



MCKELL INSTITUTE VICTORIA

Unfinished Business

THE ONGOING BATTLE AGAINST WAGE THEFT

REBECCA THISTLETON / EXECUTIVE DIRECTOR, MCKELL INSTITUTE VICTORIA

AUGUST 2023

ABOUT THE MCKELL INSTITUTE VICTORIA

The McKell Institute is an independent, not-for-profit research institute dedicated to identifying practical policy solutions to contemporary challenges.

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ABOUT THE AUTHOR



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ACKNOWLEDGEMENT OF COUNTRY

This report was written on the lands of the **Wurundjeri people** of the **Kulin Nation**. The McKell Institute acknowledges Aboriginal and Torres Strait Islander peoples as the Traditional Owners of Country throughout Australia and their continuing connection to both their land and seas.

The opinions in this report are those of the authors and do not necessarily represent the views of the McKell Institute's members, affiliates, individual board members or research committee members. Any remaining errors or omissions are the responsibility of the authors.



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FOREWORD

Australian workers are dealing with the rising cost of living, housing market pressures, a rental crisis, and stagnant wage growth.

Unpaid earnings harm people who worked in good faith for their pay packet and - right now - people are having to carefully count every dollar.

Since The McKell Institute's 2019 report, *Eradicating Wage Theft: Eradicating Underpayment in the Australian Workplace*¹, several high-profile wage theft cases have ruled in favour of employees against a big-name employer.

But for every case the Fair Work Commission (FWC) has successfully prosecuted, we know there are far more instances that are never investigated and workers who are never properly compensated.

After about a decade of inertia from successive federal Liberal governments on wage theft, the Albanese Labor Government is working to deliver their own election commitments for greater worker protection.

The government has indicated that nationally consistent laws to criminalise wage theft will be introduced in the coming months.

A national approach is critical for real change and Australian workers need the legislation to pass.

That's why we have quantified wage theft by federal electorate, to show Australia's federal legislators and decision-makers how wage theft impacts the people who vote for them.

Workers' rights and workers' wages are core business for the McKell Institute.

By continuing to shine a light on wage theft, we consistently put pressure on the need to stamp it out, to make wage theft a criminal offense, and to drive cultural change in workplaces.

The McKell Institute recognises the work of the union movement in holding employers to account, and empowering workers to speak up and demand the pay and the workplace rights they are entitled to.

The McKell Institute thanks the Australian Council of Trade Unions, the Victorian Trades Hall Council, the Young Workers Centre and the SDA for their support and assistance with this report.

EXECUTIVE SUMMARY

Quantifying wage theft is challenging, but the very nature of the impact it has on workers means governments and unions have an ongoing responsibility to have well-informed estimates.

PART ONE of this report seeks to show progress made to stamp out wage theft since our 2019 investigation, noting the promises made by both major parties in government.

Criminalising wage theft was an Albanese Labor Government election commitment.²

This comes after negotiations to criminalise wage theft under the former Morrison Government fell apart in 2021, despite the intention having broad crossbench support,³ and years of talk from both sides about the need for change.

Part one outlines the need for national legislation and discuss how all members of the Federal Parliament have a responsibility to help this Bill pass.

We have also revisited the recommendations we made in our 2019 work to assess against progress made to date.

The Albanese Government's industrial relations overhaul has the potential to be the turning point for lasting change for the government's work throughout 2023 is the starting point for systemic change.

That is why, in **PART TWO**, we have taken the Fair Work Ombudsman's data and extrapolated it across every federal electorate.

Part two also explores the likely impact of demonstrable wage theft throughout the Australian economy.

The cumulative dollar figures we are publishing paint a grim picture, but as the McKell Institute has explored in the past⁴, the real amount would be considerably higher.

While the numbers make some assumptions based on trends, we cannot properly count the workers who feel disempowered, who fear taking on their employer, have been dissuaded or intimidated from pursuing their rightful pay or who avoid acting because of their visa status.

We need to think of wage theft as an iceberg: what we see above the surface is indicative of a bigger underlying concern.

Our figures are illustrated with true stories from workers who have experienced wage theft. Their stories remind us that every dollar recorded in a graph represents exploited human labour, and no matter the amount, any unpaid earnings represent money needed for food, shelter, clothing, and for families.

KEY FINDINGS

- 1 Wage theft remains widespread despite multiple federal inquiries into the practice.
- 2 There is bipartisan support across the federal Parliament to criminalise wage theft.
- 3 Wage theft is culturally entrenched across industries.
- 4 The states have worked to fill the legislative gap – but the gap still exists.
- 5 Employers still struggle to understand the workplace relations laws governing the industries within their employment and the awards they must comply with.
- 6 There is a shared desire for progress and collaboration between the major union and business groups.
- 7 No Australian state or territory is immune to wage theft.
- 8 Estimates available from limited data show wage theft is costing workers from \$847 million to \$1.35 billion a year.
- 9 Actual wage theft numbers are expected to be considerably higher than what audit outcomes show – the Queensland Parliament estimates their state alone loses \$2.5 billion from wage theft each year.

RECOMMENDATIONS

- 1 Every member of the 45th Parliament of Australia should strive for industrial relations reform that fulfil the government's mandate to criminalise wage theft.
- 2 New federal wage theft legislation and existing state legislation should co-exist.
- 3 New federal legislation should restrict non-disclosure agreements to prevent their misuse as tools to silence victims.
- 4 Federal, state and territory jurisdictions should recognise the value in workers having multiple avenues to seek redress.
- 5 The Fair Work Ombudsman should develop industry-specific action plans with unions and employers for the industries where wage theft rules are needed most.
- 6 The Fair Work Ombudsman should continue working with unions and industry groups to identify how awards and rules can be simplified, so that compliance is non-negotiable.

PART ONE

THE CASE FOR WAGE THEFT ACTION IN 2023

KEY FINDINGS

- 1 Wage theft remains widespread despite multiple federal inquiries into the practice.
- 2 There is bipartisan support across the federal Parliament to criminalise wage theft.
- 3 Wage theft is culturally entrenched across industries.
- 4 The states have worked to fill the legislative gap - but the gap still exists.
- 5 Employers still struggle to understand the workplace relations laws governing the industries within their employment and the awards they must comply with.

Inaction on wage theft was identified as part of the former Morrison Government's policy architecture driving low wage growth across the country, along with changes to the FWC composition, a surge in visas for low-paid temporary migrant workers, rapid expansion of the gig economy, public sector wage freezes, opposition to minimum wage increases and support for penalty rate cuts⁵.

Tackling wage theft is complex, and for the practice to be stamped out entirely, we need strong cross-jurisdictional legislation.

Some states have toughened their wage theft laws or gone to the extent of making wage theft a criminal offence.

Australia's federal industrial relations framework and key rules governing pay are legislated under the *Fair Work Act (2009)*.⁶

Until we have federal legislation in place which criminalises wage theft, workers remain vulnerable, and the ingrained nature of wage theft culture will remain in the workplace.



As the ACTU has noted, “The non-criminalisation of wage theft sends a message that echoes perceptions about the treatment of “white-collar” as opposed to other forms of crime. The fact that wage theft is not criminal, whereas stealing an amount of money in most other ways is, does nothing to support efforts to drive a culture of industrial relations where adhering to legal obligations is promoted.”⁷

The FWO may pursue civil penalties against an employer but cannot recommend criminal cases.

In 2021, New South Wales Labor MP Mark Butteig was questioning the then-Special Minister of State about acting on wage theft.

“What is the primary ethical difference between larceny and wage theft?” he asked.⁸

The difference between the two wasn’t explained in the response provided, and nor did the NSW Government move to criminalise wage theft.

But when former New South Wales Finance Minister Damien Tudehope introduced legislation for tougher state-based penalties, he, simultaneously calling for a national approach, said “The Commonwealth needs to show leadership in this space, put this issue back on their agenda and establish a national framework for combating wage theft.”⁹

A key criticism raised regarding criminalisation is the difficulty and ambiguity around proving the employer’s intention to ‘rip off’ a worker. UTS Associate Professor Giuseppe Carabetta notes, “criminal sanctions may elevate awareness and provide another avenue for redress, but whether they would foster greater employer compliance is doubtful. This is because these would only apply to deliberate breaches, when many cases of non-compliance involve genuine and unintentional mistakes. Nor will criminal sanctions do anything to assist employees to easily seek redress, given they are about punishment and not compensation.”¹⁰

However, the Mckell Institute continues to support moves to criminalise wage theft as a way to show zero tolerance to the practice.

Despite tougher penalties and increased powers for the FWO to investigate, annual wage theft figures continue to climb and this report includes case studies which demonstrate the ingrained culture of wage theft across industries that enable underpayment.

Defining wage theft

In line with our 2019 *Ending Wage Theft* report, we treat the underpayment of wages and entitlements that are rightfully owed to an employee under the *Fair Work Act (2009)*.

Broadly, we define this to include (but not limited to) unpaid time spent working, unreasonable deductions from pay; payment which is less than the minimum wages as per the applicable award; unpaid or underpaid entitlements; unpaid or underpaid superannuation.

This report refers to both the Fair Work Ombudsman (FWO) and Fair Work Commission (FWC). The FWO is the Commonwealth agency responsible for enforcing the Fair Work Act and pay awards, and work with employees and employers. The FWC is the federal workplace relations tribunal.¹¹

Unions and business can collaborate

While they may represent traditionally opposing stakeholders, the Council of Small Business Organisations Australia (COSBOA) and the ACTU groups have found common ground through their frustrations for progress on industrial relations reform. This has resulted in joint public positions on previous legislation moving through the Parliament. The two groups collaborated ahead of the 2022 Jobs and Skills Summit¹² and signed a Memorandum of Understanding¹³ to demonstrate a shared commitment to improving workplace laws and work on common goals despite the opposing nature of their interests.

