

## How to fix an underpayment

Employees have to be paid at least their minimum pay rates and entitlements. To find minimum pay rates and entitlements use our [Pay Calculator \(https://calculate.fairwork.gov.au/findyouraward\)](https://calculate.fairwork.gov.au/findyouraward) or check your enterprise agreement or other registered agreement.

If an employee has been underpaid, it needs to be fixed as soon as possible. Follow our step-by-step guide to working out how to fix an underpayment:

- [Step 1: Work out how long the employee has been underpaid](#)
- [Step 2: Work out how much the employee was actually paid](#)
- [Step 3: Work out how much the employee should have been paid](#)
- [Step 4: Calculate how much the employee has been underpaid](#)
- [Step 5: Backpay the employee](#)
- [Step 6: Keep up-to-date with future wage increases](#)

Also on this page, learn about:

- [how to get help with fixing underpayments](#)
- [what happens after an underpayment is fixed.](#)

Not sure if an employee has been underpaid or not? Check what they should be paid using our [Pay Calculator \(https://calculate.fairwork.gov.au/findyouraward\)](https://calculate.fairwork.gov.au/findyouraward).

### Step 1: Work out how long the employee has been underpaid

Underpayments for a single employee can happen in 1 pay period, a few weeks or months or up to many years, depending on how long the employee has worked for the business and when the mistake happened.

You may need to audit the pay records for a short period or for the entire period of employment, depending on the reason for the underpayment.

#### When there is a payroll error

Sometimes underpayments happen in single pay period because of:

- computer or human error
- wrong number of hours paid
- penalty rates not applied
- other entitlements not paid, such as leave or allowances.

If the underpayment is due to a single payroll error, only that pay period needs to be audited.

#### When a pay increase is missed

Sometimes an employee is paid the right pay rate at the start of their employment but they're underpaid later. This might happen if:

- minimum wages increase - minimum wages are reviewed every year and increases usually start from the first full pay period on or after 1 July
- a junior employee has a birthday - junior pay rates often increase each year on the employee's birthday
- an employee's duties change - more responsibility or different duties can mean the employee is classified at a higher level under an award or agreement
- an employee completes a job-related qualification - under some awards employees get paid more if they've completed more education
- an apprentice or trainee moves to the next pay level or completes their course.

You can audit an employee's pay records for only a short period of employment if:

- you know when the underpayment started and ended
- you're confident the employee was paid the right pay rates during the rest of their employment.

#### When an employee is paid less than the minimum pay rate

If an employee is paid less than the minimum that they're entitled to and you're not sure how long they've been underpaid for, you will need to check pay records for the entire period of employment.

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## Step 2: Work out how much the employee was actually paid

Write down the total amount the employee was paid for the period that's being audited.

The 'total amount' is the 'gross' amount the employer paid before tax was deducted, not the amount the employee got in their bank account.


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## Step 3: Work out how much the employee should have been paid

Based on the number of hours the employee worked, and the times and days the hours were worked, calculate how much they should have been paid, in total, for the period.

As well as the minimum pay rate, remember to check whether the employee was entitled to:

- penalty rates
- overtime
- allowances
- leave payments
- leave loading
- any other entitlements in the employee's award, enterprise agreement or other [registered agreement \(www.fairwork.gov.au/Dictionary.aspx?TermID=2034\)](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2034) .

Any additional tax and superannuation that was supposed to be paid during that time would also need to be paid. For information about tax requirements and super guarantee contributions visit the [Australian Taxation Office website \(https://www.ato.gov.au/\)](https://www.ato.gov.au/) .

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## Step 4: Calculate how much the employee has been underpaid

The underpayment is the difference between the amounts worked out at steps 2 and 3:

- amount A = how much the employee should have been paid
- amount B = how much the employee was actually paid
- underpayment amount = amount A - amount B.

### Example: Mai Lin was underpaid for 3 weeks

Mai Lin's employer didn't realise she had to pay at least the minimum pay rate. She paid Mai Lin \$16.00 per hour for 30 hours of work each week. Over 3 weeks she paid her \$1440.00 (3 weeks x 30 hours x \$16.00).

Mai Lin used the [Pay Calculator \(https://calculate.fairwork.gov.au/findyouraward\)](https://calculate.fairwork.gov.au/findyouraward) to work out that she should be paid at least \$17.50 per hour. Over the past 3 weeks she should have been paid \$1575.00 (3 weeks x 30 hours x \$17.50 =).

