

FEATURE REPORT

Off The Books

*Inside Australia's Hidden System
of Migrant Worker Exploitation*

Laurie Berg & Bassina Farbenblum — May 2026
Migrant Justice Institute

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About the Migrant Justice Institute

The Migrant Justice Institute is a nonpartisan law and policy organisation that works to achieve fair treatment justice for migrant workers in Australia and globally. An independent non-profit founded in 2021, we are Australia's first (and only) national research and policy organisation dedicated to addressing migrant worker exploitation. Our research uncovers the reality of migrant worker exploitation and the operation of laws and systems in practice. We rely on strong relationships with migrant communities, trade unions, legal centres, governments and industry to develop innovative pragmatic reforms that are grounded in migrants' lived experiences, drawing on global best practice.

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"I hope this survey can help generate change and that in some way it will make it easier for us to continue dreaming of building a better future for both ourselves and Australia."

International student from Argentina, 20

We hope that by amplifying the voices of migrant workers across Australian workplaces, this report will catalyse the change needed to ensure everyone enjoys safe and fair working conditions in Australia regardless of their visa status

Executive Summary

Two thirds of surveyed migrant workers were paid less than they were owed under Australian law. This is not accidental. Our data reveals that many Australian businesses are deliberately using insecure employment structures to underpay migrants working on visas, and engaging in further systematic noncompliance to cover their tracks.

This is occurring on a systemic scale nationwide. Our data suggests international students alone may be short-changed by around \$61 million every week – \$3.18 billion per year.

“It is like an eco-system and everyone passes through it. These are those employers who work in less skilled sector and they can easily hire new people without affecting their business.”

Male international student from Pakistan, 28, in Queensland. He was paid a flat rate with no payslips, well below his legal entitlement for every hour worked. When he found a better job, his employer simply hired the next new arrival.

This report presents findings on the working conditions of almost 10,000 migrants on temporary visas in Australia from the 2024 National Temporary Migrant Work Survey. This includes international students, backpackers, graduate visa holders, employer-sponsored workers and other migrants who worked in Australia on a temporary visa. This is the first national empirical study of migrant work experiences post-COVID. It focuses on these workers' lowest paid job in 2023-24.

Our data shows, for the first time, how underpayment, insecure employment structures, and noncompliant employer practices cluster together into a single system of exploitation. It reveals how businesses are exploiting gaps in the system that regulators have struggled to address.

KEY FINDING 1

Australian businesses systematically underpay migrants working on temporary visas.

Underpayment of migrant workers remains rampant across many industries.

Employers paid two-thirds of migrant employees less than they were owed under the Fair Work Act. **Almost a quarter were short-changed by at least \$10 per hour.**

Well over a third of all participants (36%) were paid below the floor of the National Minimum Wage, not taking into account award rates, penalty rates for after-hours work or casual loadings.

“I am aware of all the laws in Australia and was being paid a lot less with no sick or annual leave and no weekend loadings at all. All rates were flat. I worked so many hours there. Now when I think about those days, I feel pity on us how we were robbed and trapped.”

36 in every 100 migrant workers are paid below the National Minimum Wage



Participants' hourly wage in their lowest paid job in 2023-24 (n=8,213)

KEY FINDING 2

Employers systematically use insecure employment structures to disempower and exploit workers

This isn't a gap in the system. It *is* the system. Many employers give themselves power over migrants by using insecure employment structures, then abuse that power to exploit these workers. Insecure employment structure is one of the strongest predictors of underpayment and broader noncompliance.

Over a third (35%) of migrants worked on an ABN (independent contractor) in their lowest paid job in 2023-24, more than four times the rate in the general workforce. The majority of those on ABNs (61%) were in industries

where this was **probably misclassification or 'sham contracting'** - misclassifying employees as contractors to evade basic employment entitlements like the minimum wage and escape regulatory oversight.

85% of all ABN workers were paid less than the minimum entitlements they would have had under the Fair Work Act if they were a casual employee.

Three quarters of migrant workers were engaged in insecure work arrangements



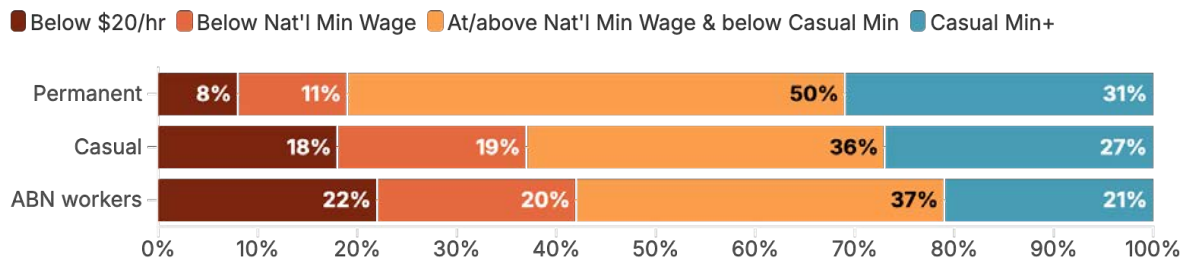
Participants' work arrangements in lowest paid job in 2023-24 (n=6,778)

A further 38% of migrants were engaged as a casual employee, entirely at the whim of their employer with no guaranteed hours or job security.

Many casual employees were paid wages that bore no relationship to the Fair Work Act, and far beneath the casual minimum wage.

“They paid me in cash, but every day was different, it was what the owner considered for the day (sometimes she paid me \$18 an hour others \$20, \$19). They were long work days, I opened and closed the spa. I only had a 5-10 minute break while I had lunch and that was it.”

37% of casual employees and 43% of ABN workers were paid below the National Minimum Wage - double the rate of permanent employees



Wages received in lowest paid job in 2023-24 (n=6,778)

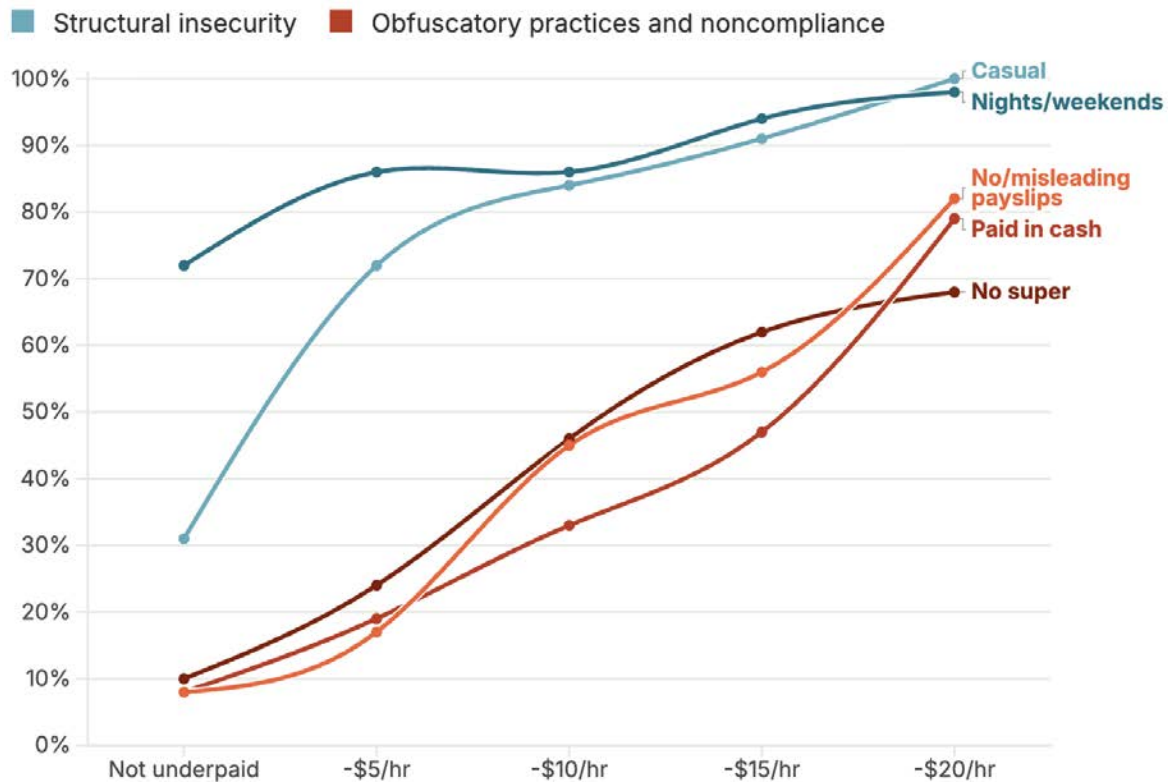
The vast majority of all migrants (83%) reported **working nights and weekends** – times when work is less visible and often less safe. These migrants were **almost 50% more likely to be paid below National Minimum Wage** than those working only business hours.

