

## International students, backpackers short-changed thousands of dollars in three months

21 August 2014

A Melbourne retail store caught underpaying its workers by thousands of dollars just two years ago has again been short-changing its employees, many of them young Asian students and backpackers.

The Daiso shop in the Midtown Plaza in Bourke Street underpaid 27 staff almost \$40,000 in just three months, an investigation by the Fair Work Ombudsman has revealed.

It failed to provide the correct rates of pay, overtime rates, penalty rates and other entitlements under the General Retail Industry Award 2010 and the National Employment Standards.

Most of the underpaid employees were aged between 19 and 26 and included Vietnamese, Korean, Chinese and Japanese nationals in Australia on student visas and backpackers on 417 working holiday visas.

The Midtown Plaza shop is one of five stores operated by Daiso (Australia) Pty Ltd in shopping centres across Melbourne selling lifestyle items and novelty gift products.

It first came to the attention of the Fair Work Ombudsman in 2012, when complaints from three employees resulted in inquiries which found the workers had been underpaid almost \$12,000.

At that time, Fair Work inspectors and representatives of the Shop, Distributive and Allied Employees Association met with company director Ms Mei King Hii on separate occasions to educate her about her obligations under workplace laws.

However, further complaints from employees late last year resulted in a follow-up investigation which found 27 staff had been underpaid a total of \$37,983 between September and November.

As well as underpaying minimum hourly rates, penalty rates and annual leave loading, the company was failing to pay double-time when rest breaks between shifts were less than 12 hours.

As an alternative to litigation, Ms Hii and Daiso Australia have entered into an Enforceable Undertaking with the Fair Work Ombudsman.

The Undertaking requires the company and Ms Hii to:

- Back-pay all outstanding entitlements by the end of November and apologise in writing for their conduct,
- Provide a report by the end of January on steps taken to locate and reimburse former employees,
- Report within 90 days on steps taken to ensure they will in future meet their obligations under workplace laws,
- Post a workplace notice at the Midtown Plaza shop advising other employees of its contraventions, giving a commitment that such behaviour will not occur again,
- Ensure company directors and others with managerial responsibility for human resources, recruitment and payroll functions undertake training on employer obligations under federal workplace laws,
- Engage independent specialist professionals to audit the company's compliance with workplace laws each year for the next three years and report on the outcome to the Fair Work Ombudsman,
- Make a \$5000 donation to Youth Law – Young People's Legal Right's Centre Inc, in King Street, Melbourne, by the end of December to assist it promote compliance with federal workplace laws, and
- Place an advertisement in Melbourne's Herald-Sun newspaper explaining the company's contraventions and giving a public commitment that such conduct will not occur again.

Daiso Australia and Ms Hii must also self-audit their employment records from June, 2012 until June, 2014 – a process the Fair Work Ombudsman expects will identify additional contraventions and require further back-payments.

Fair Work Ombudsman Natalie James says that when employers with contraventions are given advice and assistance to ensure they comply with workplace laws, they are expected to do so.

"Obviously we frown upon employers who refuse to fix problems or continually ignore advice so they have a competitive advantage over others doing the right thing," she said.

Employers or employees seeking assistance can contact the Fair Work Infoline on 13 13 94 or visit [www.fairwork.gov.au](http://www.fairwork.gov.au)

A free interpreter service is available on 13 14 50 and information on the website is translated into 27 languages.

The Fair Work Ombudsman has recently announced a review of the wages and conditions of overseas workers in Australia on the 417 Working Holiday Visa.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) (<http://twitter.com/NatJamesFWO>), the Fair Work Ombudsman [@fairwork\\_gov\\_au](https://twitter.com/fairwork_gov_au) ([http://twitter.com/fairwork\\_gov\\_au](http://twitter.com/fairwork_gov_au)) or find us on Facebook [www.facebook.com/fairwork.gov.au](http://www.facebook.com/fairwork.gov.au) (<http://www.facebook.com/fairwork.gov.au>).

Find out more:

- [Fair Work Ombudsman to review entitlements of overseas visa-holders on working holidays \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2014-media-releases/august-2014/20140804-working-holiday-entitlements-review\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2014-media-releases/august-2014/20140804-working-holiday-entitlements-review)
- [Daiso Pty Ltd Enforceable Undertaking \(DOCX 129.2KB\) \(www.fairwork.gov.au/ArticleDocuments/837/Enforceable-Undertaking-Daiso.docx.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/837/Enforceable-Undertaking-Daiso.docx.aspx) ([PDF 3.1MB\) \(www.fairwork.gov.au/ArticleDocuments/837/Enforceable-Undertaking-Daiso.pdf.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/837/Enforceable-Undertaking-Daiso.pdf.aspx)

Media inquiries:

Tom McPherson, Media Adviser

Mobile: 0439 835 855

[tom.mcperson@fwo.gov.au](mailto:tom.mcperson@fwo.gov.au) (<mailto:tom.mcperson@fwo.gov.au>)

**Page reference No: 5029**

## Contact us

Fair Work Online: [www.fairwork.gov.au](http://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.