To work out how much Mai Lin has been underpaid, work out the difference between what Mai Lin should have been paid (amount A - \$1575.00) and what she was actually paid (amount B - \$1440.00).

(amount A) \$1575.00 - (amount B) \$1440.00 = (underpayment amount) \$135.00.

Mai Lin has been underpaid \$135.00 over 3 weeks.

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## Step 5: Backpay the employee

The employee must be backpaid as soon as possible. This can be done as part of the normal pay cycle or as a separate payment.

The backpayment must be recorded in the employee's pay records.

Find out more about [Pay slips and record-keeping \(www.fairwork.gov.au/pay/pay-slips-and-record-keeping\)](http://www.fairwork.gov.au/pay/pay-slips-and-record-keeping) .

### If the employer can't afford to pay

Sometimes the backpay owed is more than the employer can afford in a single payment. A payment plan can be negotiated between

the employer and the employee to pay the full amount over a period of a few weeks or months.

The agreed payment plan should be written down and signed by the employer and the employee. The employer and employee should each keep a signed copy.

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## Step 6: Keep up-to-date with future wage increases

Stay informed about annual minimum wage increases and [Subscribe to our email updates \(www.fairwork.gov.au/website-information/staying-up-to-date/subscribe-to-email-updates\)](http://www.fairwork.gov.au/website-information/staying-up-to-date/subscribe-to-email-updates) .

Make sure you're familiar with the employment classifications in your award, as well as any other types of pay changes (e.g. when junior or apprentice rates change). It's good practice to make a note in a calendar when employees are likely to need an increase in their pay, such as junior birthdays or yearly apprentice progression.

## Get help with fixing underpayments

If the business doesn't have a payroll officer you may decide to get help from an accountant to calculate underpayments.

To ask for our help with workplace law information [login or register for My account \(www.fairwork.gov.au/my-account/home.aspx?utm\\_source=webchat&utm\\_medium=fixing-underpayment&utm\\_campaign=MyaccountLP\)](http://www.fairwork.gov.au/my-account) and:

- use web chat to ask a quick question
- submit an enquiry for help with more complex questions.

If you can't resolve an underpayment issue in the workplace, find out how to get [Help resolving workplace issues \(www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/working-with-you-to-resolve-workplace-issues\)](http://www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/working-with-you-to-resolve-workplace-issues) .

## What happens after an underpayment is fixed?

Most underpayments happen because a mistake has been made. Fixing it quickly, and getting it right in the future, is important. If you noticed the underpayment yourself and fixed it, you don't need to report it to us (but you do need to record it).

If we become aware of the underpayment and decide that the matter involves very serious issues and/or is in the public interest, we may choose to investigate, even if the affected employees have been backpaid.

For more information:

- download our [Compliance and enforcement policy \(www.fairwork.gov.au/about-us/our-purpose/compliance-and-enforcement-policy\)](http://www.fairwork.gov.au/about-us/our-purpose/compliance-and-enforcement-policy)
- find out how we're [Enforcing the legislation \(www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/\)](http://www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/) .

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## What to do next

- Develop the skills to approach difficult workplace conversations at our [Online learning centre \(http://fairwork.cls.janison.com/Auth/Login?ReturnUrl=/\)](http://fairwork.cls.janison.com/Auth/Login?ReturnUrl=/)

## Help for small business

- Find tools, resources and information you might need on our [Small business page \(www.fairwork.gov.au/Find-help-for/Small-business/default\)](http://www.fairwork.gov.au/Find-help-for/Small-business/default) .

## You might also be interested in

- [Record-keeping and pay slips online course \(www.fairwork.gov.au/how-we-will-help/online-training/default\)](http://www.fairwork.gov.au/how-we-will-help/online-training/default)
- [Calculating Minimum wages \(www.fairwork.gov.au/pay/minimum-wages\)](http://www.fairwork.gov.au/pay/minimum-wages)
- [Effective dispute resolution best practice guide \(www.fairwork.gov.au/How-we-will-help/templates-and-guides/Best-practice-guides/effective-dispute-resolution\)](http://www.fairwork.gov.au/How-we-will-help/templates-and-guides/Best-practice-guides/effective-dispute-resolution)

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## 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

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