KEY FINDING 3

Violations cluster: underpayment is part of a system of exploitation, not an isolated practice.

The worse the underpayment, the more likely the employer also issued misleading or no payslips, denied superannuation, paid cash, made wage deductions and engaged in practices that are indicators of modern slavery. These aren't separate problems caused by scattered rogue employers. **For the first time, our data shows this is a single system of noncompliance.**

The more a business underpaid an employee, the more likely that business also breached other workplace obligations and engaged the worker as a casual or night/weekend worker



KEY FINDING 4

Systemic noncompliance enables employers to cover their tracks.

In insecure jobs, it is hard for workers to prove underpayment. Casual workers must demonstrate every hour worked without regular schedules. This is even worse for ABN workers, who aren't entitled to minimum wages unless they can first prove they are actually misclassified employees.

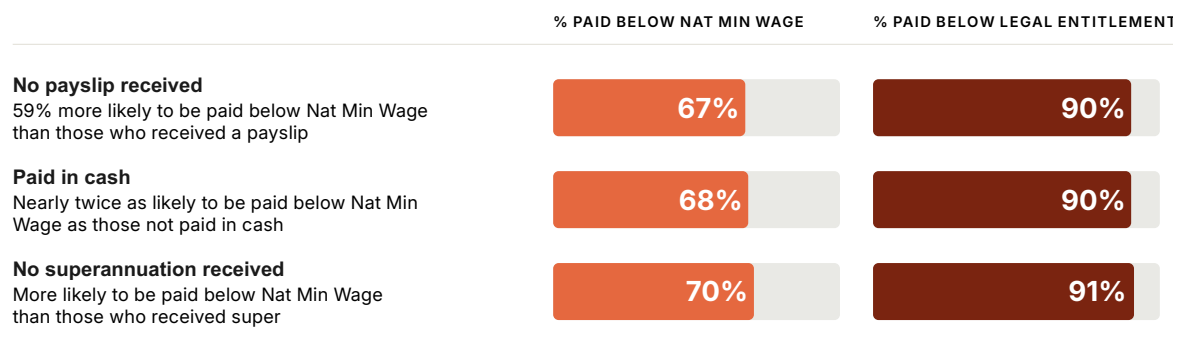
“My salary was less than what was agreed on and I don't feel like I can do anything about it since I'm on ABN and made it look like I agreed on whatever pay I was given anyway.”

“I went to find jobs in several places they said the wage will be in abn or cash \$15 or \$18 per hour.”

A quarter (23%) of participants were paid at least some of their wages in cash. This figure is alarmingly high. But it has fallen from 44% in our 2016 study, as cash has decreased in the economy. Employers now use ABNs and misleading payslips interchangeably with cash to underpay migrant workers 'off the books'.

Three practices that reliably signal serious underpayment.

Where workers had any of these three markers, around 7 in 10 were paid below the National Minimum Wage and around 9 in 10 were paid below their minimum legal entitlement.



Likelihoods are from regressions controlling for industry, employment type, gender, age and visa.

Our data shows employers take further steps that conceal underpayment of migrant workers. Employer provision of payslips has improved since 2016, but 16% still do not receive payslips. But for many employers, payslips give a false veneer of compliance: one in twelve employees (8%) received a payslip that disguised underpayment by omitting hours worked, and 40% received payslips reflecting underpaid wages.

“Some employers state the legal minimum wage on the payslip but reduce the number of hours worked to reduce the overall total of the wage. This is unnoticed by officials and the employees don't say anything because we need the job to support our living expenses here in Australia.”

WHAT MUST CHANGE

First-term reforms were a necessary start, but addressing migrant exploitation is unfinished business

From strengthened sham contracting provisions to new criminal wage theft offences, the government's first-term reforms were an important first step. Some were not in place at the time of the survey and may yet have an impact. **But they are insufficient to effectively address the systemic exploitation revealed in this report.**

Our findings indicate that migrant exploitation must be tackled by recalibrating the drivers of employers' unchecked leverage over migrant workers. Stronger interventions are required to prevent employers from using insecure work arrangements and immigration settings to systematically avoid their responsibilities under the *Fair Work Act*. The government should also invest in reducing the hurdles migrants face to recovering the unpaid billions in wages they are owed.

The enforcement gaps identified in this report distort competition: businesses that exploit migrants gain unfair advantages over businesses that comply. This is not a niche issue. It extends to all corners of the Australian economy.

Tackling the roots of the problem has sat in the 'too hard basket' because we couldn't see the system clearly. Now it is clear how employers structure work to evade the *Fair Work Act*, which violations cluster together, how to enable workers to come forward, and what regulators and businesses can look for to detect underpayment and deeper exploitation.

This isn't intractable. Our research demonstrates that there are key intervention points.

Address these structural gaps, and workers regain the power to advocate for themselves. And when they can, hidden systems of exploitation collapse. Compliant businesses get fair competition, workers get protection, and everyone benefits.

Summary of Recommendations for the Commonwealth Government

Expand sham contracting accountability.

Reduce the burden on workers to prove misclassification, strengthen enforcement of misclassification and sham contracting laws, and consider accessorial liability for sham contracting within business operations.

Protect workers who report abuse.

Strengthen and expand access to the Workplace Justice Visa and reduce reliance on employer sponsorship for permanent residency pathways.

Expand proactive detection and support.

Invest in whole-of-government enforcement processes targeting poorly performing industries with insecure migrant workforces and establish dedicated migrant worker support services including Migrant Worker Centres in every state and territory and increased FWO support.

Link sponsorship eligibility to compliance.

Connect government agency and court data to DHA to ensure business eligibility to sponsor migrant workers takes account of prior workplace noncompliance, and industry-level risk.

Increase transparency and accountability.

Introduce a national Labour Hire Licensing Scheme and an enforceable risk-based due diligence obligation under the Modern Slavery Act, reform payslip obligations to prevent businesses from disguising noncompliance, and explore strengthened general protections preventing employer retaliation against migrant workers.

Ensure migrants recover the wages they are owed.

Establish underpayment jurisdiction in the Fair Work Commission alongside a new co-located Fair Work Court, extend the Fair Entitlements Guarantee to migrant workers, and create a government-funded wage guarantee scheme.

Increase cap on student working hours.

Explore increasing the work limitation on Student visas above 48 hours per fortnight to reduce exploitation risks and respond to increased cost of living in Australia.