“What we’ve done with the ACTU is find common goals and values such as fairness and prosperity. The IR system, including bargaining,

CASE STUDY

THE UNFAIRNESS OF NON-DISCLOSURE AGREEMENTS

Anna was working at a popular Melbourne Cafe when she was stunned to discover she and her colleagues were being underpaid on their hourly rate and missing out on penalty rates.

While confronting her boss was intimidating, seeing high-profile wage theft cases rule in favour of hospitality employees emboldened her and her workmates to take action.

After working with Hospo Voice (now part of the United Workers Union) to raise public awareness about the case, and considerable digging by the Fair Work Commission, Anna and her colleagues were presented with an offer to be back paid – provided they signed a non-disclosure agreement.

“We were shocked when it was on the table – we didn’t do anything wrong, why should we shut up to protect their future reputation?” she said.

It took several years for the process to conclude and for Anna to be paid what she was owed. Having a non-disclosure agreement in place made applying for other jobs difficult, leaving Anna and her colleagues vulnerable to unfair judgement, while protecting her previous employer who was found to be in the wrong.

CASE STUDY

A TARGETED APPROACH IS NEEDED FOR EACH PROBLEM INDUSTRY

I worked for some big-name restaurants where I'd do 45 to 50 hours a week and would be paid for a 37-38 hour week.

People around me were working 20 or 30 hours above what they were paid.

There were a lot of brush offs and denials.

Management tried to downplay it, or say the information I had wasn't correct.

I went in with the restaurant industry award and notes and records of hours I'd worked, which gave me the confidence to push it.

This was a big company, with an HR person, people doing payroll. It definitely felt like they were deliberately under-paying workers rather than it being a few accidents from time-poor people without experience in running a business.

Some of the things I was able to claim back payment for, others had the same claims rejected.

People in hospo often go without breaks or aren't paid for all the hours they do. It's systemic, the whole hospitality industry needs to be turned on its head.

The experience made me learn a lot about workers' rights and I became a bit of an activist.

Even when I was working in academia I was also being asked to do unpaid work.

I was very clear with my supervisor in saying what I should be paid for, and they were very dismissive. I have the confidence now to say that I know my rights.

University enterprise agreements often have ambiguous wording that allows supervisors to save money by not paying for all the work people do for them.

Some universities are increasing their compliance, but more needs to be done so casual workers are being paid for the hours they work.

is designed for big businesses. It's inaccessible and intimidating to small businesses, who employ about half of this country's workforce. And that's not fair – hence why both organisations would like to see a simpler, more easily navigable system that can meet the needs of smaller workplaces," COSBOA CEO Alexi Boyd said of the MoU. "Change is difficult in the IR system. It's incremental, and it won't happen if we don't cooperate with all sides."¹⁴

Wage theft remains culturally engrained across industries

The ACTU described worker exploitation as widespread and as having become a business model, noting in its submission to the Senate Economics Committee's 2020 Inquiry into the Unlawful Underpayment of Employment that "wage theft occurs in a regulatory regime which allows for it to flourish. The Fair Work Ombudsman will never have enough resources to take on the full responsibility of ensuring compliance with workplace laws, and the employers who commit wage theft know this."¹⁵

Wage theft culture continues to disempower workers

Some of the workers we spoke to had been encouraged to take action against their employers after seeing high-profile media cases. But they also talked about colleagues who feared a loss of shifts, loss of future employment or even their visa would be threatened if they acted, so were reluctant to speak out.

Common themes from our conversations with workers:

- A lag between the time they realised they were being ripped off and confronting employers because of the stressful nature of taking on the boss.
- Having their questions and concerns about pay dismissed and not taken seriously.
- Feeling their shifts and future employment prospects would suffer after speaking up.

- Common knowledge in the workplace that pay was less than the award.
- A workplace culture of working well beyond the hours paid.
- Significant time between making a formal complaint and having a resolution, from several months to several years.
- Having to sign a non-disclosure agreement to receive back pay as part of negotiations with employers.

Union representation and legal services matter

Accessible support can be the difference between workers speaking up and staying silent.

The workers we spoke to had the support of unions such as Hospo Voice/United Workers Union, the SDA and also from the Victorian Young Workers Centre. The case studies we spoke to had taken their wage theft complaint all the way through to receiving back pay, some through reaching an agreement with their employer or through the FWO.

Anecdotally, we heard that having easy access to free advice and support from union workers throughout the process was why they had felt able and empowered to act, despite fearing recriminations in the workplace.

The ACTU told the 2022 Senate Inquiry that it was rare for an individual employee to commence recovery proceedings against their employer. This view was also expressed by workers appearing before the 2022 Senate Inquiry.¹⁶



How did we get here: legislative timeline

This is a brief outline of recent efforts from the Parliament of Australia to investigate wage theft and strengthen protections through legislation.

The timeline shows how successive parliaments have been provided with evidence of a flourishing wage theft environment across workplaces, which have resulted in repetitive recommendations made by successive reports.

Overall, there has been a shameful lack of progress on wage theft despite multiple industrial relations bills and amendments having been considered and debated.

OCTOBER 2016

The Senate refers an inquiry to the Education and Employment References Committee into the incidence of, and trends in, corporate avoidance of the Fair Work Act 2009. There are 212 submissions received and nine public hearings held around the country.¹⁷

SEPTEMBER 2017

Changes to the Fair Work Amendment are made and the Protecting Vulnerable Workers Bill 2017 passes in the Senate. Key measures include increased civil penalties for contraventions of the act and increased investigative powers for the FWO.¹⁸

Labor supports the bill following several amendments, including to reverse the onus of proof in wage claims where employers have not provided wage slips or records.¹⁹

The Education and Employment References Committee delivers its report, Corporate Avoidance of the Fair Work Act.²⁰ The report finds the Fair Work system of the day was not fit for purpose, having focused on barriers to collective bargaining, labour hire, sham contracting, the gig economy and wage stagnation.

The report makes 29 recommendations for reforming those key areas of concern.²¹

The supplementary Coalition Senators' Dissenting Report states: There has been no evidence provided to the inquiry to suggest that there is widespread avoidance of the Fair Work Act by companies. Instead, Labor Senators have appeared to rely on that oft-cited maxim of Dennis Denuto from the movie "The Castle" that "it's the vibe of the thing" as a basis to prosecute their attacks on private enterprise, particularly small business, and benefit their backers in the union movement.²²

JUNE 2018

The Senate refers an inquiry into the exploitation of cleaners working in retail chains for contracting or subcontracting cleaning companies to the Education and Employment References Committee.²³

NOVEMBER 2018

The Education and Employment References Committee's resulting report is released, titled *Wage theft? What wage theft?!*

The report finds exploitation of vulnerable workers is rife and encouraged through the proliferation of pyramid subcontracting, misuse of labour hire and illegal phoenixing.

The first of 22 recommendations the report makes is that the Government take immediate steps to protect vulnerable workers subject to wage theft and exploitation by companies who continue to operate with impunity.²⁴

A Coalition Senators' Dissenting Report is also tabled, stating "the Coalition Senators cannot support the majority of the report". "Coalition Senators believe that the Government has taken proactive and comprehensive action to strengthen protections for vulnerable workers and that the recommendations of the Migrant Workers' Taskforce should be considered when determining any further reforms to enhance these protections."²⁵

NOVEMBER 2019

The Senate refers inquiry into the causes, extent and effects of unlawful non-payment or underpayment of employees' remuneration and measures that could be taken to the Standing Committee on Economics.

The committee was to report to the Senate by June 2020. Five extensions to this deadline were granted over the next two years until the committee reported back in March 2022.²⁶

DECEMBER 2020

The Morrison Government introduces the Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill (the 'Omnibus Bill').²⁷

The bill includes a raft of changes, and has measures to criminalise wage theft and introduce tougher penalties. Other measures included allowing part-time employees to work overtime hours at the standard rate of pay, increased terms for greenfield agreements on major projects, simplifying the award scheme and changes to enterprise agreements. There were also pandemic-specific changes to allow some impacted businesses to pay below minimum rates.

The bill in its entirety was criticised by the then Labor opposition and unions on the grounds that workers would lose out on pay and job security. In terms of the wage theft measures, Labor, the Greens and the unions they felt the proposed changes didn't go far enough in order to stamp out the practice and because the bar would be set too high for workers to prove they were in the right.²⁸

This view was also held outside of partisan politics and media coverage. Schofield-Georgeson described the bill's wage theft measures as "more restrained" than comparative Victoria and Queensland legislation.²⁹

EARLY 2021

The government is locked in negotiations to try and get the bill through. Key concerns from Labor and the unions are that workers will be vulnerable to greater workforce casualisation. The ACTU says the proposed wage theft laws would weaken punishments in Queensland and Victoria, where it was already treated as a crime.³⁰

The Minister for Industrial Relations, Christian Porter, concedes changes will be needed if the omnibus bill has any hope of passing.³¹

MARCH 2021

The ACTU and Council of Small Business, in a rare sign of solidarity, jointly propose a suite of amendments to try and get the omnibus bill agreed to so that agreed changes to the Retail Award are made.³²

Debate continues, a number of amendments are moved, the bill goes to committee and a number of unions make submissions that argue how the workers they represent would be worse off under the bill.³³

The McKell Institute submission states the bill is unlikely to minimise the prevalence of wage theft and language regarding criminal culpability lacks breadth, overrides stronger laws at a state level, and grants those engaging in intentional underpayment a degree of plausible deniability that makes prosecution challenging.³⁴

The bill was opposed in the Senate by Labor, the Greens, and crossbenchers Jacqui Lambie and Rex Patrick. Lambie and Patrick say they could back the wage theft components of the bill.³⁵

The bill was then whittled down to two core components: the criminalisation of wage theft, along with higher penalties, and a definition of casual work.

