

# Underpayment and wage theft rampant in Australia

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Recent exposures of multi-million dollar wage theft of workers by high-profile individuals and companies underscore the fact that the illegal practice is widespread and expanding rapidly across Australia.

A two-year investigation by the Fair Work Ombudsman into MasterChef television judge George Calombaris's MAdE Establishment company revealed that its celebrity chef owner underpaid 524 staff in his restaurants a total of \$7.83 million, from 2011 to 2017. On average, each worker was underpaid by \$15,000 during the six-year period—a massive amount for individuals whose officially classified rate of pay is between \$19 and \$25 per hour.

Calombaris insisted that the underpayments were a terrible mistake. But the multi-millionaire, who has been agitating for the elimination of weekend and after-hours penalty pay rates for years, is a “repeat offender.” In 2017 his company was forced to back pay 162 employees a total of \$2.6 million.

While fast-food and convenience store franchises, including 7-Eleven, Domino's Pizza, Michel's Patisserie and Donut King, are notorious wage thieves, Calombaris is one of several employers in the high-end restaurant industry who have been exposed for underpaying workers. Others include Neil Perry's Rockpool Dining Group, which had to back pay staff \$1.6 million last October for a single year of underpayment.

Rockpool is still being investigated by Fair Work authorities, as are restaurant outlets run by Heston Blumenthal, Guillaume Brahimi, Teague Ezard and Shane Delia, who was previously in business with Calombaris.

Wage theft, in fact, is a deeply-entrenched business model, designed to slash costs and boost profits in the retail, franchising, hospitality, agriculture, construction,

food-processing and tourism sectors. Major retail companies exposed this year include Michael Hill jewellery, which underpaid staff for six years, and may have to pay back \$25 million, BCF and Rebel.

Notwithstanding occasional denunciations of this practise by the trade unions, and their calls for higher fines and more prosecutions, the unions have helped create the economic climate for wage theft to flourish. For decades, they have collaborated with employers and Labor and Liberal-National governments in the assault on jobs and conditions.

Work casualisation, which the unions have facilitated, is one of the main factors assisting wage theft, and this has spread to the tertiary education sector.

Late last month, the Academy of Information Technology, a private provider of higher education, admitted it “may” have been paying its staff below the award rate. Predictably, the company insisted that the underpayment was “unintentional.”

The National Tertiary Education Union (NTEU) issued a press statement declaring that it knew of about 40 current casual employees in the sector who were not receiving proper pay rates. This included lecturers who were receiving less than 50 percent of the award rate, and others being underpaid between \$10,000 and \$60,000 each per year. One tertiary worker was estimated to be owed a total of \$185,000 over five years.

Like other trade unions, the NTEU's concerns about underpayment are aimed at covering up its own role. The NTEU has been instrumental in imposing enterprise agreements that have enabled a vast expansion of casualisation in the sector.

Young workers, in particular, bear the full brunt of wage theft, due to high levels of unemployment and the fear of immediate sacking if they speak out.

Nor is it an accident that underpayment is rampant in industries that employ immigrant workers, international students, backpacker tourists or those on 417 and 457 temporary work visas. The 417 visas allow young tourists to work in Australia for up to 12 months, provided they work for six months in specified industries or regional areas. The 457 visas permit skilled workers to be hired for up to four years by employers where there is a shortage of labour.

Introduced in 2005 by the Howard Liberal-National government and continued under the Rudd and Gillard Labor governments, these arrangements seek to expand the exploitation of cheap labour. But rather than fight to unify Australian and international workers against employers, the unions whip up nationalist sentiment, blaming foreign workers for the job cuts that the unions enforced.

Penalties imposed on companies for not paying legal rates are minimal. Employers calculate that the probability of getting caught is low and penalties are tiny compared to the potential profits and competitive advantage they stand to gain against their business rivals.

Calombaris, for example, was fined a paltry \$200,000 as a “contrition payment” and ordered to speak at corporate events about the “importance of compliance with Fair Work Australia legislation.”

A few days after Calombaris’s underpayments became public, it was revealed that he and the two other MasterChef judges had demanded a 40 percent increase on their \$1 million annual contracts with Network Ten for the show. After Network Ten balked at these demands, the three judges quit.

In an effort to discourage patrons from boycotting his restaurants, Calombaris tearfully apologised on ABC television’s “7.30” program, claiming that the underpayments were due to his lack of accounting experience.

“Unintentional underpayment” due to the so-called complexity of Australia’s wages system is now a familiar refrain among corporate figures exposed in underpayment scandals.

Calombaris and other high-profile underpayers have numerous options for trying to rehabilitate their tarnished images. A whole industry of “reputation management services” has developed. These services promise clients that in the event of a public relations

crisis, they will limit the damage by “shaping the media narrative,” “suppressing negative links” and contributing “positive reviews” to online platforms.

A couple of days after the Fair Work ruling on Calombaris’s wage theft, the Nine Media’s *Good Weekend* magazine published an image of the celebrity on its front cover. The wealthy restaurateur was apparently meditating, with the words “It saved me at a point in my life where I hit darkness” curved like a halo around his head. His “reputational resurrection”—apparently as an advocate for mental health—was underway.

This week the Sunglass Hut chain, which is owned by Luxottica Retail and operates 2,000 outlets globally, agreed to pay back \$2.3 million to 620 current and former part-time workers in Australia for failing to pay them overtime between 2010 and 2016. The company was fined a “contrition” payment of just \$50,000 for the “mistake” that—it predictably claimed—“arose from a poor understanding” of award pay rates.

Yesterday, the Australian hardware giant Bunnings, which has 295 stores and over 30,000 employees, admitted it had not paid its share of superannuation payments for some part-time workers for almost 10 years. Management claimed it was caused by “an error in the payroll system code” on its computers.



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