

Workplace audits indicate room for improvement for small businesses in Top End

30 March 2017

Spot checks of 16 take-away and informal dining outlets in the suburbs of Darwin have found that 10 were not compliant with workplace laws.

Acting Fair Work Ombudsman Michael Campbell says that it is concerning that each of the 10 businesses that were found to be non-compliant had committed wage breaches.

Take-away outlets in Darwin's northern suburbs and in Palmerston were selected for audit as part of the Fair Work Ombudsman's proactive compliance activities.

Of the 26 businesses that were randomly audited, 10 did not engage employees reducing the overall sample to 16.

Of the remaining 16 businesses, ten (62.5 per cent) were found to have contravened workplace laws.

The audit found that 33 workers were underpaid a total of \$12 519.14. All underpayments have now been rectified.

The underpayments were a result of businesses failing to apply the correct pay rate, failing to pay appropriate allowances and failing to apply the appropriate penalty rates or loadings.

Seven of the ten businesses found to have underpaid workers also failed to meet their record-keeping and pay-slip requirements.

Mr Campbell said many of the errors identified were inadvertent.

"When we find genuine mistakes, our preference is to educate employers about their obligations and assist them to put processes in place to ensure these errors are not repeated," Mr Campbell said.

"A common reason for breaches included employers not being aware of their obligation to pay employees according to the Fast Food Industry Award 2010, instead incorrectly applying rates under the Restaurant or Hospitality Awards.

"Some employers had also inadvertently failed to apply minimum wage increases at the beginning of new financial years," Mr Campbell said.

Non-compliant employers were educated about their obligations under Australia's workplace laws and will be re-visited by Fair Work Inspectors in the near future to check their ongoing compliance. Those that are found to have further contravened workplace laws risk facing enforcement action.

"This campaign is part of our Agency's national program of proactive audits. We are striving to build a culture of compliance where businesses understand and comply with their lawful obligations," Mr Campbell said.

Mr Campbell encouraged employers to periodically undertake their own checks of Award provisions to ensure they are meeting all employees' minimum lawful entitlements.

Tools to assist employers to comply with workplace laws are available at www.fairwork.gov.au.

Resources include 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.

The Fair Work Ombudsman also recently released a new smart phone app, Record My Hours, which uses modern technology to help workers keep an automatic diary of the hours they spend at work. The app is available for free from both Apple and Android app stores and from the Fair Work Ombudsman website www.fairwork.gov.au.

Mr Campbell says that, in recognition that some employees are reluctant to complain about their workplace issues, the Agency now has an "Anonymous Report" function to allow the community to report potential workplace breaches.

"Often, employees who work in small businesses with few staff are reluctant to raise issues with their employer or the Fair Work Ombudsman," Mr Campbell said.

Intelligence can be provided confidentially at www.fairwork.gov.au/tipoff.

“If someone suspects something isn’t right, but is unable or unwilling to get directly involved in resolving the issue, they can tell us about it using the tip-off function,” Mr Campbell said.

Employers and employees seeking assistance can also call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

Small business operators can ask for the priority Small Business Helpline.

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