At the last minute, negotiations fall apart, and the government abandons its industrial relation reform package. The only measure which passes is a definition of casual work.³⁶

MAY 2021

The Federal Opposition announces that if elected, an Albanese Labor Government would introduce its own legislation to criminalise wage theft.³⁷

JULY 2021

Wage theft is made a crime in Queensland and Victoria from July 1, following both states passing their own legislation.

MARCH 2022

The Senate Economic References Committee releases its final report into unlawful underpayment of employees' remuneration.

The report, "Systemic, sustained and shameful", makes 19 recommendations. The first recommendation is for the government to make any form of wage theft a criminal offence, the second to increase civil penalties.³⁸

APRIL 2022

Prime Minister Scott Morrison confirms the Coalition was committed to the discarded policies in its original omnibus bill and would seek to reintroduce legislation if re-elected.³⁹

MAY 2022

The Albanese Labor Government is elected.

OCTOBER 2022

Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill is introduced.

Measures include reforms to the better off overall test (BOOT), banning pay secrecy, limiting fixed-term contracts, banning job ads with below minimum rates of pay, termination of zombie agreements, more powers for the FWC, gender equity measures and expanded access to flexible rostering.⁴⁰

DECEMBER 2022

The Secure Jobs, Better Pay Act passes and receives Royal Assent.

The resulting changes are to be rolled out throughout 2023.⁴¹

CASE STUDY

THE BOSSES WHO CHOOSE TO UNDERPAY

“ I was working for a building and plastering company as a delivery driver, and was getting paid about \$20 an hour. It was casual rates plus super and I thought it was a bit lower than what I should have been getting.

I looked it up on the Fair Work website and I should have been paid about \$25, \$26 at the time. The boss wasn't interested. He said that I'd taken the job and that was the pay, which showed I had accepted the rate of pay, and if I didn't like it, I could quit.

I enjoyed the work, but I wasn't phased at losing the job over the pay.

We were given these little handwritten payslips and I kept following it up, there was a fair bit of back and forth involved and it took a while.

He was pretty cocky and surprised that Fair Work ruled in my favour.

I had about \$18,000 in back pay paid out.

I knew he was doing the dodgy on the fellas he had hired from overseas too, but they were too worried about their visas to want to do anything about it.

KEEGAN WAS A WAGE THEFT VICTIM WORKING IN THE CONSTRUCTION INDUSTRY IN NEW SOUTH WALES

”



Ending Wage Theft scorecard

Our 2019 wage theft report included a suite of recommendations based on comprehensive research and consultation.

Here, we look at the priority areas we identified, to see what progress has been made and where more work is needed.

SENDING A CLEAR SIGNAL OF ZERO-TOLERANCE FOR WAGE THEFT

The McKell Institute called for higher penalties, legal reforms and for the state and territory governments to amend their criminal codes to criminalise intentional, reckless, or grossly negligent instances of wage theft.

PROGRESS:

- Victoria⁴² and Queensland⁴³ have passed legislation that makes wage theft a crime. It must be noted that the states took different approaches. The Palaszczuk Labor Government in Queensland made amendments to the state's Criminal Code,⁴⁴ whereas the Andrews Labor Government in Victoria established a stand-alone Act implemented by a purpose-built agency, the Victorian Wage Inspectorate.⁴⁵ Both states established a streamlined process for workers to recover wages through their respective magistrate court systems.
- New South Wales toughened penalties for wage theft in 2021, when the Berejiklian Liberal Government raised fines from 100 penalty units to 500, or \$55,000, and for previous offenders, from 100 penalty units to 1000, which is \$110,000.⁴⁶
- Western Australia released the resulting report from the state's own wage theft inquiry in 2019.⁴⁷ Proposed reforms from the then-McGowan Labor Government included "giving further consideration as to whether wage theft should be criminalised" based on consultation with the Commonwealth, and a commitment to bolstering the Industrial Magistrate's Court processes and powers.⁴⁸ To date, some recommendations have been delivered, such as establishment of a dedicated wage theft website with a feature allowing anonymous tip-offs and a social media campaign.⁴⁹
- In South Australia, the Malinauskas Labor Government had made an election commitment to criminalising wage theft whilst in opposition⁵⁰. The South Australian Government has said they support the national approach the Albanese Government has taken and have therefore paused work on their own legislation. The Office of the South Australian Minister for Industrial Relations confirmed the government will assess the need for more work to be done at state level once the new federal rules are in place.⁵¹
- Criminalising wage theft was an Albanese Labor Government election commitment. The Albanese Government has stated their legislation to criminalise wage theft will be introduced to the Parliament in the second half of 2023.

RATING: WORK IN PROGRESS

MAKING COMPLIANCE & ENFORCEMENT EASIER

We called for superannuation to be paid at the same time as wages are paid to employees, for the small claims threshold to be increased to \$100,000 and indexed annually, and for the *Fair Work Act 2009* to be strengthened so the Fair Work Commission can operate as a strong, independent umpire.

PROGRESS:

- Legislation to deliver the Australian Government's *Secure Jobs, Better Pay* policy has now passed, which facilitates changes to the objectives of the *Fair Work Act* and operations of the Fair Work Commission throughout 2023.
- Further changes to the *Fair Work Act* have been drafted following consultation.
- The government is legislating its "Same jobs, same pay" to close loopholes allowing employers to undercut workers using labour hire.
- The monetary cap for recovering unpaid entitlements via the small claims process increased from \$20,000 to \$100,000 from July 1, 2023⁵².
- From July 1, 2023, employers will legally be required to pay superannuation on payday.⁵³

RATING: ACHIEVED

ENSURING BROADER GOVERNMENT POLICIES PLAY A SUPPORTIVE ROLE

- Our jurisdictions cannot operate in a vacuum, and it is up to all governments to work together if wage theft is to be properly stamped out.
- The McKell Institute recommended collaboration between all levels of government to exclude businesses found to have committed wage theft to be excluded from all procurement and grant payments.
- We also called for the *Fair Work Act* and the *Migration Act 1958* to be reviewed and amended to minimise vulnerabilities for migrant workers and people on temporary visas.
- We applaud the recent changes announced to better protect migrant workers as recommended by the Migrant Workers Taskforce Report⁵⁴.

RATING: WORK IN PROGRESS



Detailed Recommendations

RECOMMENDATION 1

Every member of the 45th Parliament of Australia should strive for industrial relations reforms that fulfil the government's mandate to criminalise wage theft.

The outlined history of successive parliaments and their appointed committees charged with investigating wage theft challenges shows that despite good intentions, our federal governments have left swathes of our national workforce vulnerable.

In the last decade, hundreds of public submissions have been made to committees, who then made hundreds of recommendations to government in a move to deliver progress. The wage theft figures displayed in Part 2 of this report serve as a reminder to all federal members of the victims of wage theft in each federal electorate and are considered conservative amounts.

RECOMMENDATION 2

New federal wage theft legislation and existing state legislation should co-exist.

Under Victoria's Wage Theft Act, an employee cannot consent to having their wages be less than the minimum wage. The Victorian Act also provides for breaks as part of worker entitlements. It is also illegal for a manager to authorise or request another person to withhold entitlements. These are just a few examples from the provisions that already exist in Victoria but were not covered in the previous government's Fair Work Amendment Bill 2020. Future Commonwealth legislation must be drafted with the existing Queensland and Victorian regimes in mind, so that new federal rules do not undermine state-based provisions.

This is essential if workers are to benefit from robust rules that are not vulnerable to further legal challenges. It is important to acknowledge that the state-based legislation in question was introduced by state governments seeking to fill the gap where previous federal governments have failed.

RECOMMENDATION 3

Federal, state and territory jurisdictions should recognise the value in workers having multiple avenues to seek redress.

As noted in the above wage theft scorecard, Queensland and Victoria introduced their own legislation to criminalise wage theft. Both states governments had opposition from those who felt the laws would be constitutionally invalid, given the misalignment with existing federal laws. As predicted, Victoria's first criminal prosecution against an employer has been taken to the High Court of Australia, on the grounds that it is not constitutional for the state laws to apply.⁵⁵

However, having both state and federal wage theft legislation means workers have options, and can determine which pathway best suits potential action to remedy wage theft. While duplicate legislation at different levels of government can generate unnecessary red tape in some instances, when it comes to matters of legal remedies and enforcements, having more than one option for seeking justice can be a positive.

Concurrent legislation is common between the Commonwealth, states and territories, across a number of areas, such as our anti-discrimination laws.⁵⁶ We do not seek to argue the efficacy of the overlapping discrimination laws, but to show that concurrent state and federal laws can and do exist in Australia.

New legislation should be drafted in the spirit of cooperative federalism to be complementary

and avoid contradictions. If necessary, intergovernmental agreements could be signed to promote collaboration with the aim of upholding the integrity of all relevant legislation.

RECOMMENDATION 4

New federal legislation should restrict non-disclosure agreements to prevent their misuse as tools to silence victims.

Unless mutually agreed to by the worker and the employer, non-disclosure agreements (NDAs) should not be pushed onto employees in exchange for having their wages paid back.

Non-disclosure agreements unfairly protect those who have done the wrong thing, while potentially impeding employees from seeing future work opportunities. Due to unfair stigma placed on those who are unable to disclose information about previous employment.

The Victorian Government has recognised how NDAs can silence victims of workplace sexual harassment and is working to restrict their use⁵⁷. This approach should be expanded for those who have experienced wage theft.

RECOMMENDATION 5

The Fair Work Ombudsman should develop industry-specific action plans with unions and employers for sectors where wage theft has flourished.

As the 2022 Senate inquiry into wage theft stated, "wage theft practices have become widespread in the hospitality, retail, horticulture, franchise-heavy and higher education sectors."

There is substantial quantitative data and well-researched evidence that exposes the industries that have already proved challenging

to implement wage theft rules, such as in the tertiary sector; or where there is a culture of wage theft, such as hospitality; and where migrant workers have been particularly vulnerable.

