

Mining services company short-changes 205 employees more than \$2 million

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A Victorian-based mining services company is repaying more than \$2 million to workers who were short-changed over four years.

Deepcore Australia Pty Ltd underpaid 205 employees a total of \$2.09 million for work they performed at mines in regional Victoria and Queensland between 2010 and 2014.

The company, which provides drilling services to mine operators, has agreed to back-pay the workers as part of an Enforceable Undertaking (EU) it has entered into with the Fair Work Ombudsman.

The hefty back-payment bill, one of the largest enforced by the Fair Work Ombudsman, is a result of Deepcore's failure to pay minimum entitlements.

The underpaid workers include current and former employees, who performed drilling duties and maintenance-related trades. A number were young workers.

Four employees were underpaid more than \$50,000, with the largest underpayment being \$55,446.

Thirty-three workers were underpaid more than \$20,000 and 99 employees were short-changed more than \$5000.

The Fair Work Ombudsman investigated after first receiving requests for assistance from Deepcore employees in August, 2015.

Inspectors found Deepcore had failed to correctly calculate the all-purpose allowance under the Mining Industry Award

It also failed to pay night shift penalty rates to Victorian employees and Saturday penalty rates to Queensland employees, as stipulated under the Award.

The company blamed the underpayments on its failure to properly understand the arrangements for transitioning to modern Awards, erroneous legal and accounting advice and challenges associated with its expanding workforce.

Fair Work Ombudsman Natalie James says Deepcore admitted its contraventions and co-operated with inspectors.

"We have entered into an EU with the company in an effort to encourage behavioural change and ensure future compliance with workplace laws," she said.

Deepcore has already reimbursed more than \$1 million to current employees it had underpaid and will re-pay former workers by March, 2017.

The company will pay employees 1.5 per cent interest on all reimbursements.

Under the terms of EU, Deepcore has also agreed to:

- Donate \$15,000 to the Loddon Campaspe Community Legal Centre in regional Victoria;
- Engage an independent specialist to audit its compliance with wages and work-related entitlements and record-keeping and pay-slip obligations;
- Set up a dedicated email address for employees with inquiries about underpayments;
- Apologise to all underpaid employees;
- Display a workplace notice and a media notice in Melbourne's Herald Sun newspaper detailing the contraventions, the terms of the EU and apologising for its actions;
- Register with the Fair Work Ombudsman's My Account portal;
- Upgrade systems and processes to ensure future compliance with workplace laws; and
- Commission workplace relations training for all managerial staff with human resource and payroll responsibilities.

In addition, Deepcore has already appointed a manager of human resources, safety and training to ensure it is now paying its employees' correctly.

Ms James says the matter highlights the need for employers to take the time to ensure they are aware of the correct minimum lawful entitlements that apply to their employees.

"Underpayments of minimum entitlements, left unchecked over time, can lead to employers facing big back-payment bills they were not budgeting for," she says.

EUs were introduced by legislation in 2009 and the Fair Work Ombudsman has been using them to achieve strong outcomes against companies that breach workplace laws, without the need for civil proceedings.

"We use EUs where we have formed a view that a breach of law has occurred, but where the employer has acknowledged this, accepted responsibility and agreed to co-operate and fix the problem," Ms James says.

Ms James says the Agency offers a range of free tools and resources for employers at www.fairwork.gov.au including template documentation to use when hiring, managing and dismissing staff, letters of engagement and probation, timesheet and pay-slip templates, leave application forms and a self-audit check list.

The mobile-friendly Pay and Conditions Tool (PACT), which was last year accessed more than 2.2 million times, can assist business owners to calculate the correct pay for their employees and a series of Best Practice Guides is available on a range of topics, including 'small business and the Fair Work Act.

Employers can also call the Fair Work Infoline on 13 13 94 between 8 am and 5.30 pm weekdays to obtain free advice and assistance from a team of expert advisers.

A free interpreter service is available by calling 13 14 50.

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- [Deepcore Australia Pty Ltd Enforceable Undertaking \(DOCX 202.9KB\) \(www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-deepcore-australia-pty-ltd-redacted.docx.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-deepcore-australia-pty-ltd-redacted.docx.aspx) (PDF 2.9MB) (www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-deepcore-australia-pty-ltd-redacted.pdf.aspx)

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