Invest in compulsory worker rights education.

Ensure visa holders receive clear, accessible information about workplace rights and support services at key touchpoints, including with visa grant and multiple times post-arrival.

Detailed recommendations for industry will be released in a separate Practical Guidance.

See Part 12 for full recommendations.

About this research: Based on 9,963 valid survey responses from workers on temporary visas across Australia. Fieldwork conducted in 2024. Survey offered online in English, Mandarin, Spanish, Nepali, Tamil and Arabic. Survey anonymous and confidentially distributed through 50+ education providers, unions, community organisations and government partners, as well as directly via social media and other channels. Respondent quotes are drawn from open-text survey responses, selected to be representative of themes in the data. Some quotes have been translated or lightly edited for clarity. Underpayment was calculated via 2 methods: (1) in relation to National Minimum Wage and casual minimum (25% loading), and (2) based on each participant's individual minimum entitlements taking into account award (based on job), penalty rates (if worked nights/weekends), casual loading (if not entitled to paid leave), and youth rates (based on age).

Full methodology and interactive charts are online (www.migrantjustice.org).

INTRODUCTION

“I am aware of all the laws in Australia and were being paid a lot less with no sick or annual leave and no weekend loadings at all. All rates were flat. I worked so many hours there. Now when I think about those days, I feel pity on us how we were robbed and trapped.”

International student from Nepal, in NSW

It has been ten years since the 7-Eleven scandal brought migrant exploitation into the centre of Australian public life.¹ The revelations of systemic wage theft across that franchise, and the many industries it foreshadowed, prompted the convening of the Migrant Workers’ Taskforce,² and a wave of parliamentary inquiries.³ In the years since, successive governments have introduced new sanctions for underpayment, expanded the Fair Work Ombudsman’s enforcement powers, criminalised intentional wage theft and, under the current government’s first-term agenda, begun to address the proliferation of insecure work and the immigration settings that leave temporary visa holders dependent on exploitative employers.⁴

And yet a decade on, underpayment of migrant workers in Australia remains rampant.

This report presents the findings of the 2024 National Temporary Migrant Work Survey, the first national empirical study of migrant work experiences since the COVID-19 pandemic, and the largest survey of its kind ever conducted in Australia. Between July and August 2024, 9,963 people who had worked in Australia on a temporary visa shared their experiences with us in six languages, across every state and territory and across every major industry that employs migrant labour. Of these, 8,370 reported in detail on their lowest paid job in 2023–24, giving us an unprecedented window into the working conditions of international students, backpackers, graduate visa holders, employer-sponsored workers, and others who keep substantial parts of Australia’s economy running.

The headline finding is sobering. Employers paid two-thirds of migrant employees less than they were owed under the Fair Work Act, and more than a third were paid below the National Minimum Wage. Figures from this survey suggest international students alone may be shortchanged approximately \$3.18 billion in wages every year.

A decade of reform has not shifted the basic fact that unlawful underpayment is the norm, not the exception, in the jobs that temporary visa holders do in this country. The enforcement gaps identified in this report are not a niche problem. They distort

competition across the economy: the businesses that exploit migrants continue to gain unfair advantages over those that comply.

For the first time, this report reveals the mechanics of a single, integrated system of exploitation. Underpayment, insecure employment structures, and record-keeping noncompliance cluster together and reinforce one another. Employers use ABN misclassification, casual engagement and misleading payslips to underpay migrants and cover their tracks. As cash has receded from the broader economy, these other methods have moved in as alternative ways of paying migrants 'off the books'.

This is the third national survey of its kind conducted by the Migrant Justice Institute, following our 2016 survey reported in *Wage Theft in Australia* and companion report *Wage Theft in Silence*, and our 2020 study, *International Students and Wage Theft in Australia*, which examined underpayment among the student cohort specifically.⁵ In this report, for the first time, we can see not only how much migrants are being underpaid, but how the system of underpayment now works.

Together with prior MJJ reports on seasonal workers under the PALM scheme, the inaccessibility of the courts, and the limits of the Fair Work Ombudsman, these studies make up a decade-long body of evidence on the structural drivers of migrant worker exploitation in Australia.⁶

This report is the first in a series drawing on the 2024 survey. Forthcoming reports will address: migrant workers' knowledge of their rights; the effectiveness of reporting channels and the reasons the majority stay silent; migrant workers' experiences of indicators of forced labour; and their experiences of unsafe work and workplace injury. Further publications will include companion Practical Guidances for business, and reports that dive deeper into findings on the experiences of international students to support effective responses by the international education sector.

Tackling the structural drivers of migrant exploitation has long sat in the too-hard basket because the system itself was hard to see. It is now visible in how employers structure work to evade the Fair Work Act, the ways in which violations cluster together, and in what regulators and businesses can look for to detect underpayment and deeper exploitation.

The Albanese government's first-term reforms were a necessary start, but the evidence in this report makes clear that migrant exploitation in Australia has not been solved. It has evolved.

Ten years on from the Migrant Worker Taskforce, this report is an account of the current migrant exploitation trap and of how to dismantle it.

Methodology, Sample and Contours of the 2024 National Temporary Migrant Work Survey

In 2024, Migrant Justice Institute conducted the National Temporary Migrant Work Survey – the largest of its kind and the first national empirical study of migrants' experiences of work in Australia post-COVID. The survey was an anonymous online questionnaire hosted on MJJ's website, and available in English, Mandarin, Spanish, Nepali, Tamil and Arabic. It was open to anyone 18 years and over who had worked in Australia while holding a temporary visa. Ethics approval was obtained by the Human Ethics Research Committee at UNSW Sydney and ratified by the University of Technology Sydney Human Research Ethics Committee.

The survey was delivered online between 8 July and 31 August 2024 and could be completed on a phone or computer. Before commencing the survey, participants were provided with information about the survey and how their data would be used, to which they could consent through their participation in the survey. Participants who completed the survey were able to enter a draw for prizes which included fifty \$200 Mastercard vouchers. They were asked for their phone number for the purpose of advising winners of the prizes. There was no way to connect the phone number provided in the prize survey with answers provided to the temporary work survey which remained strictly anonymous.

The survey yielded 9,963 valid responses.

'Thank you for asking me these questions. It makes me feel a bit better because neither my previous employers nor anyone else has asked me these before. Sometimes, I feel very lonely.'

Male international student from Turkey, 24, in NSW

Survey development

The survey questions were designed based on MJJ's prior research, secondary literature analyses, and stakeholder consultations (see *Acknowledgements*) on iterative drafts of the survey instrument. The survey was tested by international student members of our Student Ambassador Program who also advised on survey dissemination strategy. The survey was translated into Arabic, Nepali, Simplified Chinese, Spanish and Tamil by accredited interpreters, and tested again in those languages.

The survey contained 76 multiple choice questions in addition to a number of follow-up questions for subsets of participants who selected a particular response. A small number of questions allowed open answers, mostly where respondents selected 'Other' among multiple choice options. A final open response question at the end of the survey allowed participants to provide a narrative response with any further information they wished to share. Participants were also invited to share a phone number or email address if they were open to being contacted for a follow-up interview.

The survey questions addressed features of participants' jobs as well as a range of problems that migrants encounter at work, ranging from noncompliance with workplace laws to modern slavery and workplace injury, and how migrants respond to these.

