

## *Hospitality's wage theft problem*

By Lilian Bernhardt

Jamileh Hargreaves says she has been underpaid by employers 'more times than she can count' during her 14-year career in hospitality.

Working as a barista and server, Ms Hargreaves told me that for many years she was paid below the minimum wage, denied penalty rates, and received no superannuation contribution. She is not alone in her experiences. In fact, 82 per cent of hospitality workers surveyed last year by the industry union Hospo Voice, reported experiences of wage theft in a current or previous job.

### Survey participants experiences of wage theft

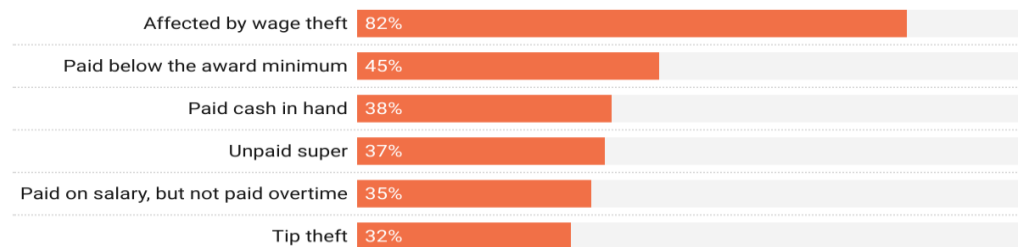


Chart: Lilian Bernhardt • Source: Hospo Voice • Created with Datawrapper

Hospitality was found to be the least compliant industry with workplace laws in a nationwide audit of 1217 businesses by the Fair Work Ombudsman in 2018. From 2013 to 2016, an estimated 79 per cent of Victorian hospitality employers did not comply with the national award wage system.

Young and migrant workers are often the most vulnerable to exploitation and underpayment, with up to 50 per cent of migrant workers in Australia being underpaid, according to estimates from the *National Temporary Migrant Work Survey*. Two out of five survey participants reported their lowest-paid job being in food service, a greater proportion than any other industry.

Migrant workers are also disproportionately represented in the work of the FWO. For example, despite making up only 7 per cent of the Australian workforce, migrant workers accounted for 44 per cent of litigations initiated in 2019-2020.

## 2019-2020 representation of migrant workers in FWO reports

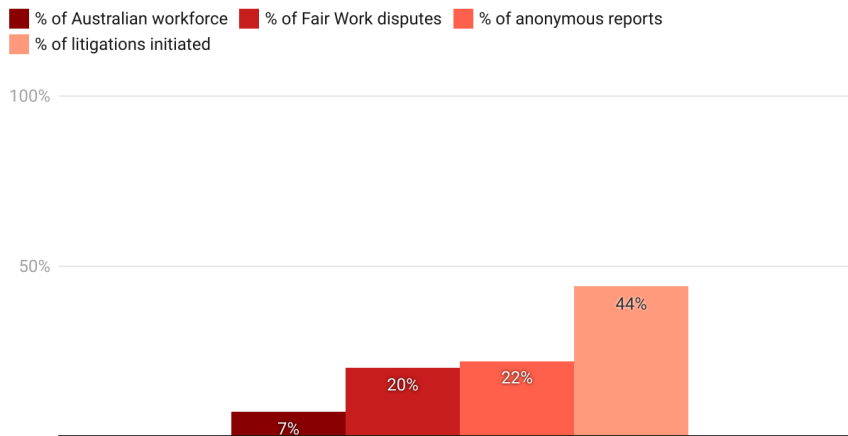


Chart: Lilian Bernhardt • Source: Fair Work Ombudsman • Created with Datawrapper

Earlier this year, Victoria became the first state to criminalize wage theft. Prior to criminalization, the Fair Work Ombudsman was the primary body to investigate and enforce civil penalties under the *Fair Work Act 2009*.

Unfortunately, this was often not enough to deter employers from unlawful conduct. In 2018, the FWO reported that almost 1 in 4 employers continue to engage in underpayment after being audited, and the *National Compliance Monitoring Report* showed similar results.

## Results of FWO National Compliance Monitoring report

Between November 2017 and March 2019, the FWO investigated 946 businesses across Australia that had previously breached Australian workplace laws.

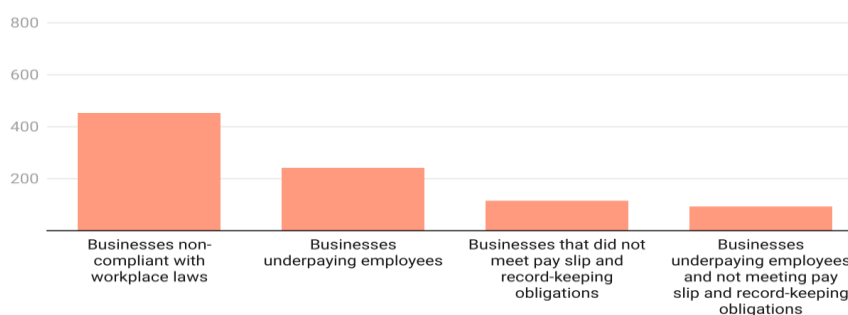


Chart: Lilian Bernhardt • Source: Fair Work Ombudsman • Created with Datawrapper

Wage theft offenders risk up to 10 years imprisonment or fines of up to \$200,000 for individuals and up to \$1 million for companies, under Victoria's new laws. The Victorian Government is hopeful that the harsher punishments and the development of the Wage Inspectorate will be effective in deterring employers from underpaying their workers.

Ms Hargreaves believes that the criminalization of wage theft and the presence of the Hospitality Industry union are shifting the culture of hospitality and what was once as she described, 'industry standard'.

"The culture of hospitality used to be to pay people as little as possible, exploit them as much as you can and if they say anything, fire them and replace them with somebody else," she said.

"If you create a culture where you can stand up and ask for better conditions, it takes out the individual situation where you're getting intimidated into accepting less."

Ms Hargreaves hopes that other states will follow Victoria's lead and that wage theft will become a crime nationwide.