

Take notice of Compliance Notices

11 October 2013

Employers are being reminded of the need to take prompt action when issued with a Compliance Notice from the Fair Work Ombudsman, requiring them to back-pay underpaid employees.

The Fair Work Ombudsman identifies more than \$20 million in underpayments at thousands of Australian businesses each year.

The large majority of these cases are resolved through Fair Work Inspectors working co-operatively with employers to assist them to voluntarily back-pay employees and put processes in place to ensure they are meeting their obligations under workplace law in the future.

However, in a minority of cases where employers refuse to co-operate, Fair Work Inspectors have the power to issue a Compliance Notice demanding action in up to 28 days.

Fair Work Ombudsman, Natalie James, said employers and professionals who provide advice to employers need to be aware that it is unlawful not to take action when issued with a Compliance Notice.

"Under the Fair Work Act, employers must comply with Compliance Notices issued by Fair Work Inspectors, unless they have a reasonable excuse, or make a Court application to challenge the Notice," Ms James said.

"Simply ignoring a Compliance Notice is unlawful and serious consequences apply.

"If we choose to take the matter to Court, companies face a penalty of up to \$25,500 and individuals face a penalty of up to \$5,100 for failing to comply with a Compliance Notice, on top of a Court Order to rectify the underpayment in full."

The Fair Work Ombudsman is currently taking legal action in three cases involving alleged non-compliance with Compliance Notices:

- A restaurant at Bendigo, in Victoria, allegedly failed to comply with a demand to back-pay more than \$5,000 to underpaid waitress,
- A restaurant at Lorne, in Victoria, allegedly failed to comply with a demand to back-pay more than \$4,000 to an underpaid foreign chef, and
- A restaurant at Terrigal, on the NSW Central Coast, allegedly failed to comply with a demand to back-pay nine employees more than \$12,000.

Ms James says the cases are the first legal actions the Fair Work Ombudsman has commenced in the Courts for alleged failure to comply with Compliance Notices.

"We decided to launch legal action in these cases because enforcing Compliance Notices is fundamental for maintaining the integrity of Australia's workplace laws," Ms James said.

"Fair Work Inspectors are increasingly issuing Compliance Notices in cases where employers with contravention issues refuse to co-operate and we will not tolerate these Compliance Notices being ignored."

Employers and employees seeking assistance should visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94. A free interpreter service is available by calling 13 14 50.

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

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

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.