

Lush signs Enforceable Undertaking

17 November 2020

The Australian operation of the multinational cosmetics company Lush has back-paid its employees more than \$4 million and entered into an Enforceable Undertaking (EU) with the Fair Work Ombudsman.

Lush Australasia Retail Pty Limited and Lush Australasia Manufacturing Pty Ltd self-reported to the regulator in 2018 that it had underpaid employees.

Lush manufactures cosmetics at a factory in Villawood, NSW, and sells them online and through stores under the 'Lush' brand.

The underpaid employees were located at its Sydney factory and across stores in Victoria, NSW, Queensland, WA, South Australia, Tasmania and the ACT. The employees held positions including production assistants, compounders, sales assistants, retail supervisors and managers.

The contraventions were caused by Lush's inadequate workplace relations systems and processes, including a lack of training for staff and managers, a manual payroll system, and the absence of a HR department in a rapidly growing business.

Lush failed to provide its employees with a range of entitlements they were owed under the General Retail Industry Award 2010, Manufacturing and Associated Industries and Occupations Award 2010 and Clerks – Private Sector Award 2010. The company identified the underpayments during an internal audit.

Underpaid entitlements included minimum wage rates, rates for weekend and shift work, overtime rates and allowances. Record-keeping laws were also breached.

Lush has identified and back-paid 3,130 current and former employees a total of \$4.4 million, which includes interest and superannuation, for underpayments that occurred between 2010 and 2018.

Fair Work Ombudsman Sandra Parker said that an EU was appropriate as Lush had cooperated with the investigation and demonstrated a strong commitment to rectifying all underpayments.

"Under the Enforceable Undertaking, Lush has committed to stringent measures to comply with the law and protect its workforce. This includes engaging, at its own cost, an expert auditing firm to audit its compliance with workplace laws over the next three years," Ms Parker said.

"This matter serves as a warning to all employers that if you don't prioritise workplace compliance, you will not only have to deal with the cost of paying back significant amounts to employees, but you face reputational damage and ongoing formal scrutiny by the FWO. Any employers who need help meeting their lawful workplace obligations should contact the Fair Work Ombudsman for free advice."

The Enforceable Undertaking commits Lush to making a \$60,000 contrition payment to the Commonwealth's Consolidated Revenue Fund. Lush's co-operation in rectifying its non-compliance, including making back payments with interest beyond the statutory limitation period, and implementing measures to ensure future compliance were relevant factors in determining the contrition payment.

The FWO acknowledges the significant impact of the COVID-19 pandemic on Lush's operations.

Lush is also required to display public and workplace notices detailing its workplace law breaches, commission workplace relations training for staff with responsibility for human resources, recruitment or payroll functions, review all contracts of employment issued to salaried employees, and operate a Hotline to assist employees for the next three years.

Employers and employees can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94 for free workplace advice. A free interpreter service is available on 13 14 50.

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Download the [Lush Australasia Retail Pty Limited Enforceable Undertaking \(DOCX 59.1KB\)](http://www.fairwork.gov.au/ArticleDocuments/1545/Lush-EU-final-redacted.docx.aspx) (www.fairwork.gov.au/ArticleDocuments/1545/Lush-EU-final-redacted.docx.aspx) (PDF 12.6MB) (www.fairwork.gov.au/ArticleDocuments/1545/lush-eu-final-redacted.pdf.aspx)

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