

ACT restaurant staff repaid \$280,000 after Fair Work Ombudsman intervention

5 June 2013

More than a quarter-of-a-million dollars has been repaid to workers in Canberra restaurants after an audit campaign by the Fair Work Ombudsman.

482 workers have received a total of \$279,756 after Fair Work Ombudsman Inspectors audited 179 restaurants across the capital, in an extensive education and compliance campaign conducted over the past year.

Acting Fair Work Ombudsman, Michael Campbell, said the campaign was sparked by the high number of complaints from staff working in Canberra restaurants.

"We receive a constant stream of complaints from employees in restaurants and cafes in the capital and have found a high level of non-compliance with workplace laws," Mr Campbell said.

"Given that, we decided an extensive, targeted campaign was necessary, with a focus on identifying underpayments and educating employers about how they can ensure they meet their obligations to employees."

The campaign was conducted between November 2011 and the end of March 2013 and involved detailed audits of 179 restaurants and cafes.

105 businesses (59 per cent) were found to be breaching workplace laws, while 74 businesses (41 per cent) were compliant with workplace laws.

Of the restaurants breaching workplace laws, 50 (48 per cent) were not paying employees the correct wages; 34 (32 per cent) had technical contraventions around record-keeping or payslips and 21 (20 per cent) had both wage and technical contraventions.

An investigation into one business is continuing.

A number of errors by employers led to the underpayments, including:

- Enterprise agreement rates not increasing over time and falling below the Award rate
- Casual employees being paid part-time rates
- Employees not receiving sick leave or annual leave
- Employers paying 'going rates' or 'industry rates' which were below Award rates
- Flat rates for all hours worked being paid which were insufficient to compensate employees for penalty rates that should have been received
- Casual employees working less than the minimum casual engagement of three hours

71 restaurants have repaid amounts ranging from just under \$30, to more than \$26,000 for six workers in one restaurant.

Mr Campbell said while he was extremely concerned by the high level of breaches of workplace laws, it is positive that in all cases employers have rectified underpayments and taken advice from Fair Work Inspectors about processes they need to put in place to ensure they get things right in the future.

"A key focus of these campaigns is to work with employers and steer them to tools and resources that we have freely available on our website so they can check that they are meeting their obligations," Mr Campbell said.

"For employers, there's a big incentive to get it right. Apart from penalties that can be imposed if a matter is taken to court, no business wants to face an unexpectedly large bill that can seriously disrupt cash-flow.

"Earlier this year a former restaurant operator in Canberra was personally fined more than \$16,000 for underpaying staff."

"The industry in Canberra was positive in working with Fair Work Inspectors and we are hopeful that this campaign will contribute to much better compliance in the future," Mr Campbell said.

"The restaurant sector is a particular focus of compliance activity by the Fair Work Ombudsman, as it, along with other sectors in the hospitality industry attract the largest number of complaints from employees to the Fair Work Ombudsman.

“In August this year the second phase of a national compliance campaign in the hospitality sector will commence. It includes audits of cafes, restaurants and catering companies across Australia. ACT restaurants will be included in that campaign to allow us to determine whether compliance levels in the capital have improved.”

Find out more:

- [ACT Restaurant industry audit program report \(PDF 483.5KB\) \(www.fairwork.gov.au/ArticleDocuments/714/ACT-restaurant-industry-audit-program-report.pdf.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/714/ACT-restaurant-industry-audit-program-report.pdf.aspx)
- [ACT Restaurant industry audit program report \(DOCX 266.5KB\) \(www.fairwork.gov.au/ArticleDocuments/714/ACT-restaurant-industry-audit-program-report.docx.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/714/ACT-restaurant-industry-audit-program-report.docx.aspx)

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