

FACT SHEET: UNPAID WAGES

Can any worker make a claim?

All workers have a right to make a claim for unpaid entitlements.

Workers who have not been paid all their entitlements can take legal action to recover any money owed to them.

The time limit for taking legal action is **six years** from when the money should have been paid.

How can I claim for my unpaid entitlements?

Workers covered by an award, enterprise agreement or AWA can make a claim in the Chief Industrial Magistrates Court.

The court is a specialised court dealing with unpaid entitlements in Downing Centre, Sydney

You can also choose to commence an action for unpaid entitlements within any Local Court in NSW.

If you are not covered by an award, enterprise agreement or AWA you can still commence an action within a Local Court in NSW.

If you are not covered by an award or an agreement you have the right to commence an action or unpaid service leave in the Chief Industrial Magistrates Court.

Other options to recover unpaid entitlements

If you are covered by **WorkChoices, a federal award or federal certified agreement** you can make a complaint to the Australian Government Workplace Ombudsman.

The Ombudsman will attempt to resolve the complaint with the employer and if this is unsuccessful you will be issued with a certificate, which you can take to a NSW Local Court or Federal Magistrates court to commence action.

If you are covered by a **NSW state award or enterprise agreement** you have the option of making a complaint to the NSW Office of Industrial Relations (OIR).

The OIR will attempt to resolve the issue with your employer.

This claim must be made within **six months** of you first becoming aware of the unpaid entitlements or within **six months** from the date you finished working with that employer.

Were you covered by a **NSW state award or enterprise agreement** and have been transferred to the federal system because of **WorkChoices**?

If you are employed by a company where 'Ltd' or 'Pty Ltd' is added to your employer's business name you are now probably covered by the new WorkChoices laws.

This enables you to make a complaint to the Australian Government Workplace Ombudsman about entitlements that should have been paid on or after 27 March 2006 and a complaint to the NSW Office of Industrial Relations about entitlements that should have been paid before 27 March 2006.

Finding your lost Superannuation

If you are between 18 and 70 and are paid \$450 or more a month your employer should be making superannuation contributions into your super fund.

You should be receiving these payments regardless of whether you are a full time, part time or casual employee.

You may be a lost member of a superannuation fund if the fund has been unable to contact you, or if your employer has made contributions for you but the fund has not received any contributions or rollover amounts in the past two years.

To find your lost superannuation you should look on the Australian Taxation Office's website using the SuperSeeker online function, or you can ring them on 13 28 65.

Contacts

To calculate the amount of money owed to you will need to find the **award, agreement** or **contract** that covers your employment.

Works are generally covered by with either a **NSW state award** or **NSW agreement** or a **federal award** or **federal agreement**.

Workchoices System

- 1) Contact the Workplace Info Line on 1300 363 264 for information about a federal award, federal agreement or the WorkChoices system.
- 2) Contact the Australian Government Workplace Ombudsman on 1300 363 274 for assistance with a complaint about unpaid wages/ and or other entitlements

NSW System

Contact the NSW Office of Industrial Relations on 131 628 for information about

- 1) NSW awards and how to calculate the debt.
- 2) Recovering unpaid wages and entitlements.