Survey topics include:

- Participants' demographics, including visa, gender, nationality, age, location, year of arrival and, for current international students, their type of education provider and course of study;
- The nature and structure of participants' lowest paid job in 2023-24;
- Wages and entitlements received in participants' lowest paid job in 2023-24;
- Employer coercion and modern slavery indicators experienced in any job;
- Safety and injury in the workplace (including access to medical care) in all jobs;
- Problems in accommodation linked to a job or employer;
- Whether participants sought assistance with wage recovery (where underpaid) or with other problems associated with experiences of forced labour indicators (where relevant), where they went, the outcome of help-seeking, and, if they did not seek help, the barriers that prevented them from doing so; and
- Participants' knowledge of workplace rights, entitlements, and common misconceptions about their rights or culpability.

Participants were free to stop the survey at any time. As some participants exited the survey at different points before the end, the number of respondents varied between questions. In addition, some follow-up questions were only shown to participants who selected particular responses.

There were 9 questions that provided an opportunity for discursive responses as well as an open text field at the end of the survey that asked participants if they wanted to add any further observations or information. 3,656 participants provided an open text response to this final question. This report draws on numerical data from the survey as well as analysis of open responses.

The survey was a unique migrant information and empowerment tool

As with MJI's previous surveys, the 2024 survey was designed as a learning and empowerment tool for every migrant participant. At various points in the survey participants were asked about their knowledge of aspects of their workplace rights and Australian law, and after responding were given the correct answer with a simple explanation and where to find further information. At the end of the survey participants were directed to a referral portal with information on where to get help in their state for a range of different workplace issues, and were provided with a summary of key information on all the topics addressed in the survey, and short video explainers produced by Gabrielle Marchetti at Jobwatch. These remain available on MJI's website under the "For Migrants" tab.

Many participants expressed gratitude for the information they learned as a result of participating in the survey.

"Apparently i didnt know my rights, this survey helped a lot. thank you so much."

Male international student from Uzbekistan, 26, in Queensland

"Through this survey, I also learned a lot of information that I didn't know before. Thank you. I hope that temporary visa holders can be protected at work."

Female international student from China, 31, in Western Australia

"Thank you for the survey. I learnt so much about my working rights in Australia."

Female Graduate visa holder from India, 23, in Victoria

Survey dissemination

Our dissemination strategy was developed through engagement across migrant communities, the union movement, the community sector and the international student sector. The survey was promoted to migrants through outreach by many community legal centres, unions, consulates and embassies, settlement and migrant peak bodies, student groups, hostels, service providers and community organisations (see *Acknowledgements*).

The survey was also promoted to migrants directly via social media, including hundreds of travel, cultural and visa-based Facebook groups and paid Facebook advertisements, as well as Instagram and LinkedIn.

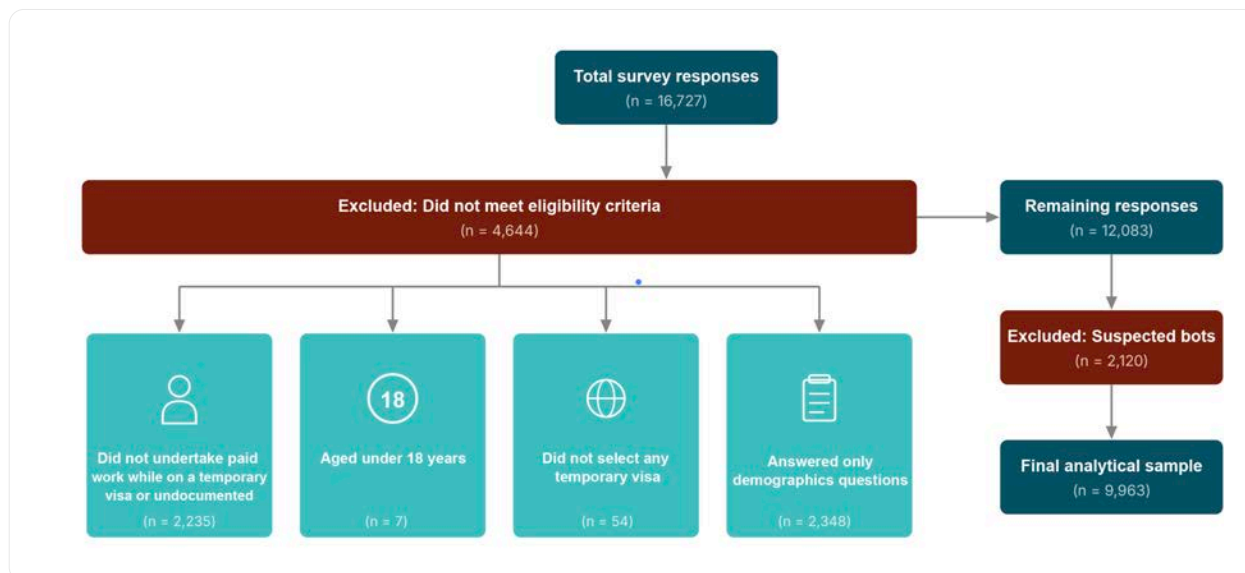
We approached educational institutions across Australia to directly promote the survey to students at their institutions. Universities Australia also encouraged each of its members to promote the survey to its international students. The Australian Universities Procurement Network encouraged its members to disseminate the survey, and other peak bodies including International Education Association of Australia, Austrade, and English Australia hosted webinars for their members with information about the survey and encouraged their involvement.

We offered to provide a confidential report on the findings to any education institution where the number of student participants from that provider reached a threshold such that our findings would not identify any particular student. As a result of our own outreach and the efforts of these peak bodies, 27 education providers actively and successfully promoted the survey to their international students, with sufficiently high participation rates to obtain a tailored report on students at their institution. Other education providers also advertised the survey to their international students resulting in high participation across a wide range of institutions.

We established a Migrant Justice Institute Student Ambassador Program, comprising 40 international student representatives from StudyHubs across the country, to promote the survey to their peers. While the survey was live, we held regular briefings with this group to identify underrepresented cohorts amongst students and migrants and share effective strategies to target these groups. We also liaised with international student-focused media outlets such as Insider Guides, Koala News and the PIE News, which published other international news pieces about the survey

Data cleaning and analysis

There were 16,727 responses entered in the online version of the survey. Of these 4,644 were removed because they did not meet the eligibility criteria. A further 2,120 were excluded because we concluded they may have been bots. A full description of this process is available on our website.



Methodological limitations

The survey has a number of methodological limitations.

The online anonymous format of the survey created risks of non-genuine responses, which we were able to significantly mitigate but not entirely eliminate. Participants may have chosen random answers to complete the survey quickly in order to enter the prize draw. Those participants motivated to complete the survey quickly may have been particularly influenced by the order of possible responses (reading or selecting those at the top). Participants could also conceivably have participated more than once from different devices (though not from the same device). To mitigate these risks, the order of responses was randomised wherever possible so that if participants answered questions randomly this would not have skewed the data in any particular direction. There were no strong incentives for other participants to provide inaccurate information or to repeat the survey multiple times. We removed a small number of responses where duplicate email addresses were provided for follow-up. There was a further risk that participants may have been afraid to disclose true information for fear of repercussions. This risk was mitigated by making the survey entirely anonymous.

As is becoming increasingly common, we detected a number of bots attempting to enter data in the survey. While it was not possible to definitively determine whether certain survey responses were entered by a bot, we dedicated substantial resources over several stages of data cleaning to removing responses which may have been entered by a bot, eliminating 2,120 (see *Data Cleaning and Analysis* above).

A further limitation arose from methods of distribution of the survey which did not reach all migrant populations equally. Effective dissemination of the survey by many education providers led to an over-representation of international students compared with migrants on other temporary visas who could not be reached through any one cohort of providers. However, this resulted in a robust and representative cohort of over 8,000 international students. Other visa cohorts were reached through less systematic methods.

