted in a total underpayment of \$23,537.

Most of the underpayment related to underpayment for overtime work. Under the Storage Services and Wholesale Award 2010, the worker was entitled to receive overtime rates of between \$27.69 and \$37.84 per hour.

The worker was also underpaid ordinary hourly rates, Sunday penalty rates, an early morning shift allowance, leave entitlements and public holiday pay and was not provided with her full termination entitlements – including payment-in-lieu-of-notice, redundancy and accrued annual leave – when her employment ended last year.

Record-keeping and pay slip laws were also contravened.

The company that operates the Flavours Fruit and Veg business, Pristine Employment Solutions Pty Ltd, fully co-operated with the Fair Work Ombudsman's investigation and agreed to enter into an EU, as an alternative to litigation.

Additional requirements under the EU include the company agreeing to demonstrate it has used the tools and resources at www.fairwork.gov.au to develop systems to ensure future compliance; commission professional audits of its compliance with workplace laws for the next three years; commission workplace relations training for managerial staff and display workplace and website notices detailing its contraventions. The company has already made a written apology to the underpaid worker.

Fair Work Ombudsman Natalie James says given concerns that the company's use of flat rates may have led to other employees being underpaid, the company committing to rectifying all underpayments since 2014 was a key factor in the decision to resolve the matter with the use of an EU.

"Using EUs allows us to achieve outcomes that may not be possible through the more resource-intensive and adversarial litigation process," Ms James said.

"This can include large-scale back-payments for workers who can receive the entitlements they are owed sooner, instead of waiting for a litigation to progress through the courts.

"EUs also allow the agency to ensure businesses install measures that lead to behavioural changes that help to ensure the employer complies in future," Ms James said.

Ms James says the matter should be a wake-up call to any business that is not fully aware of the correct industrial instrument, classifications and pay rates that apply to its staff.

"Business operators who do not take the time to ensure they are aware of their obligations can be left facing big back-payments bills they were not budgeting for, on top of needing to devote significant resources to remedial action," Ms James said.

Ms James says employers can also face legal action in cases where breaches are very serious or deliberate, or where they refuse to fully co-operate with Fair Work inspectors.

Employers and employees can seek assistance at www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94. A free

interpreter service is available on 13 14 50.

Resources on the website include templates for time-and-wages sheets and pay slips, and a Pay and Conditions Tool (PACT) that employers can use to determine the pay rates applicable to their employees, including base pay rates, allowances, overtime and penalty rates.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) (http://twitter.com/NatJamesFWO) , the Fair Work Ombudsman [@fairwork_gov_au](https://twitter.com/fairwork_gov_au) (http://twitter.com/fairwork_gov_au) or find us on Facebook www.facebook.com/fairwork.gov.au (http://www.facebook.com/fairwork.gov.au) .

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[Pristine Employment Solutions Pty Ltd Enforceable Undertaking \(DOCX 92.5KB\)](http://www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-pristine-employment-solutions-pty-ltd-redacted.docx.aspx) (www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-pristine-employment-solutions-pty-ltd-redacted.docx.aspx) (PDF 1.6MB) (www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-pristine-employment-solution-pty-ltd-redacted.pdf.aspx)

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Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

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Hearing & speech assistance

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For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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