In discussing the cultural nature of wage theft, Kaine and Johsserand write in *The Conversation* that the evidence points to wage theft being associated with certain business structures, namely franchise operations, gig economy workers, outsourced labour and hospitality.⁵⁸

Submissions made to the Senate inquiry into wage theft highlighted the unique circumstances underpinning underpayments in universities, which reported that about half of Australia's universities have been found to underpay staff.

RECOMMENDATION 6

The Fair Work Ombudsman should continue working with unions and industry groups to simplify and refine awards, so that compliance is non-negotiable.

This is critical, as is working to keep employers and employees informed and aware of their rights and obligations. The FWO notes that employer non-compliance can often be due to a lack of understanding from the employer, rather than intentional underpayment.

The Victorian Wage Inspectorate, outlined below, works on the basis that its role is to deliver education and information, while also having the option of pursuing tough penalties of up to 10 years for wrongdoers.⁵⁹

CASE STUDY

THE VICTORIAN WAGE INSPECTORATE

Victoria was the first Australian jurisdiction to establish a stand-alone act – with its own administrating agency – to crack down on wage theft.

As of 1st July 2021, in Victoria, the following actions are now treated as criminal offenses under the Victorian Wage Theft Act 2020:

- 1 Intentionally and dishonestly underpaying workers.
- 2 Intentionally and dishonestly withholding wages, superannuation, or other entitled benefits from employees.
- 3 Falsifying employee entitlement records to gain a financial advantage.
- 4 Avoiding the maintenance of accurate employee entitlement records to gain a financial advantage.

Individuals found guilty of these crimes may face fines of up to \$218,088 or imprisonment for a maximum of 10 years. Companies can be fined up to \$1,090,440.

A new regulator, Wage Inspectorate Victoria, was established under the act. It has significant powers to investigate and demand documentation from businesses.

Wage Inspectorate Victoria is also the agency responsible for running the state's portable long service leave scheme, managing the licensing system and permits for employing children under 15 years old, and administrating the regulations for owner-drivers and forestry contractors.⁶⁰

While Victoria's wage theft laws specifically target employers who deliberately and dishonestly withhold wages and other entitlements from their workers, the Wage Inspectorate notes a critical part of its role is to educate and inform businesses, working to promote understanding and encourage compliance.⁶¹

The introduction of these laws was a pre-2018 election commitment made by the Andrews Government.⁶² Extensive consultation with stakeholders was conducted prior to the development of this legislation.⁶³

As part of the 2021 parliamentary debate for the Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020, known as the omnibus bill, the Victorian Trades Hall Council (VTHC) submission to the Senate

Committee highlighted differences between the Commonwealth's bill and Victoria's existing wage theft laws:⁶⁴

- The VTHC said the Commonwealth Bill made it "near impossible" to reach to establish wrongdoing. The Bill distinguished between 'serious' and 'non-serious' breaches, where 'serious contraventions' applied where a person knowingly broke the rules and the person's conduct was part of a systemic pattern. As well as being incredibly hard to prove, workers would be left with the burden of proof. The VTHC argued this definition severely limited the bill's capacity to change wage theft behaviour.
- In comparison, Victoria's Wage Theft Act defines 'dishonest' 'dishonest according to the standards of a reasonable person'. This also captures recklessness, which is defined as failing to do 'what a reasonable person should have done in the circumstances'. Someone accused of withholding entitlements must demonstrate 'due diligence', placing a reverse-onus on employers to prove they did due diligence.
- The VTHC said the federal bill was ambiguous in showing when an individual or a business would be held responsible for wrongdoing. In Victoria, provisions were made to hold upper management accountable, preventing businesses from separating the corporate entity from an employee to ring-fence the business.

WAGE INSPECTORATE VICTORIA 2022-23 KEY OUTCOMES

- 13,248 calls answered
- 2508 calls from employers
- 425,300 total visits to educational tools and resources on website
- 134 long service leave investigations completed
- More than \$1 million in long service leave recouped, including more than \$20,000 recovered by one worker

- 7 matters before the court
- Assessed more than 600 reports of alleged wage theft

Source: Wage Inspectorate Victoria, 31 July 2023





PART TWO

QUANTIFYING WAGE THEFT IN AUSTRALIA

KEY FINDINGS

- 6 There is a shared desire for progress and collaboration between the major union and business groups.
- 7 No Australian state or territory is immune to wage theft.
- 8 Estimates available from limited data show wage theft is costing workers from \$847 million to \$1.35 billion a year.
- 9 Actual wage theft numbers are expected to be considerably higher than what audit outcomes show - the Queensland Parliament estimates their state alone loses \$2.5 billion from wage theft each year.

Analysis of audit campaigns data from the FWO shows that about 1.38 million Australian workers are underpaid each year, or about 11.5 per cent of the country's employed workforce.

Since 2009, the FWO has audited more than 60,000 businesses country wide.

Some were targeted following anonymous tip-offs and requests for assistance from employees, others chosen randomly.

The FWO audit data provides the most comprehensive overview of employer compliance with hourly rates of pay, entitlements, record keeping and pay slip obligations.

However, their audit capacity means only a fragment of Australian employers are reviewed.

Reliable datasets to truly quantify underpayment in Australia remain insufficient, due to a few factors. A lack of worker awareness means some underpaid workers are simply none the wiser. Others are uncomfortable in reporting their underpayment. In these cases, exposing wage theft is dependent on the FWO's auditing regime.

Extrapolating FWC data shows more than \$874 million is not paid to Australian workers, affecting about 1.38 million workers or 11.5 per cent of the Australian workforce. The FWO reported a record sum of back-paid wages in 2021-22, having recovered more than \$532 million for 384,805 underpaid workers.⁶⁵

In the same year, there were 12,728 anonymous reports received.

Given the low baseline audit numbers that inform the FWC numbers, we have identified other estimates worth considering in this context.

Analysis by the Grattan Institute estimates that between 3 per cent and 9 per cent of all employees in Australia are paid below the national minimum wage.⁶⁶

These figures are likely to be conservative estimates of the extent of underpayment because the analysis does not account for cases where workers are underpaid against the appropriate award rates (which are often higher than the national minimum wage), or where penalty rates are not being paid appropriately. It is also difficult to properly quantify unreported cases where workers do not receive entitlements such as breaks.

TABLE 1 RESULTS FROM DATA EXTRACTED FROM FWO AUDIT CAMPAIGNS SINCE 2009

Percentage of non-compliant businesses (monetary and non-monetary breaches)	41.19%
Percentage of non-compliance (monetary breaches)	26.46%
Average reimbursement per wage theft victim	\$610.83
Avg. number of wage theft victims per non-compliant (monetary breaches) business	5

Source: FWO audit campaigns data, Author's calculations.

* There were over 170 audit campaigns undertaken on approximately 60,000 businesses by the FWO since 2009. Campaigns that did not differentiate between monetary and non-monetary breaches were excluded from the analysis.

According to estimates from PwC, as much as 13 per cent of the total workforce are underpaid wages each year, at a cost of \$1.35 billion.⁶⁷ Therefore, to gauge the plausibility of our method, our results are compared with the PwC and Grattan Institute estimates.⁶⁸

For further context, the Queensland Parliament's 2018 inquiry made its own conservative estimates, suggesting more than 437,000 workers were underpaid an estimated \$1.22 billion annually, leading to a \$100 million annual reduction in consumer spending and \$60 million loss in federal tax revenue. Combined with superannuation underpayments estimated to be about \$1.12 billion, Queensland calculated that wage theft was costing the state \$2.5 billion every year.⁶⁹

Table 1 shows aggregate findings from 120 FWO audit campaigns across 30,664 businesses over the past decade.* It shows more than 41 per cent of audited businesses had operated in contravention of the *Fair Work Act 2009* and *Fair Work Regulations 2009*.

AUSTRALIA

More than \$847.25 million in wages are estimated to be underpaid each year, affecting 1.38 million workers, or about 11.5 per cent of the employed Australian workforce. (Table 2).

TABLE 2 COST OF WAGE THEFT IN AUSTRALIA, VARIOUS SCENARIOS

Number of Total Employing Businesses in Australia June 2022 (latest data)	1,019,342
Estimated number of non-compliant (monetary contraventions) businesses in Australia using FWO audit campaigns data percentage	269,728
Estimated number of wage theft victims across all non-compliant (monetary contraventions) employers in Australia	1,387,031
Estimated amount of identified wage theft victims' wages not paid (Based on FWO audit campaigns data average money recovered per wage theft victim)	-\$847,245,535
Total Wages at Average Salary of \$68,000 (May 2021)	\$94,318,076,929
If 1 per cent of identified wage theft victims' wages were not paid	-\$943,180,769
If 2 per cent of identified wage theft victims' wages were not paid	-\$1,886,361,539
If 3 per cent of identified wage theft victims' wages were not paid	-\$2,829,542,308

Source: ABS data, FWO audit campaigns data, Author's calculations.

Extrapolating the data

Around 26.46 per cent of Australian businesses audited since 2009 were found to have monetary contraventions. This would equate to approximately 269,728 employing businesses if extrapolated across Australia. There were approximately five wage theft victims per non-compliant business. If extrapolated across the Australian economy, this would equate to approximately 1,387,031 workers. Additionally, the average reimbursement per wage theft victim where the FWO was able to recover money from the employer was \$610.83. If extrapolated across the Australian economy, this would equate to approximately \$847.25 million in forgone wages. We have applied this methodology to each state and territory to determine an approximate cost of wage theft, number of victims and amounts owing.

The broader economic costs of wage theft were calculated by assessing the stimulative impact of unpaid wages. In short, what would the economic flow-on be if those wages had been paid. This was done using the macroeconomic multipliers calculated by the International Monetary Fund for Australia. This value is 0.39, which means that a \$1.00 increase in compensation to Australian workers leads to a \$0.39 increase in economic activity. Based on the multiplier and FWO audit campaigns data, we estimated the total impact of wage theft on the Australian economy is more than \$330 million⁷⁰.

