

Article Information

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Employment Relations Podcast #17 - Civil underpayments vs Criminal wage theft: Compare the pair

In Episode 17 of our Employment Law for the Time Poor Podcast, Partner Tim Lange, and Senior Associate Emily Haar, work through current employer exposure to civil and criminal liability for underpayments, including through the civil remedy provisions of the Fair Work Act 2009 (Cth), as well as new and proposed criminal provisions relating to “wage theft”.

Whatever the cause, underpayments happen in Australia’s highly regulated labour relations system. When they do, will the employer be able to just fix the underpayment in a practical sense or will there be some broader reputational and legal consequence with the use and misuse of the allegation that a business is engaging in “wage theft”, a term that has been trending for some time now?

Emily and Tim discuss the origins of the Fair Work Act underpayment provisions, and the new state (Victorian and Queensland) wage theft legislation, as well as the proposed criminal offences contained in the IR Omnibus Bill currently before the Federal Parliament. [Click here](#) for further updates on the [IR Omnibus Bill](#).

The key difference between an underpayment and a “wage theft” scenario will be the dishonest nature of the conduct. To best manage potential liabilities, employers will need to start dealing and managing pay claims in a manner similar to maintain due diligence in a safety context.

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