Promotion of the survey through Instagram, Facebook, WeChat, LinkedIn and Sydney Today may have contributed to over-representation of migrants who regularly use these platforms. This risk was somewhat mitigated by distribution through other channels including posters in youth hostels, emails by unions and migrant service providers and direct communication to international students by education providers (see *Survey Dissemination* for further detail).

Concerns about weak English-language skills were mitigated by translating the survey into Mandarin, Spanish, Nepali, Tamil and Arabic. However, the survey was not available in all languages spoken by temporary visa holders in Australia, and the survey was likely not accessible to some native speakers of other languages whose English is very weak (though it was possible for participants to use online translation software such as Google Translate). It is also possible that certain words or phrases in translated versions may have been understood differently in different languages or may not have had a culturally understood equivalent. This risk was mitigated by having the survey tested in-language by multiple native speakers and refined based on feedback.

It is likely that our survey was not taken by the most vulnerable migrant cohorts who are less networked and more difficult to reach, may have poorer English language skills and may be especially fearful of divulging experiences of exploitation or modern slavery. Our findings on experiences of forced labour indicators are almost certainly an under-representation due to this gap.

It is also possible that participation was higher among migrants who were more motivated to share information on poor workplace experiences, or to assist other migrants to avoid problems. The authors sought to limit this possibility by offering a large number of substantial prizes to create a different incentive for participation among a broader group. At the same time, it is possible that migrants experiencing financial stress were more likely than others to be motivated to complete the survey by the possibility of receiving prizes.

It should be noted that the survey included a set of questions on features of employment focused on participants' lowest paid job in 2023-24. This is the focus of this report. There were two reasons why participants were asked about their lowest paid job. First, it was necessary to confine questions about different aspects of employment to a single job in order to analyse the extent to which those factors coincide under different employment circumstances. Second, the survey focused on participants' lowest paid job (as opposed to any job) in order to enable analysis of the largest possible dataset on features of poorly paid jobs in which temporary migrants work, and the factors that coincide with underpayment. As a result, the survey presents participants' worst experiences in Australia and does not capture participants' other experiences which might have been more positive.

Finally, the findings are naturally limited to the information that could be reliably elicited from migrant workers in a survey. For instance, we did not ask respondents about the size of their employer or whether they worked for a labour hire firm. We were not confident that workers could reliably identify characteristics of their employer such as these. We were more confident that many participants would be aware of their hourly rate of pay, although it is possible that some might have rounded their hourly wage up or down if they did not recall the exact figure.

Taking these considerations into account and considering the impracticability of random sampling among temporary visa holders in Australia, the authors determined that the survey and selected distribution methods remained an effective way to access large numbers of diverse migrants to illuminate their experiences of workplace exploitation.

A Profile of the 8,370 Participants who Worked in 2023-24 and their Lowest Paid Jobs During that Time

We received 9,963 valid responses from participants who had worked in Australia on a temporary visa at any time. This report addresses the experiences of the 8,370 participants (84% of all participants) who worked in Australia on a temporary visa during the 18 months prior to the survey. It focuses on their lowest paid job during that period.

Choosing one specific job allows us to analyse the correlations between different experiences and factors within the same job. A focus on migrants' lowest paid job sheds light on some of the poorest working conditions for temporary migrants in the post-COVID labour market and provides an opportunity to analyse the features of those poorly paid jobs and the factors that may coincide with underpayment. Some migrants may move on from these jobs to somewhat better jobs. However, it is likely the precarious and underpaid jobs that are the subject of this report do not then disappear – they are simply filled by other temporary migrants.

The survey also contained other sections that related to participants' work experiences on a temporary visa in any job during any period in Australia. These will form the basis of subsequent reports.

“When someone comes on a temporary visa. There is so much pressure on them. Everything is new, new system, new language, different culture, finding accommodation and high rental expenses needed from day one. Studies and settling in. So requirement of job from the first day is very important otherwise you can't survive. So, potentially what happens is someone in this situation accepts anything that is being offered because of expenses and need of money. That is where some employers come and exploit this situation and pay very less and sometimes make people work more than they are allowed to. When someone finds a better job with better pay and better work environment they immediately leave. And that employer then hire again someone new in the country and exploit them.”

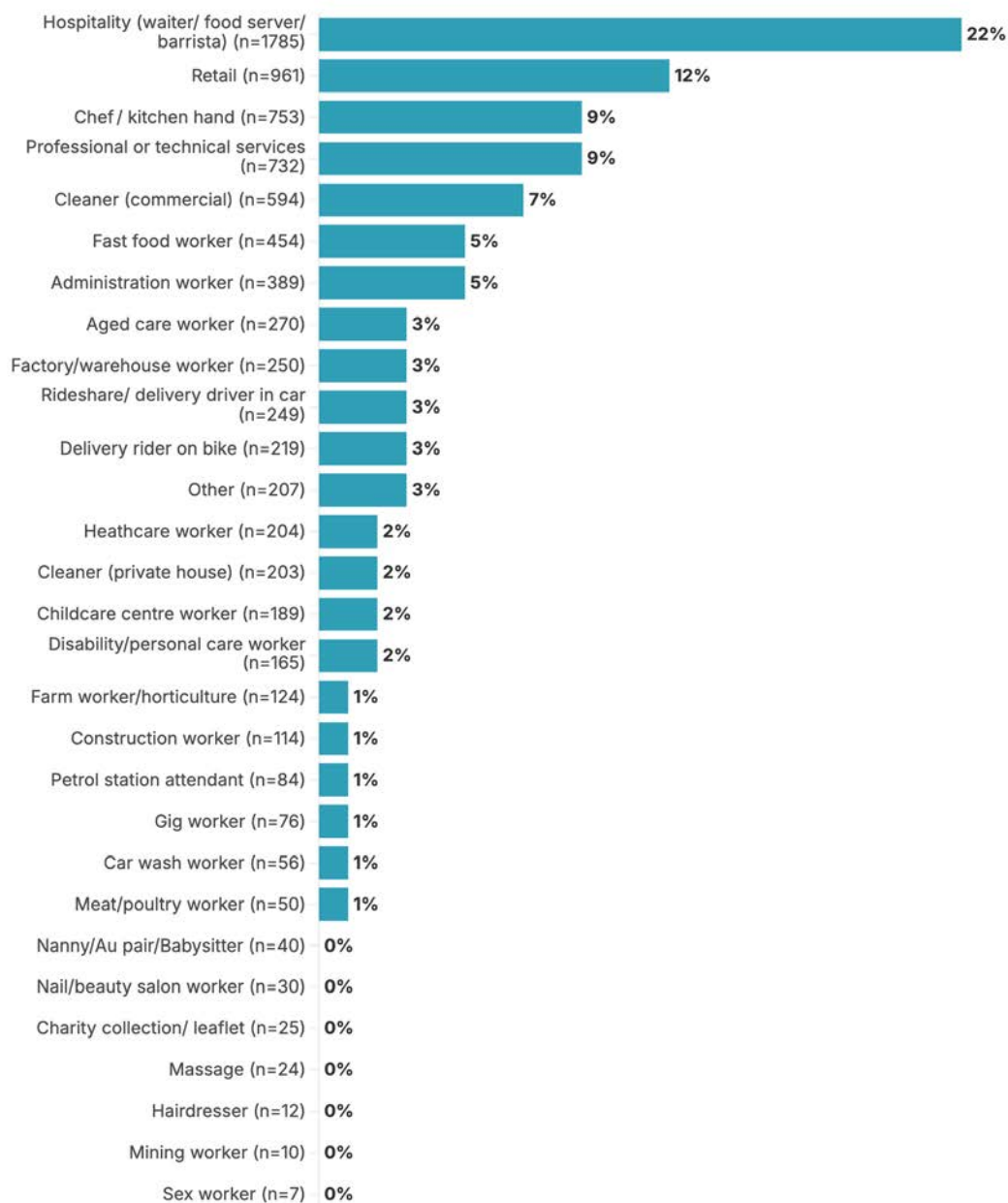
Male international student from Pakistan, 28, in Queensland