For the federal electorate analysis, the number of businesses is based on the number of businesses found to have been non-compliant and committed monetary breaches of the Fair Work Act (2009) by the Fair Work Ombudsman.

Economic impact of wage theft in Australia

TABLE 3 ESTIMATED ECONOMIC IMPACT OF WAGE THEFT IN AUSTRALIA, VARIOUS SCENARIOS

	FWO-based estimate	1 per cent	2 per cent	3 per cent
Total economic impact	-\$330,425,759	-\$367,840,500	-\$735,681,000	-\$1,103,521,500
Loss in GDP	0.01 per cent	0.02 per cent	0.03 per cent	0.05 per cent

Source: RBA data, FWO audit campaigns data, Author's calculations.

AUSTRALIAN CAPITAL TERRITORY

IMPACT OF WAGE THEFT BY FEDERAL ELECTORATE

Electorate	Non-Compliant Businesses	Estimated Number of Wage Theft Victims	Minimum Amount Owing to Employees	If 1% of wage theft victim wages weren't paid	If 2% of wage theft victim wages weren't paid	If 3% of wage theft victim wages weren't paid
Bean	1,074	5,520	\$3,372,053	\$3,753,877	\$7,507,754	\$11,261,631
Canberra	1,728	8,885	\$5,427,534	\$6,042,104	\$12,084,208	\$18,126,312
Fenner	1,282	6,591	\$4,026,183	\$4,482,075	\$8,964,151	\$13,446,226

Based on FWO audit campaigns data, it is estimated that more than \$12.74 million in wages are underpaid each year in Australian Capital Territory, affecting approximately 20,853 workers (Table 4)

TABLE 4 COST OF WAGE THEFT IN AUSTRALIAN CAPITAL TERRITORY, VARIOUS SCENARIOS

Number of Total Employing Businesses in Australian Capital Territory June 2022 (latest data)	15,325
Estimated number of non-compliant (monetary contraventions) businesses in Australian Capital Territory using FWO audit campaigns data percentage	4,055
Estimated number of wage theft victims across all non-compliant (monetary contraventions) employers in Australian Capital Territory	20,853
Estimated amount of identified wage theft victims' wages not paid (Based on FWO audit campaigns data average money recovered per wage theft victim)	-\$12,737,666
Total Wages at Average Salary of \$68,000 (May 2021)	\$1,417,997,619
If 1 per cent of identified wage theft victims' wages were not paid	-\$14,179,976
If 2 per cent of identified wage theft victims' wages were not paid	-\$28,359,952
If 3 per cent of identified wage theft victims' wages were not paid	-\$42,539,929

Source: ABS data, FWO audit campaigns data, Author's calculations. (See Extrapolating the data, above)

Economic impact of wage theft in Australian Capital Territory

TABLE 5 ESTIMATED ECONOMIC IMPACT OF WAGE THEFT IN AUSTRALIAN CAPITAL TERRITORY, VARIOUS SCENARIOS

	FWO-based estimate	1 per cent	2 per cent	3 per cent
Total economic impact	-\$4,967,690	-\$5,530,191	-\$11,060,381	-\$16,590,572
Loss in GDP	0.01 per cent	0.01 per cent	0.02 per cent	0.04 per cent

Source: RBA data, FWO audit campaigns data, Author's calculations.



NEW SOUTH WALES

IMPACT OF WAGE THEFT BY FEDERAL ELECTORATE

Electorate	Non-Compliant Businesses	Estimated Number of Wage Theft Victims	Minimum Amount Owing to Employees	If 1% of wage theft victim wages weren't paid	If 2% of wage theft victim wages weren't paid	If 3% of wage theft victim wages weren't paid
Banks	1,546	7,951	\$4,856,521	\$5,406,434	\$10,812,868	\$16,219,302
Barton	2,032	10,452	\$6,384,210	\$7,107,106	\$14,214,212	\$21,321,318
Benelong	2,292	11,788	\$7,200,418	\$8,015,735	\$16,031,469	\$24,047,204
Berowra	1,752	9,011	\$5,504,002	\$6,127,230	\$12,254,460	\$18,381,691
Blaxland	2,348	12,076	\$7,376,625	\$8,211,895	\$16,423,790	\$24,635,685
Bradfield	2,414	12,411	\$7,581,093	\$8,439,515	\$16,879,029	\$25,318,544
Calare	1,568	8,065	\$4,926,339	\$5,484,158	\$10,968,316	\$16,452,474
Chifley	1,241	6,383	\$3,899,014	\$4,340,507	\$8,681,014	\$13,021,521
Cook	2,069	10,641	\$6,499,742	\$7,235,720	\$14,471,441	\$21,707,161
Cowper	1,478	7,598	\$4,641,248	\$5,166,785	\$10,333,571	\$15,500,356
Cunningham	1,514	7,783	\$4,754,287	\$5,292,624	\$10,585,248	\$15,877,872
Dobell	1,446	7,438	\$4,543,170	\$5,057,602	\$10,115,204	\$15,172,806
Eden-Monaro	1,637	8,420	\$5,143,274	\$5,725,657	\$11,451,314	\$17,176,971
Farrer	1,637	8,420	\$5,143,274	\$5,725,657	\$11,451,314	\$17,176,971
Fowler	1,711	8,797	\$5,373,508	\$5,981,961	\$11,963,921	\$17,945,882
Gilmore	1,498	7,706	\$4,706,910	\$5,239,883	\$10,479,766	\$15,719,649
Grayndler	1,932	9,933	\$6,067,534	\$6,754,573	\$13,509,145	\$20,263,718
Greenway	2,073	10,658	\$6,510,547	\$7,247,749	\$14,495,498	\$21,743,247
Hughes	1,556	8,001	\$4,887,274	\$5,440,669	\$10,881,339	\$16,322,008
Hume	1,864	9,583	\$5,853,924	\$6,516,775	\$13,033,549	\$19,550,324
Hunter	1,264	6,501	\$3,971,326	\$4,421,007	\$8,842,013	\$13,263,020
Kingsford Smith	2,031	10,445	\$6,380,054	\$7,102,479	\$14,204,959	\$21,307,438
Lindsay	1,756	9,030	\$5,515,638	\$6,140,184	\$12,280,368	\$18,420,552
Lyne	1,240	6,376	\$3,894,858	\$4,335,880	\$8,671,761	\$13,007,641

Electorate	Non-Compliant Businesses	Estimated Number of Wage Theft Victims	Minimum Amount Owing to Employees	If 1% of wage theft victim wages weren't paid	If 2% of wage theft victim wages weren't paid	If 3% of wage theft victim wages weren't paid
Macarthur	1,763	9,066	\$5,538,079	\$6,165,167	\$12,330,334	\$18,495,500
Mackellar	2,273	11,690	\$7,140,573	\$7,949,114	\$15,898,228	\$23,847,343
Macquarie	1,563	8,036	\$4,908,884	\$5,464,727	\$10,929,454	\$16,394,181
McMahon	2,207	11,348	\$6,931,950	\$7,716,868	\$15,433,736	\$23,150,604
Mitchell	2,618	13,462	\$8,222,756	\$9,153,834	\$18,307,668	\$27,461,502
New England	1,454	7,476	\$4,566,443	\$5,083,510	\$10,167,020	\$15,250,530
Newcastle	1,777	9,137	\$5,581,300	\$6,213,282	\$12,426,563	\$18,639,845
North Sydney	3,210	16,508	\$10,083,743	\$11,225,545	\$22,451,089	\$33,676,634
Page	1,366	7,023	\$4,289,664	\$4,775,390	\$9,550,781	\$14,326,171
Parkes	1,496	7,692	\$4,698,599	\$5,230,630	\$10,461,260	\$15,691,890
Parramatta	2,559	13,157	\$8,036,574	\$8,946,570	\$17,893,141	\$26,839,711
Paterson	1,353	6,960	\$4,251,430	\$4,732,827	\$9,465,655	\$14,198,482
Reid	2,935	15,092	\$9,218,496	\$10,262,324	\$20,524,648	\$30,786,972
Richmond	1,754	9,022	\$5,510,651	\$6,134,632	\$12,269,265	\$18,403,897
Riverina	1,582	8,137	\$4,970,391	\$5,533,198	\$11,066,396	\$16,599,594
Robertson	1,553	7,985	\$4,877,300	\$5,429,566	\$10,859,132	\$16,288,698
Shortland	1,238	6,367	\$3,889,040	\$4,329,403	\$8,658,807	\$12,988,210
Sydney	7,994	41,106	\$25,108,786	\$27,951,902	\$55,903,804	\$83,855,707
Warringah	2,292	11,784	\$7,197,924	\$8,012,959	\$16,025,918	\$24,038,876
Watson	2,114	10,872	\$6,641,041	\$7,393,019	\$14,786,037	\$22,179,056
Wentworth	2,520	12,961	\$7,916,885	\$8,813,329	\$17,626,659	\$26,439,988
Werriwa	1,757	9,035	\$5,518,963	\$6,143,885	\$12,287,771	\$18,431,656
Whitlam	1,420	7,303	\$4,460,884	\$4,965,999	\$9,931,998	\$14,897,997

Based on FWO audit campaigns data, it is estimated that more than \$306.30 million in wages are underpaid each year in New South Wales, affecting approximately 501,444 workers (Table 6)

TABLE 6 COST OF WAGE THEFT IN NEW SOUTH WALES, VARIOUS SCENARIOS

Number of Total Employing Businesses in New South Wales June 2022 (latest data)	368,516
Estimated number of non-compliant (monetary contraventions) businesses in New South Wales using FWO audit campaigns data percentage	97,513
Estimated number of wage theft victims across all non-compliant (monetary contraventions) employers in New South Wales	501,444
Estimated amount of identified wage theft victims' wages not paid (Based on FWO audit campaigns data average money recovered per wage theft victim)	-\$306,299,098
Total Wages at Average Salary of \$68,000 (May 2021)	\$34,098,193,185
If 1 per cent of identified wage theft victims' wages were not paid	-\$340,981,932
If 2 per cent of identified wage theft victims' wages were not paid	-\$681,963,864
If 3 per cent of identified wage theft victims' wages were not paid	-\$1,022,945,796

Source: ABS data, FWO audit campaigns data, Author's calculations. (See Extrapolating the data, above)

Economic impact of wage theft in New South Wales

TABLE 7 ESTIMATED ECONOMIC IMPACT OF WAGE THEFT IN NEW SOUTH WALES, VARIOUS SCENARIOS

	FWO-based estimate	1 per cent	2 per cent	3 per cent
Total economic impact	-\$119,456,648	-\$132,982,953	-\$265,965,907	-\$398,948,860
Loss in GDP	0.02 per cent	0.02 per cent	0.04 per cent	0.06 per cent

Source: RBA data, FWO audit campaigns data, Author's calculations.

