

VICTORIA'S WAGE THEFT LAWS

WHAT YOU NEED TO KNOW

Summary of key changes

- From 1 July 2021, wage theft laws come into operation
- The offences have criminal culpability with significant penalties, including imprisonment
- An honest mistake will not fall within the scope of wage theft
- Wage Inspectorate Victoria will investigate and enforce breaches to the new laws

Background

The *Wage Theft Act 2020* (Vic) comes into operation from 1 July 2021. These laws were passed in the Victorian Parliament in 2020, following several noteworthy corporate underpayment cases. The Wage Inspectorate Victoria will be responsible for investigating allegations of wage theft and enforcing the new laws.

Wage theft laws

There will be three wage theft offences:

- Dishonest withholding of employee entitlements;
- Falsifying employee entitlement records; and
- Failure to keep employee entitlement records.

The main offence relates to the 'dishonest withholding of an employee entitlements'. To be prosecuted for this offence, key elements must be proven beyond reasonable doubt. These include the existence of an employment relationship, that the employer withheld an employee entitlement, and the withholding was deliberate and dishonest.

Other related offences include the offence of falsifying of employee records and a failure to keep employee records with a view to avoid wage theft detection. All offences have a maximum penalty for up to 10 years imprisonment for individual officers and fines of up to \$1,000,000 for a body corporate.

Only the most severe cases will be prosecuted under these offences. An honest mistake will not amount to wage theft. Similarly, employers who have sought and relied upon professional advice may be able to establish a defence.

What should you do?

Employers who are complying with all their employment obligations need not do anything further. However, the commencement of these offences may provide a valuable opportunity to audit payroll practices. MBV Employment and Industrial Relations team can assist you with the review process.

Further information

For further information, you can read the text of the legislation [here](#) and the explanatory memorandum [here](#). MBV members can also discuss how the laws may affect them with our Employment and Industrial Relations team on (03) 9411 4555.