Participants' lowest paid job on a temporary visa in 2023-24

Participants who worked on a temporary visa in 2023-24 were asked 'What was your lowest paid job'? We did not ask about the nature or size of the employer, or whether the employer was a labour hire provider, because we believed these would be difficult for some participants to accurately answer and the data could be unreliable.⁷

FIGURE 1

Participants' lowest paid job in 2023-24 (n= 8,276)



Participants' demographics and visa in their lowest paid job in 2023-24

The demographic profile of the 8,370 participants who worked in 2023-24, and whose responses form the basis of this report, is set out at [Appendix 1](#).

Participants were located across all states and territories when working in their lowest paid job in 2023-24. The majority (6,365 participants; 84%) were located in major cities. Around one in eight (975 participants; 13%) were located in Inner Regional Australia. The remaining 263 participants (3%) were located in Outer Regional, Remote or Very Remote Australia.

Participants were nationals of 140 countries, with the largest cohorts from India (16%), China (11%) and Nepal (9%).

A majority had arrived in Australia within 18 months of the survey, including one in five (19%) who were in their first six months in Australia. Over three quarters had been in Australia for 2.5 years or less at the time of the survey.

Participants were required to be at least 18 years old in order to participate in the survey. Thirty-five percent of participants were aged between 23 and 27. About a quarter were aged 18-22 (23%) and a further two-fifths were aged 28 years or older (42%).

Substantially more women (58%) than men (42%) participated in the survey.

Four in five participants (80%, 6,627) held a student visa when working in their lowest paid job in 2023-24. This reflects a robust sample that is broadly representative of current student visa holders in Australia at the time of the survey. It was impossible for us to randomly sample this group as it is not known which or precisely how many international students have worked in Australia and we were not able to reach all international students. However, our systematic outreach through 27 education providers across Australia who directly disseminated the survey to international students and many more that passively advertised it, as well as international student groups and through social media and online student publications, was comprehensive.

Among non-student visa holders, the largest cohorts were Temporary Graduate (subclass 485) (4%, 334), Working Holiday (417/462) (3%, 270), skilled visas (1%, 104), and bridging visas (1%, 105). A further 2% were on a range of other visa classes and for 8% their visa in their lowest paid job in 2023-24 was unknown. There were 155 secondary visa holders.

The heavy weighting towards international students makes it difficult to generalise to all categories of visa holders. The non-student part of the cohort is not necessarily representative of the broader population of people who work while holding a temporary visa in Australia. Nevertheless, and given the challenges in collecting data from this diverse group workers, the findings in this report are illustrative of the experiences of many temporary migrants who were working in Australia up to and including 2024.

Australian Businesses Systematically Underpay Migrant Workers

This section reports on participants' wages per hour in their lowest paid job between 1 January 2023 and 31 August 2024. We also compare these findings with those in our 2019 and 2016 surveys.

Defining underpayment

Minimum wages in Australia

All employees are entitled to a minimum wage for every hour they work, regardless of their immigration status.ⁱ For many employees, the minimum wage is set by the award that covers their industry or occupation. All employees not covered by an award or registered agreement are entitled to the National Minimum Wage.ⁱⁱ This is the minimum pay rate provided under the *Fair Work Act 2009* and reviewed each year.

Awards generally set higher wages for overtime, and penalty rates for work at night and on weekends and public holidays.ⁱⁱⁱ Awards may also establish age-based “youth rates” - minimum wages below the National Minimum Wage for workers under 21 years of age.^{iv}

Under the *Fair Work Act 2009*, casual employees are entitled to a 25% loading on their hourly wage.^v

ⁱ Fair Work Ombudsman, ‘Visa holders and migrant workers – workplace rights and entitlements fact sheet’ *Fair Work Ombudsman* (Webpage) <<https://www.fairwork.gov.au/tools-and-resources/fact-sheets/rights-and-obligations/visa-holders-and-migrant-workers-workplace-rights-and-entitlements>>.

ⁱⁱ *Fair Work Act 2009* (Cth) s 294(3).

ⁱⁱⁱ *Ibid* s 139(1).

^{iv} *Ibid*.

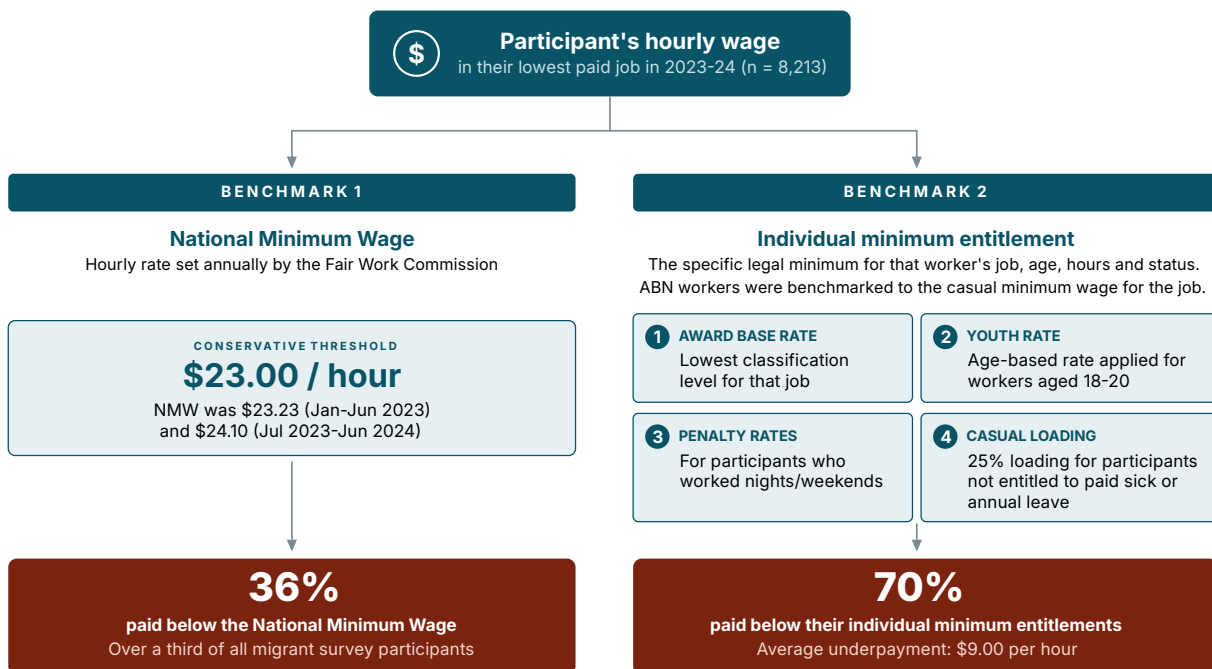
^v *Fair Work Act 2009* (Cth) s 15A(1)(b) provides casual employees are entitled to a casual loading under the terms of a Fair Work instrument. Section 294(2)(c) provides this loading must at least equal the casual loading for award/agreement-free employees. Over the past several years this loading has been 25% for award- and agreement-free employees: see e.g. Order of Justice Hatcher, President, Vice President Asbury, Deputy President Millhouse, Deputy President O’Neill, Ms Labine-Romain, Professor Baird, Mr Cully in *Annual Wage Review 2025* (Fair Work Commission, PR786529, 19 June 2025) [5.1].