CASE STUDY

YOUNG WORKERS ARE TAKEN ADVANTAGE OF

Jordan worked from his school days to his mid-20s for a major fast-food chain, rising from a junior crewmember to management.

He said the internal structures of encouraging young workers to stay on as managers helped entrench a culture allowing the business to avoid paying staff for hours worked beyond their shifts.

"I got over-used as a manager and would still be there doing stuff two hours after work... it's like they keep you there and make you a manager so they can keep on exploiting you."

JORDAN EXPERIENCED WAGE THEFT WORKING FOR A MAJOR FAST-FOOD FRANCHISE IN VICTORIA.

NORTHERN TERRITORY

IMPACT OF WAGE THEFT BY FEDERAL ELECTORATE

Electorate	Non-Compliant Businesses	Estimated Number of Wage Theft Victims	Minimum Amount Owing to Employees	If 1% of wage theft victim wages weren't paid	If 2% of wage theft victim wages weren't paid	If 3% of wage theft victim wages weren't paid
Lingiari	676	3,478	\$2,124,468	\$2,365,026	\$4,730,051	\$7,095,077
Solomon	970	4,990	\$3,047,897	\$3,393,016	\$6,786,032	\$10,179,048

Based on FWO audit campaigns data, it is estimated that more than \$5.49 million in wages are underpaid each year in Northern Territory, affecting approximately 9,000 workers (Table 8)

TABLE 8 COST OF WAGE THEFT IN NORTHERN TERRITORY, VARIOUS SCENARIOS

Number of Total Employing Businesses in Northern Territory June 2022 (latest data)	6,614
Estimated number of non-compliant (monetary contraventions) businesses in Northern Territory using FWO audit campaigns data percentage	1,750
Estimated number of wage theft victims across all non-compliant (monetary contraventions) employers in Northern Territory	9,000
Estimated amount of identified wage theft victims' wages not paid (Based on FWO audit campaigns data average money recovered per wage theft victim)	-\$5,497,352
Total Wages at Average Salary of \$68,000 (May 2021)	\$611,982,790
If 1 per cent of identified wage theft victims' wages were not paid	-\$6,119,828
If 2 per cent of identified wage theft victims' wages were not paid	-\$12,239,656
If 3 per cent of identified wage theft victims' wages were not paid	-\$18,359,484

Source: ABS data, FWO audit campaigns data, Author's calculations. (See Extrapolating the data, above)

Economic impact of wage theft in Northern Territory

TABLE 9 ESTIMATED ECONOMIC IMPACT OF WAGE THEFT IN NORTHERN TERRITORY, VARIOUS SCENARIOS

	FWO-based estimate	1 per cent	2 per cent	3 per cent
Total economic impact	-\$2,143,967	-\$2,386,733	-\$4,773,466	-\$7,160,199
Loss in GDP	0.01 per cent	0.01 per cent	0.02 per cent	0.02 per cent

Source: RBA data, FWO audit campaigns data, Author's calculations.



QUEENSLAND

IMPACT OF WAGE THEFT BY FEDERAL ELECTORATE

Electorate	Non-Compliant Businesses	Estimated Number of Wage Theft Victims	Minimum Amount Owed to Employees	If 1% of wage theft victim wages weren't paid	If 2% of wage theft victim wages weren't paid	If 3% of wage theft victim wages weren't paid
Blair	1,054	5,421	\$3,311,378	\$3,686,331	\$7,372,662	\$11,058,994
Bonner	1,682	8,650	\$5,283,742	\$5,882,030	\$11,764,060	\$17,646,090
Bowman	1,471	7,567	\$4,622,131	\$5,145,504	\$10,291,008	\$15,436,512
Brisbane	3,817	19,628	\$11,989,614	\$13,347,221	\$26,694,441	\$40,041,662
Capricornia	1,263	6,496	\$3,968,001	\$4,417,305	\$8,834,611	\$13,251,916
Dawson	1,544	7,938	\$4,849,040	\$5,398,106	\$10,796,213	\$16,194,319
Dickson	1,446	7,436	\$4,542,339	\$5,056,677	\$10,113,353	\$15,170,030
Fadden	2,035	10,463	\$6,390,859	\$7,114,508	\$14,229,016	\$21,343,524
Fairfax	2,082	10,707	\$6,540,469	\$7,281,059	\$14,562,118	\$21,843,178
Fisher	1,817	9,345	\$5,708,469	\$6,354,850	\$12,709,700	\$19,064,550
Flynn	1,162	5,975	\$3,649,663	\$4,062,922	\$8,125,843	\$12,188,765
Forde	1,588	8,167	\$4,988,677	\$5,553,554	\$11,107,108	\$16,660,662
Griffith	2,034	10,457	\$6,387,534	\$7,110,807	\$14,221,614	\$21,332,421
Groom	1,476	7,590	\$4,636,261	\$5,161,234	\$10,322,467	\$15,483,701
Herbert	1,266	6,510	\$3,976,313	\$4,426,558	\$8,853,117	\$13,279,675
Hinkler	1,115	5,735	\$3,503,378	\$3,900,072	\$7,800,144	\$11,700,215
Kennedy	1,446	7,436	\$4,542,339	\$5,056,677	\$10,113,353	\$15,170,030
Leichhardt	1,691	8,694	\$5,310,339	\$5,911,639	\$11,823,278	\$17,734,917
Lilley	1,437	7,390	\$4,514,079	\$5,025,217	\$10,050,434	\$15,075,651
Longman	1,174	6,037	\$3,687,897	\$4,105,485	\$8,210,970	\$12,316,454
Maranoa	1,557	8,009	\$4,892,261	\$5,446,221	\$10,892,442	\$16,338,664
McPherson	2,195	11,290	\$6,896,210	\$7,677,081	\$15,354,161	\$23,031,242
Moncrieff	2,826	14,532	\$8,876,886	\$9,882,032	\$19,764,065	\$29,646,097
Moreton	2,021	10,392	\$6,347,638	\$7,066,393	\$14,132,787	\$21,199,180

Electorate	Non-Compliant Businesses	Estimated Number of Wage Theft Victims	Minimum Amount Owed to Employees	If 1% of wage theft victim wages weren't paid	If 2% of wage theft victim wages weren't paid	If 3% of wage theft victim wages weren't paid
Oxley	1,351	6,946	\$4,243,118	\$4,723,574	\$9,447,149	\$14,170,723
Petrie	1,311	6,744	\$4,119,274	\$4,585,707	\$9,171,414	\$13,757,121
Rankin	1,573	8,088	\$4,940,469	\$5,499,888	\$10,999,775	\$16,499,663
Ryan	1,470	7,561	\$4,618,806	\$5,141,803	\$10,283,606	\$15,425,408
Wide Bay	1,565	8,046	\$4,914,703	\$5,471,204	\$10,942,408	\$16,413,612
Wright	1,645	8,457	\$5,165,716	\$5,750,640	\$11,501,279	\$17,251,919

Based on FWO audit campaigns data, it is estimated that more than \$163.46 million in wages are underpaid each year in Queensland, affecting approximately 267,600 workers (Table 10)

TABLE 10 COST OF WAGE THEFT IN QUEENSLAND, VARIOUS SCENARIOS

Number of Total Employing Businesses in Queensland June 2022 (latest data)	196,662
Estimated number of non-compliant (monetary contraventions) businesses in Queensland using FWO audit campaigns data percentage	52,039
Estimated number of wage theft victims across all non-compliant (monetary contraventions) employers in Queensland	267,600
Estimated amount of identified wage theft victims' wages not paid (Based on FWO audit campaigns data average money recovered per wage theft victim)	-\$163,459,370
Total Wages at Average Salary of \$68,000 (May 2021)	\$18,196,818,776
If 1 per cent of identified wage theft victims' wages were not paid	-\$181,968,188
If 2 per cent of identified wage theft victims' wages were not paid	-\$363,936,376
If 3 per cent of identified wage theft victims' wages were not paid	-\$545,904,563

Source: ABS data, FWO audit campaigns data, Author's calculations. (See Extrapolating the data, above)

Economic impact of wage theft in Queensland

TABLE 11 ESTIMATED ECONOMIC IMPACT OF WAGE THEFT IN QUEENSLAND, VARIOUS SCENARIOS

	FWO-based estimate	1 per cent	2 per cent	3 per cent
Total economic impact	-\$63,749,154	-\$70,967,593	-\$141,935,186	-\$212,902,780
Loss in GDP	0.01 per cent	0.02 per cent	0.03 per cent	0.05 per cent

Source: RBA data, FWO audit campaigns data, Author's calculations.

