

## Cleaning contractors hit with \$65,000 penalty

12 December 2018

NOTE: Following an appeal, all penalties and findings of breaches against Pioneer Facility Services and Pioneer Contracting Services have been set aside and the Fair Work Ombudsman's proceedings against Pioneer Facility Services and Pioneer Contracting Services have been dismissed. The findings and penalties against OzKorea and Mr Hwang are not affected by the appeal. Please see [the media release relating to the appeal \(www.fairwork.gov.au/about-us/news-and-media-releases/2019-media-releases/august-2019/20190816-pioneer-matter-dismissed-media-release\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/2019-media-releases/august-2019/20190816-pioneer-matter-dismissed-media-release) for more information.

Three cleaning companies and a former sole trader have been penalised for their involvement in underpaying Korean cleaners at Woolworths' sites in Tasmania, after legal action by the Fair Work Ombudsman.

The Federal Circuit Court has penalised major national cleaning company Pioneer Facility Services Pty Ltd \$20,000, with subsidiary company Pioneer Contracting Services Pty Ltd also penalised \$20,000.

The Pioneer companies subcontracted cleaning work to Mr Sung Gun Hwang and his company OzKorea Pty Ltd for four Woolworths sites at Deloraine, Georgetown, Riverside and Mowbray.

Mr Hwang, as a sole trader and later through OzKorea, underpaid four cleaners who worked early morning shifts between January 2014 and January 2015.

The workers were underpaid a combined \$21,332 through low flat rates that failed to meet the rates for ordinary hours and weekend, overtime and public holiday hours they were entitled to under the Cleaning Services Award 2010.

The Court penalised OzKorea \$20,400 and Mr Hwang \$5,000 for workplace breaches.

Three of the employees were South Korean nationals. Mr Hwang, who is of Korean heritage, gave evidence to the court that he paid the flat rates which were paid by other "Korean people in the Launceston area" for this type of work.

Mr Hwang and OzKorea also provided inspectors with false time-and-wages records and breached workplace laws relating to payment of loadings, minimum engagement periods, pay-slips, engaging employees in writing and frequency of pay.

Fair Work Ombudsman Sandra Parker said these underpayments were identified through an Inquiry into Woolworths' arrangements for cleaners at all of its Tasmanian sites.

"The Federal Circuit Court decision serves as a warning to businesses that they can be held liable for underpayments of their subcontractors' where they have failed to pay a subcontractor enough to cover those minimum entitlements," Ms Parker said.

"Businesses throughout a supply chain should ensure that workers are getting paid what they were entitled to. The Court's penalties should remind all employers that they cannot pay workers a going rate that undercuts the lawful minimum wage rates in force across Australia."

Judge Alister McNab said the underpayments were a "significant amount" for the workers, and that the Pioneer companies were involved in the underpayment breaches because they knew the amounts paid to Mr Hwang and Oz Korea were insufficient to cover minimum Award amounts.

Mr Hwang and OzKorea back-paid the workers after the legal action started. Oz Korea is no longer trading.

### Background

The Fair Work Ombudsman has been working with key industry participants as part of a Cleaning Accountability Framework to promote a culture of compliance with workplace laws. The Framework is an industry-led initiative that promotes the adoption of best practice throughout the cleaning supply chain to improve labour and cleaning standards in Australia.

The FWO's report on its [Inquiry into the procurement of supermarket cleaners in Tasmania \(www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/february-2018/20180214-ww-cleaners\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/february-2018/20180214-ww-cleaners) was released earlier this year and found high levels of non-compliance with workplace laws amongst contractors providing cleaning services at Woolworths' Tasmanian supermarket

sites.

In August, Woolworths Group Limited committed to protecting the rights of the workers in its cleaning services supply chain by [entering into a new Compliance Partnership \(www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/august-2018/20180829-woolworths-pcd-media-release\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/august-2018/20180829-woolworths-pcd-media-release) with the Fair Work Ombudsman.

Employers and employees can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or call the Fair Work Infoline on 13 13 94 for free advice and assistance about their rights and obligations in the workplace. A free interpreter service is available on 13 14 50.

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**Page reference No: 8773**

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