

GUIDE TO BACK PAYMENT OF STUDENT OF ARCHITECTURE STAFF

This guide provides information on how to backpay an employee who has been underpaid.

Backpay is typically the payment of wages or compensation owed to an employee for work they have performed but have not been properly compensated for. Backpay can result from various situations, such as underpayment, missed payments, or retroactive adjustments. Please follow these steps on how to backpay an employee.

STEP 1

Determine if Underpayment has Occurred, and if so, the Duration of this Underpayment

To ensure that all pay periods in which the employee was underpaid are assessed, you would first need to determine when the underpayment first started.

In this case, since the new minimum ward rates wage took effect on the first full pay period beginning on or after 1 July 2023, any underpayment related to the transcription error in the wage guide would begin here.

STEP 2

Determine the Degree of the Underpayment– i.e., what they were paid vs what they were entitled to be paid

Once you have determined the pay periods which the employee has been underpaid for, the next step is to check the total gross amount that was paid to the employee in each individual pay period. This can be done by checking the employee's pay records since the first underpayment occurred.

The next step is to calculate how much the employee should have been paid in total during the underpayment period. For reference, there is a difference of 1 dollar between the correct rate, and the rate which was previously provided on the wage guide.

Please note that the \$1.00 extra that they should have received may therefore impact the award entitlements they received during this time – such as overtime penalty rates and annual leave

loading. It is possible that if the calculation of overtime or annual leave loading was based on this incorrect rate, overtime or leave loading payments were also impacted.

To maintain transparency, we recommend keeping careful records of the different rates the employee should have received at the relevant time – for ordinary hours, for overtime, and for any periods of annual leave loading, so that they can be neatly presented to the employee(s).

To calculate the underpayment amount, it is then necessary to subtract the figure they were paid from the gross figure they should have received.

Example:

If an adult student of architecture employee with less than 3 years of experience was engaged on a full-time basis (38 ordinary hours) and was paid \$21.61 per hour over a 4-week period, but should have been paid \$22.61 per hour, you would need to subtract the gross amount of what they were paid from what they should have been correctly paid.

In effect, if the employee was paid a gross amount of \$3,284.72 ($\$21.62 \times 38 \times 4$) – but should have been paid \$3,436.72 ($\$22.62 \times 38 \times 4$) – the employee was underpaid a total amount of \$152 over the 4 weeks ($\$3,436.72 - \$3,284.72$).

Note: these back payments may result in additional tax and superannuation obligations to be paid. As this falls outside the scope of employment relations, we advise speaking to your accountant or the ATO for clarification.

STEP 3

Consultation and Confirmation of Back Payment Arrangements

The final step is to arrange a time to speak with the employee to notify them of the underpayment, explain the reasoning behind this (i.e., the error within the wage guide) and how it will be rectified. You can also refer to the calculations you have made to work out how much the employee was underpaid to ensure the employee is fully informed of the issue, and that it was a result of genuine human error.

Once both parties are happy with the calculations, back payment should be processed as soon as possible. This may be in line with the employee's next pay cycle, or as a separate payment altogether.

In the event that the business is unable to afford the total back payment in one single payment, you could otherwise agree to a payment plan with the employee. This payment plan should be documented in writing, and denote the amount and frequency of the payments, as well as the payment method.

Once the back payment has been made, it is necessary to keep a record within the employee's wage records, and ensure the employee is provided with a copy as well.

Further Assistance

If you have any further questions about how to rectify a back payment in this instance, we encourage you to contact the Institute of Architects HR Advisory Service for further information on (02) 8448 3220 or by email at hrhub@architecture.com.au. Once again, we apologise for the error and are making every effort to resolve the matter for affected members as smoothly as possible.

For more information and support, please contact the friendly team at
Institute of Architects HR Hub
P: **02 8448 3220** | Email: **hrhub@architecture.com.au**



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