SOUTH AUSTRALIA

IMPACT OF WAGE THEFT BY FEDERAL ELECTORATE

Electorate	Non-Compliant Businesses	Estimated Number of Wage Theft Victims	Minimum Amount Owing to Employees	If 1% of wage theft victim wages weren't paid	If 2% of wage theft victim wages weren't paid	If 3% of wage theft victim wages weren't paid
Adelaide	3,058	15,726	\$9,605,821	\$10,693,506	\$21,387,013	\$32,080,519
Barker	1,540	7,918	\$4,836,573	\$5,384,227	\$10,768,454	\$16,152,682
Boothby	1,270	6,531	\$3,989,612	\$4,441,363	\$8,882,726	\$13,324,089
Grey	1,273	6,546	\$3,998,754	\$4,451,541	\$8,903,082	\$13,354,623
Hindmarsh	1,211	6,227	\$3,803,430	\$4,234,099	\$8,468,199	\$12,702,298
Kingston	778	4,000	\$2,443,637	\$2,720,335	\$5,440,669	\$8,161,004
Makin	1,025	5,273	\$3,220,780	\$3,585,475	\$7,170,950	\$10,756,426
Mayo	1,270	6,529	\$3,987,949	\$4,439,512	\$8,879,025	\$13,318,537
Spence	742	3,818	\$2,332,260	\$2,596,347	\$5,192,693	\$7,789,040
Sturt	1,845	9,486	\$5,794,080	\$6,450,154	\$12,900,309	\$19,350,463

Based on FWO audit campaigns data, it is estimated that more than \$46.93 million in wages are underpaid each year in South Australia, affecting approximately 76,827 workers (Table 12)

TABLE 12 COST OF WAGE THEFT IN SOUTH AUSTRALIA, VARIOUS SCENARIOS

Number of Total Employing Businesses in South Australia June 2022 (latest data)	56,461
Estimated number of non-compliant (monetary contraventions) businesses in South Australia using FWO audit campaigns data percentage	14,940
Estimated number of wage theft victims across all non-compliant (monetary contraventions) employers in South Australia	76,827
Estimated amount of identified wage theft victims' wages not paid (Based on FWO audit campaigns data average money recovered per wage theft victim)	-\$46,928,636
Total Wages at Average Salary of \$68,000 (May 2021)	\$5,224,245,583
If 1 per cent of identified wage theft victims' wages were not paid	-\$52,242,456
If 2 per cent of identified wage theft victims' wages were not paid	-\$104,484,912
If 3 per cent of identified wage theft victims' wages were not paid	-\$156,7727,368

Source: ABS data, FWO audit campaigns data, Author's calculations. (See Extrapolating the data, above)

CASE STUDY

INDUSTRIES ARE BANKING ON WAGE THEFT CULTURE

Steph has been working as a personal trainer and found wage theft to be systemic across the fitness industry.

Given the bulk of training sessions happen outside regular business hours, the award has measures in place to make sure staff are fairly paid for working split shifts in the early mornings and late evenings.

Steph has challenged her previous employers – which have been major franchises and chains – after discovering she was being underpaid and has since taken legal action with the help of the Young Workers Centre.

While this action helped her be back paid the amounts she was due, Steph has previously had to sign a deed of release and a non-disclosure statement and has been told under no circumstances could she ever discuss pay or her legal action with her colleagues and people she has previously worked for.

Steph was even offered a position after a successful trial with a gym, however, the job offer was withdrawn when she pointed out the \$21 dollar pay rate was below the \$27 award for that position.

"After I emailed them, they told me I wouldn't be suitable for the position. I was gutted, and frustrated, but I wasn't surprised."

Steph said a lot of workers in the fitness

industry were casual, making them vulnerable to manipulation through fear of losing shifts.

She is now working as a personal trainer for a manager who took the time to show her her rate of pay as per the award.

Steph will soon graduate with a degree in exercise science, which she has studied hard for – but says the stress from her experience has led her to consider leaving the industry in the past.

Steph has always had a lot of fight and determination in her, and says she knows she is lucky to be able to speak up for herself and have savings and family if she ever needed it – something not all workers have.

"The system works in favour of the businesses even though it is our work that produces the profit... I can't wait until I graduate and can work for myself."

STEPH WAS A WAGE THEFT VICTIM WORKING IN THE FITNESS INDUSTRY IN VICTORIA.

Economic impact of wage theft in South Australia

TABLE 13 ESTIMATED ECONOMIC IMPACT OF WAGE THEFT IN SOUTH AUSTRALIA, VARIOUS SCENARIOS

	FWO-based estimate	1 per cent	2 per cent	3 per cent
Total economic impact	-\$18,302,168	-\$20,374,558	-\$40,749,116	-\$61,213,673
Loss in GDP	0.01 per cent	0.02 per cent	0.03 per cent	0.05 per cent

Source: RBA data, FWO audit campaigns data, Author's calculations.



TASMANIA

IMPACT OF WAGE THEFT BY FEDERAL ELECTORATE

Electorate	Non-Compliant Businesses	Estimated Number of Wage Theft Victims	Minimum Amount Owing to Employees	If 1% of wage theft victim wages weren't paid	If 2% of wage theft victim wages weren't paid	If 3% of wage theft victim wages weren't paid
Bass	977	5,022	\$3,067,845	\$3,415,223	\$6,830,446	\$10,245,669
Braddon	848	4,360	\$2,663,066	\$2,964,610	\$5,929,219	\$8,893,829
Clark	1,143	5,878	\$3,590,650	\$3,997,227	\$7,994,453	\$11,991,680
Franklin	745	3,830	\$2,339,741	\$2,604,674	\$5,209,349	\$7,814,023
Lyons	825	4,240	\$2,589,923	\$2,883,185	\$5,766,369	\$8,649,554

Based on FWO audit campaigns data, it is estimated that more than \$14.56 million in wages are underpaid each year in Tasmania, affecting approximately 23,833 workers (Table 14)

TABLE 14 COST OF WAGE THEFT IN TASMANIA, VARIOUS SCENARIOS

Number of Total Employing Businesses in Tasmania June 2022 (latest data)	17,515
Estimated number of non-compliant (monetary contraventions) businesses in Tasmania using FWO audit campaigns data percentage	4,635
Estimated number of wage theft victims across all non-compliant (monetary contraventions) employers in Tasmania	23,833
Estimated amount of identified wage theft victims' wages not paid (Based on FWO audit campaigns data average money recovered per wage theft victim)	-\$14,557,926
Total Wages at Average Salary of \$68,000 (May 2021)	\$1,620,634,799
If 1 per cent of identified wage theft victims' wages were not paid	-\$16,206,348
If 2 per cent of identified wage theft victims' wages were not paid	-\$32,412,696
If 3 per cent of identified wage theft victims' wages were not paid	-\$48,619,044

Source: ABS data, FWO audit campaigns data, Author's calculations. (See Extrapolating the data, above)

Economic impact of wage theft in Tasmania

TABLE 15 ESTIMATED ECONOMIC IMPACT OF WAGE THEFT IN TASMANIA, VARIOUS SCENARIOS

	FWO-based estimate	1 per cent	2 per cent	3 per cent
Total economic impact	-\$5,667,591	-\$6,320,476	-\$12,630,951	-\$18,961,427
Loss in GDP	0.01 per cent	0.02 per cent	0.03 per cent	0.05 per cent

Source: RBA data, FWO audit campaigns data, Author's calculations.

VICTORIA

IMPACT OF WAGE THEFT BY FEDERAL ELECTORATE

Electorate	Non-Compliant Businesses	Estimated Number of Wage Theft Victims	Minimum Amount Owing to Employees	If 1% of wage theft victim wages weren't paid	If 2% of wage theft victim wages weren't paid	If 3% of wage theft victim wages weren't paid
Aston	1,661	8,543	\$5,218,079	\$5,808,932	\$11,617,865	\$17,426,797
Ballarat	1,365	7,020	\$4,288,001	\$4,773,540	\$9,547,080	\$14,320,619
Bendigo	1,253	6,443	\$3,935,586	\$4,381,219	\$8,762,439	\$13,143,658
Bruce	1,507	7,751	\$4,734,339	\$5,270,417	\$10,540,835	\$15,811,252
Calwell	1,521	7,823	\$4,778,391	\$5,319,457	\$10,638,915	\$15,958,372
Casey	1,650	8,484	\$5,182,339	\$5,769,145	\$11,538,291	\$17,307,436
Chisholm	2,452	12,611	\$7,703,275	\$8,575,531	\$17,151,063	\$25,726,594
Cooper	1,335	6,866	\$4,194,079	\$4,668,983	\$9,337,965	\$14,006,948
Corangamite	1,253	6,444	\$3,936,417	\$4,382,145	\$8,764,289	\$13,146,434
Corio	1,414	7,273	\$4,442,599	\$4,945,643	\$9,891,285	\$14,836,928
Deakin	1,846	9,495	\$5,799,898	\$6,456,631	\$12,913,262	\$19,369,894
Dunkley	1,451	7,459	\$4,556,469	\$5,072,406	\$10,144,813	\$15,217,219
Flinders	1,650	8,483	\$5,181,508	\$5,768,220	\$11,536,440	\$17,304,660
Fraser	1,583	8,141	\$4,972,885	\$5,535,974	\$11,071,947	\$16,607,921
Gellibrand	1,822	9,368	\$5,722,599	\$6,370,580	\$12,741,160	\$19,111,740
Gippsland	1,265	6,503	\$3,972,157	\$4,421,932	\$8,843,864	\$13,265,796
Goldstein	1,702	8,753	\$5,346,911	\$5,952,352	\$11,904,703	\$17,857,055
Gorton	1,255	6,455	\$3,943,066	\$4,389,547	\$8,779,094	\$13,168,641
Hawke	1,159	5,960	\$3,640,520	\$4,052,744	\$8,105,487	\$12,158,231
Higgins	2,257	11,604	\$7,088,210	\$7,890,821	\$15,781,643	\$23,672,464
Holt	1,181	6,073	\$3,709,508	\$4,129,542	\$8,259,084	\$12,388,627
Hotham	1,927	9,910	\$6,053,404	\$6,738,843	\$13,477,686	\$20,216,529
Indi	1,578	8,115	\$4,957,092	\$5,518,393	\$11,036,787	\$16,555,180
Isaacs	2,710	13,938	\$8,513,665	\$9,477,683	\$18,955,367	\$28,433,050