Two benchmarks for calculating underpayment in this study

Our analysis of rates of underpayment is based on two different calculation methods.⁸

How we measured underpayment

Each participant's wage was tested against two independent benchmarks. Where information was missing, the most conservative assumption was applied at every step. Actual rates of underpayment are likely higher than reported here.



As in our previous surveys, we compared each participant's hourly wage with the National Minimum Wage, and, where relevant, the casual minimum wage (the National Minimum Wage plus a 25% loading). From January to June 2023, the National Minimum Wage was \$23.23 per hour. From 1 July 2023 to 30 June 2024 it was \$24.10 per hour. In our analysis, payment beneath the National Minimum Wage was conservatively defined as payment of \$22 or less per hour.

For the first time, in this survey we also asked participants a set of further questions that enabled us to more accurately calculate an approximate minimum wage for each participant in their lowest paid job in 2023-24. Where information was unavailable (such as specific job duties, or whether the participant worked before or after 1 July 2024), we assumed the most conservative measure. The calculation was based on the following:

Participants' lowest paid job minimum entitlements under the award for that job.⁹ This was calculated conservatively at the lowest classification level for that job under the award, as of 1 July 2023, even though many participants would have been entitled to minimum wages at higher levels. For participants aged 18-20, youth rates under the award were applied as relevant (only applicable to 10% of participants). Where no award covered a participant's job, the National Minimum Wage on 1 July 2023 was applied.

Participants worked nights or weekends penalty rates specified under the relevant award were used as the relevant minimum, but only for participants who indicated that they worked those hours and never received higher wages, or did not know whether they received higher wages at those times (we assumed if they received meaningfully increased hourly wages they would have known). We conservatively used the lowest penalty rates under the award (i.e. not higher rates that may apply, for example, Sundays or public holidays). We further undercounted underpayment of penalty rates by not applying penalty rates to those who indicated they were sometimes paid more on nights and weekends. For that cohort, we do not know how much more they were paid after hours, so calculated their entitlements as if they had not worked nights and weekends.

Participants were not entitled to paid sick leave and annual leave: participant was not a permanent employee, so we applied a 25% casual loading to the participant's minimum wage.

Participants on an ABN: we benchmarked a nominal individual minimum entitlement based on the minimum wage for a casual employee in that job, similarly taking into account the first two factors above.¹⁰

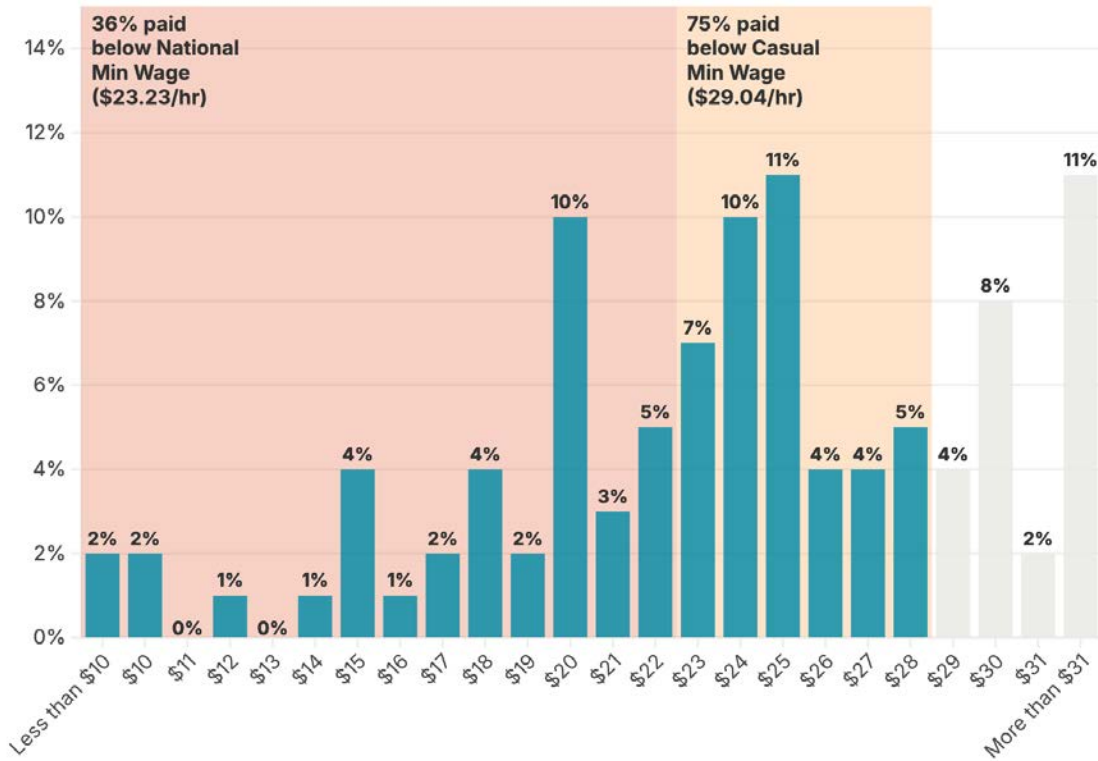
Employers pay many migrant workers below the National Minimum Wage

Over a third (36%) of all participants were paid below the floor of the National Minimum Wage. Three quarters (75%) were paid below the statutory casual minimum wage (National Minimum Wage plus 25% loading).

In addition to general widespread payment below the statutory minimums, the distinct spike at \$20 per hour (and to a lesser extent, \$15 per hour) may suggest a sizable cohort of employers is paying migrant workers an arbitrary rounded rate that is unrelated to lawful minimum wages. It is also possible, however, that some survey participants rounded their hourly wage to these figures if they could not recall their precise rate.

FIGURE 2

Well over a third (36%) of migrant workers were paid below the National Minimum Wage floor



Participants' hourly wage in their lowest paid job, including workers on an ABN (n=8,213)

“I once worked at a sushi restaurant, and there was a difference in the amount paid to employees. If you were good at English or good at serving customers, you were paid the legal hourly wage, but if you weren't, you were only paid \$16–\$18 per hour. I've seen friends who were paid less because they didn't speak English well and didn't think about getting another job, so they just took that amount and worked.”

Female international student from Korea, 24, in Tasmania

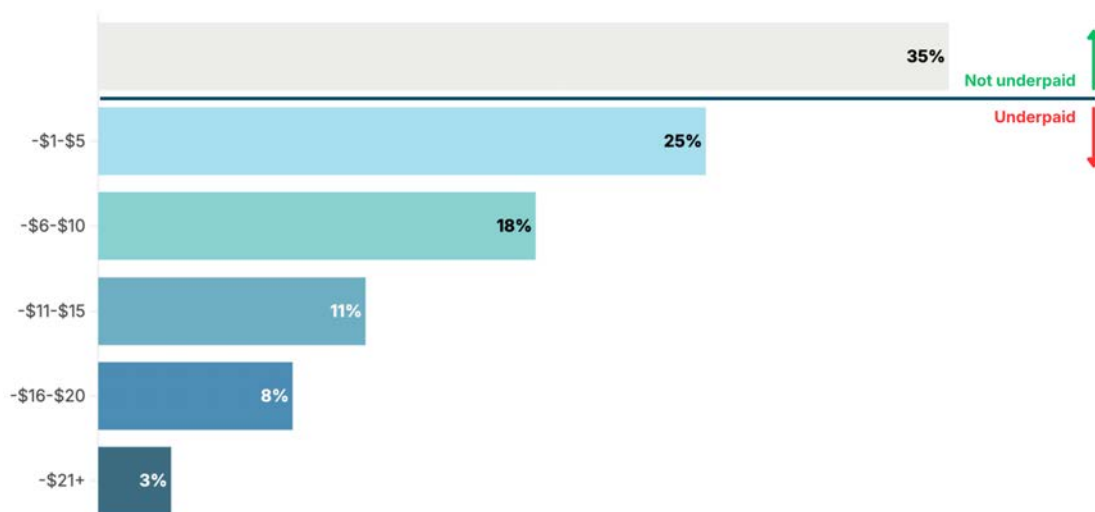
Australian employers pay most migrant workers substantially below their individually calculated minimum entitlements

