

CONNECTIONS

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**OT Week Pull Out Poster: Celebrating
80 years of Connection**

**Guidelines for Public Mental Health Clinicians
to Assist Consumers with Safe Driving**

**OT Exchange Inaugural Oration address:
Your OT Road Map to Innovation Success**

Occupational
Therapy AUSTRALIA 

Workplace Relations & Employment Hotspot:

Wage Theft and the HPSS Award

Wage theft is when an employer doesn't pay an employee their lawful entitlements. This may include paying incorrect wages, not adhering to an applicable modern award or enterprise agreement or paying other entitlements incorrectly. The Fair Work Ombudsman takes matters of underpayment very seriously, and intentionally underpaying employees can be a criminal offence under various Federal and State laws.

Our recent article *Minimum Entitlements & Working Arrangements* touched on some of the risks and penalties associated with underpaying staff. This article focuses on a common wage theft hotspot for practice owners: allowances and entitlements in the Health Professionals and Support Services Award 2020 (HPSS Award).

An award is a legal document that contains the minimum terms and conditions of employment and covers specific industries and occupations. Employees of an occupational therapy practice are covered by the HPSS Award¹. This includes occupational therapists, allied health assistants (AHAs), and other employees such as clerks, medical receptionists, cleaners and security officers.

Occupational therapy practice owners must pay their employees at least the minimum pay rates and entitlements set forth in the HPSS Award. The award details the minimum rates of pay for each classification level and each pay point for employees working in the health services industry². Classification levels in an award determine the pay rates and entitlements based on an individual employee's skills, qualifications, years of experience, and responsibilities.

Practice owners must ensure they are classifying staff correctly. When practice owners fail to honour the terms of the HPSS Award, such as paying an employee at an incorrect classification level, this is a legal and financial liability known as a breach of award.

Practice owners must ensure they are paying staff the correct allowances. Allowances are payments made to employees to cover specific work-related expenses or conditions, such as travel, shift work, or working in challenging or specialised environments. When wages are increased³, allowances need to be increased accordingly. Failing to pay the correct allowances will effectively result in the unlawful underpaying of staff. The penalties for underpaying staff have never been higher, even if the infringement is an honest mistake.

Here's an example of some common occupational therapy practice hotspots that should be carefully considered in relation to mitigating wage theft and a breach of award:

Travel: It is common for an occupational therapist to travel between appointments. Occupational therapists who are full-

time, part-time or casual employees should be paid for their travel time and reimbursed for all reasonably incurred expenses with respect to travel such as tolls, parking fees, etc. These details should be clearly outlined in your workplace policies and employment agreements.

Leave Loading: *Leave loading* is a payment that some workers are entitled to receive from their employer while on annual leave, on top of their base rate of pay. Most modern awards say that employees get paid annual leave loading on top of their minimum hourly rate when they take annual leave. Under the HPSS Award, a rate of 17.5% leave loading on top of their annual leave is applied when an employee takes paid time off.

Overtime: Overtime is work performed outside the ordinary hours listed in an award or agreement. Overtime is usually paid at a higher rate.

Superannuation: Pay rates in awards do not include superannuation. Private practice owners must ensure they are paying their staff the correct entitlements, including the correct superannuation contributions⁴.

“When practice owners fail to honour the terms of the HPSS Award, such as paying an employee at an incorrect classification level, this is a legal and financial liability known as a breach of award.”

Modern awards can be difficult and complicated to decipher and implement correctly, and the above-mentioned hotspots are not an exhaustive list. Always refer to the newest pay guide⁵ and seek guidance from an experienced employment and industrial relations professional when interpreting an award.

For more information on mitigating wage theft and applying the HPSS Award, you can check the Fair Work Ombudsman website or seek advice from an HR consultancy that works closely with the allied health sector such as WorkPlacePLUS.

As the national HR and IR partner of Occupational Therapy Australia, WorkPlacePLUS provides support to OTA members on employment matters affecting your practice. For more information, contact Anna Pannuzzo on (03) 9492 0958 or visit www.WorkPlacePLUS.com.au.

To read our Winter edition article, scan the QR code below:



Footnotes

- 1 Occupational therapists who are employed by schools are covered by the Educational Services (Schools) General Staff Award 2020. The general advice in this article still applies.
- 2 You can choose to pay staff above the minimum award rate.
- 3 Effective 1 July 2024, minimum award wages increased by 3.75%. These increases apply from the first full pay period starting on or after 1 July 2024.
- 4 Effective 1 July 2024, the superannuation guarantee rate increased from 11% to 11.5%.
- 5 To receive a copy of the new 2024-2025 HPSS pay guide, please contact WorkPlacePLUS.

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