

BULLETIN

Industrial Relations



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Wage theft legislation passed through Victorian Parliament

On Tuesday, 17 June 2020 wage theft legislation was passed through the Victorian Upper House.

Victoria becomes the first state in the country to pass laws establishing criminal penalties for employers who deliberately underpay their workers.

The new laws establish new criminal offences targeting employers who deliberately withhold wages and other employee entitlements.

Employers who dishonestly withhold wages, superannuation or other employee entitlements, will face fines of up to \$198,264 for individuals, \$991,320 for companies and up to 10 years' jail.

Offences will also capture employers who falsify employee entitlement records, such as payroll records, or who fail to keep employment records.

The Victorian Government says the legislation is not intended to catch employers who make honest mistakes or who exercise due diligence in paying wages and other employee entitlements will not be subject to the legislation.

The Wage Inspectorate of Victoria will be established as a new statutory authority with powers to investigate and prosecute wage theft offences. The need for the legislation has been questioned by employer groups due to the duplication of state and federal statutory authorities to investigate and prosecute underpayment and record keeping breaches. The federal Fair Work Ombudsman has been active for a number of years now in prosecuting claims of this nature through the Court system.

The Morrison government has also been developing its own legislation covering wage theft. The Attorney-General Christian Porter is on record as questioning the constitutional validity of Victoria's new laws which could be challenged in the future when federal legislation is passed through federal parliament.

The new laws do not come into effect until mid-2021 to give businesses time to prepare. Members will be updated as more details of the legislation come to hand.

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