VICTORIA CONTINUED

Electorate	Non-Compliant Businesses	Estimated Number of Wage Theft Victims	Minimum Amount Owing to Employees	If 1% of wage theft victim wages weren't paid	If 2% of wage theft victim wages weren't paid	If 3% of wage theft victim wages weren't paid
Jagajaga	1,401	7,205	\$4,401,040	\$4,899,378	\$9,798,757	\$14,698,135
Kooyong	2,257	11,607	\$7,089,872	\$7,892,672	\$15,785,344	\$23,678,016
La Trobe	1,480	7,613	\$4,650,391	\$5,176,964	\$10,353,927	\$15,530,891
Lalor	1,473	7,575	\$4,627,118	\$5,151,056	\$10,302,111	\$15,453,167
Macnamara	3,062	15,746	\$9,618,288	\$10,707,386	\$21,414,771	\$32,122,157
Mallee	1,813	9,324	\$5,695,170	\$6,340,045	\$12,680,091	\$19,020,136
Maribyrnong	1,830	9,411	\$5,748,365	\$6,399,264	\$12,798,527	\$19,197,791
McEwen	1,419	7,295	\$4,455,897	\$4,960,447	\$9,920,894	\$14,881,341
Melbourne	5,567	28,628	\$17,486,966	\$19,467,049	\$38,934,097	\$58,401,146
Menzies	1,873	9,632	\$5,883,846	\$6,550,085	\$13,100,170	\$19,650,255
Monash	1,293	6,651	\$4,062,754	\$4,522,788	\$9,045,576	\$13,568,364
Nicholls	1,644	8,454	\$5,164,053	\$5,748,789	\$11,497,578	\$17,246,367
Scullin	1,547	7,953	\$4,858,183	\$5,408,285	\$10,816,569	\$16,224,854
Wannon	1,651	8,491	\$5,186,495	\$5,773,772	\$11,547,543	\$17,321,315
Wills	1,366	7,027	\$4,292,157	\$4,778,166	\$9,556,332	\$14,334,499

Based on FWO audit campaigns data, it is estimated that more than \$221.03 million in wages are underpaid each year in Victoria, affecting approximately 361,845 workers (Table 16)

TABLE 16 COST OF WAGE THEFT IN VICTORIA, VARIOUS SCENARIOS

Number of Total Employing Businesses in Victoria June 2022 (latest data)	265,923
Estimated number of non-compliant (monetary contraventions) businesses in Victoria using FWO audit campaigns data percentage	70,366
Estimated number of wage theft victims across all non-compliant (monetary contraventions) employers in Victoria	361,845
Estimated amount of identified wage theft victims' wages not paid (Based on FWO audit campaigns data average money recovered per wage theft victim)	-\$221,026,971
Total Wages at Average Salary of \$68,000 (May 2021)	\$24,605,427,787
If 1 per cent of identified wage theft victims' wages were not paid	-\$246,054,278
If 2 per cent of identified wage theft victims' wages were not paid	-\$492,108,556
If 3 per cent of identified wage theft victims' wages were not paid	-\$738,162,834

Source: ABS data, FWO audit campaigns data, Author's calculations. (See Extrapolating the data, above)

Economic impact of wage theft in Victoria

TABLE 17 ESTIMATED ECONOMIC IMPACT OF WAGE THEFT IN VICTORIA, VARIOUS SCENARIOS

	FWO-based estimate	1 per cent	2 per cent	3 per cent
Total economic impact	-\$86,200,519	-\$95,961,168	-\$191,922,337	-\$287,883,505
Loss in GDP	0.02 per cent	0.02 per cent	0.04 per cent	0.06 per cent

Source: RBA data, FWO audit campaigns data, Author's calculations.

WESTERN AUSTRALIA

IMPACT OF WAGE THEFT BY FEDERAL ELECTORATE

Electorate	Non-Compliant Businesses	Estimated Number of Wage Theft Victims	Minimum Amount Owing to Employees	If 1% of wage theft victim wages weren't paid	If 2% of wage theft victim wages weren't paid	If 3% of wage theft victim wages weren't paid
Brand	844	4,338	\$2,649,767	\$2,949,805	\$5,899,610	\$8,849,415
Burt	956	4,914	\$3,001,351	\$3,341,200	\$6,682,401	\$10,023,601
Canning	963	4,952	\$3,024,624	\$3,367,108	\$6,734,216	\$10,101,325
Cowan	1,437	7,387	\$4,512,417	\$5,023,366	\$10,046,733	\$15,070,099
Curtin	2,519	12,954	\$7,912,729	\$8,808,703	\$17,617,406	\$26,426,109
Durack	1,518	7,805	\$4,767,586	\$5,307,429	\$10,614,857	\$15,922,286
Forrest	1,282	6,590	\$4,025,352	\$4,481,150	\$8,962,300	\$13,443,450
Fremantle	1,598	8,219	\$5,020,261	\$5,588,715	\$11,177,430	\$16,766,145
Hasluck	1,181	6,073	\$3,709,508	\$4,129,542	\$8,259,084	\$12,388,627
Moore	1,242	6,389	\$3,902,339	\$4,344,208	\$8,688,416	\$13,032,624
O'Connor	1,699	8,734	\$5,335,274	\$5,939,398	\$11,878,795	\$17,818,193
Pearce	1,373	7,058	\$4,311,274	\$4,799,448	\$9,598,895	\$14,398,343
Perth	2,992	15,384	\$9,397,197	\$10,461,260	\$20,922,520	\$31,383,780
Swan	1,951	10,034	\$6,129,041	\$6,823,044	\$13,646,087	\$20,469,131
Tangney	1,708	8,782	\$5,364,365	\$5,971,782	\$11,943,565	\$17,915,347

Based on FWO audit campaigns data, it is estimated that more than \$76.44 million in wages are underpaid each year in Western Australia, affecting approximately 125,136 workers workers (Table 18)

TABLE 18 COST OF WAGE THEFT IN WESTERN AUSTRALIA, VARIOUS SCENARIOS

Number of Total Employing Businesses in Western Australia June 2022 (latest data)	91,964
Estimated number of non-compliant (monetary contraventions) businesses in Western Australia using FWO audit campaigns data percentage	24,335
Estimated number of wage theft victims across all non-compliant (monetary contraventions) employers in Western Australia	125,136
Estimated amount of identified wage theft victims' wages not paid (Based on FWO audit campaigns data average money recovered per wage theft victim)	-\$76,437,632
Total Wages at Average Salary of \$68,000 (May 2021)	\$8,509,281,111
If 1 per cent of identified wage theft victims' wages were not paid	-\$85,092,811
If 2 per cent of identified wage theft victims' wages were not paid	-\$170,185,622
If 3 per cent of identified wage theft victims' wages were not paid	-\$255,278,433

Source: ABS data, FWO audit campaigns data, Author's calculations. (See Extrapolating the data, above)

CASE STUDY MIGRANT WORKERS ARE OFTEN EXPLOITED



I finished my Master's degree then got a job for a company making steel frames. I was eager for the opportunity and to gain local experience.

The pay was irregular, I was always asking them to pay me because I needed to pay my bills. They would tell me they needed to be paid by other builders first.

In August 2022, they fired the other staff because they couldn't afford to keep us all on, and asked me to stay, and promised from then on I would get paid on time.

I waited patiently, months passed and I was begging for my wages. I held back from quitting because it was my first job, I needed it to get my permanent residency.

By March this year, they owed me \$10,000.

I quit, it was too much for me to work without getting paid.

I reported this to Fair Work Australia and it is still going through the process.

I did not come Australia to go to court to get paid, I came here to build my career and my future.

My one year's work experience for permanent residency has been wasted and I can't apply for it. I am still unemployed and I still don't have my money.

My parents sent me here with lot of dreams and hopes on me. I let them down.

I went through a lot.



SINDHURA EXPERIENCED WAGE THEFT WORKING IN THE ENGINEERING INDUSTRY IN VICTORIA.

Economic impact of wage theft in Western Australia

TABLE 19 ESTIMATED ECONOMIC IMPACT OF WAGE THEFT IN WESTERN AUSTRALIA, VARIOUS SCENARIOS

	FWO-based estimate	1 per cent	2 per cent	3 per cent
Total economic impact	-\$29,810,676	-\$33,186,196	-\$66,372,393	-\$99,558,589
Loss in GDP	0.01 per cent	0.01 per cent	0.02 per cent	0.02 per cent

Source: RBA data, FWO audit campaigns data, Author's calculations.





CONCLUSION

Wage theft persists across Australia, despite efforts in the recent years to combat it.

Changes made to the Fair Work Act have not resulted in workplace cultural change across the industries where wage theft has been allowed to thrive.

Each year, the amount of money estimated to be unpaid to workers rises. This is an added strain on workers already facing rising cost-of-living pressures.

Right now, there is bipartisan support for tougher penalties and the criminalisation of wage theft, and a consensus that a simplified and easy-to-understand system is necessary to ensure compliance.

But while it is encouraging to see broad support for cracking down on wage theft within the Parliament, good intentions and ongoing rhetoric will not make the difference.

The government has committed to introducing this critical legislation and we look forward to the government exercising their mandate to tackle wage theft as a criminal issue.

For this work to succeed, all federal members must recognise their responsibility in delivering a bill to benefit workers.

Collaboration and cooperation are essential to make meaningful progress, a lesson which has been sorely highlighted by the lack of action on wage theft despite multiple inquiries and bills introduced to the parliament.

Government, opposition and crossbench members all have a role in delivering change and a responsibility to the people voting for them.

Because all workers deserve nothing less than the compensation they are legally entitled to.

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