Among 5,469 participants who did not work on an ABN, two thirds (65%) were paid less than their individual minimum entitlements under the Fair Work Act, taking into account any relevant award, penalty and/or casual employment status.¹¹

Employers paid two-thirds of migrant employees less than they were owed by an average \$8.80 per hour. One in five were underpaid more than \$10 per hour and one in ten by more than \$15 per hour.

FIGURE 3

Employers pay two-thirds of migrant employees less than their individual minimum entitlements under the Fair Work Act – many were paid far below what they were owed



Dollars per hour participants were underpaid in their lowest paid job, comparing their hourly wage with their Fair Work Act individual entitlements (not including ABN workers) (n=5,469)

“Once, I asked my employer why I was hired as a casual worker and only paid \$23, and he treated me like a complete idiot. He said that all restaurants and all Sydney stores are run like this, and if you want to find a place that pays more, look for it. He also said that all the employees who are working now are paid the same, and that he does not say anything.”

Female international student from South Korea, in NSW

How much are international students collectively underpaid in Australia?

Among 2,970 international student employees, the average underpayment was \$8.90/hour. We focused our calculation on international students because of the particular robustness of our data on this large cohort, but many other visa holders are similarly underpaid. The overall amount underpaid to all migrant workers would be far higher.

The average underpaid international student would be underpaid by around \$214 per week (based on 48 hours of work per fortnight, the limit permitted during term time on most student visas). For many, this would deprive them of the majority of their weekly rent (approximately \$239 to \$400 per week in a share house).ⁱ

The average underpaid international student is short-changed by \$11,107 per year.

If this is representative of the full international student cohort working in Australia in August 2024, the survey data indicates **international students in Australia are underpaid by around \$61 million per week and approximately \$3.18 billion per year.**ⁱⁱ

ⁱ The majority of international students live in a share house: Berg and Farbenblum, *Living Precariously: Understanding International Students' Housing Experiences In Australia* (Report, December 2019) 7. The average cost of rent in a share house in a major city is between \$239 and \$400 per week: Australian Government, 'Cost of Living Calculator', *Study Australia* (Webtool, November 2023) <<https://costofliving.studyaustralia.gov.au/>>.

ⁱⁱ In August 2024 there were 679,293 international students in Australia: Department of Home Affairs, *Student visa and Temporary Graduate visa program report* (Report, 31 December 2024) 61. The Reserve Bank estimates that 61% of the international student cohort were working: Madeleine McCowage, Harry Stinson and Matthew Fink, 'International Students and the Australian Economy' *Australian Economy Reserve Bank of Australia* (Bulletin, 24 July 2025). From 1 July 2023 students have been permitted to work 48 hours per fortnight on their visa during term time, and unlimited hours during term breaks. The assumption of 24 hours per week is appropriate because although some working international students may work fewer hours than the 24 hour limit during term time, many international students likely work more than 24 hours per week outside term time (approximately a third of the year), and some work more than their permitted 48 hours during term time.

Our underpayment estimates are based on the proportion of international student employee survey participants who reported experiencing underpayment (69%). An alternative approach would be to calculate the average underpayment across all student employees, including those who were not underpaid, which would reduce the estimated average to \$6.10 per hour. Applying this average to the overall proportion of working students in Australia would produce an estimated total underpayment of approximately \$60.7 million per week, or \$3.15 billion per year.

Comparing wages to survey findings in 2016 and 2019

In 2016, we surveyed 4,322 temporary migrants across Australia about their experiences at work in Australia - mostly international students and Working Holiday Makers.¹² In 2019, we surveyed 2,472 international students about their working conditions in Australia.¹³ To evaluate change over time, we compare our current findings on international students with our findings from the 2016 and 2019 surveys, and we compare our findings on Working Holiday Makers with our findings in the 2016 survey.

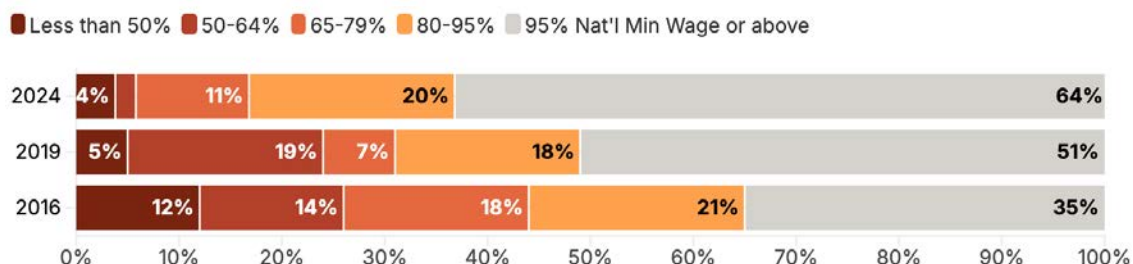
In 2016 and 2019 we did not calculate individual minimum entitlements taking into account relevant award wages, casual status and penalty rates. Instead, across all three surveys we measured underpayment relative to the National Minimum Wage at the time. We therefore use that as the relevant comparator.

It is clear from the 2024 survey that underpayment below individual entitlements remains widespread. However, compared to our previous surveys, the proportion of participants earning below the base National Minimum Wage floor has fallen, as has the proportion earning far below the National Minimum.

In 2016 and 2019 around a quarter of international students (26% and 24% respectively) earned less than two thirds the National Minimum Wage. In 2024 only 5% earned these severely low wage rates.

FIGURE 4

The bottom end of underpayment has improved for international students: substantially fewer are earning below the National Minimum Wage in 2024 than in 2019 or 2016

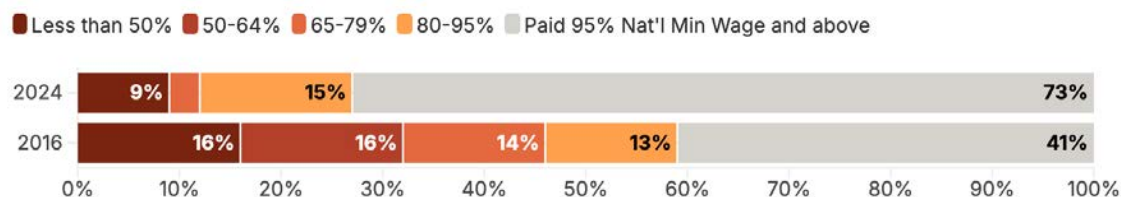


Proportion of international students in each wage rate bracket as a proportion of the National Minimum Wage at time of survey, comparing current survey with survey data from 2016 and 2019

In 2016, 59% of Working Holiday Maker survey participants earned below the National Minimum Wage compared with 27% in 2024. In 2016, 32% of participants earned less than two thirds of the National Minimum, compared with 9% of participants who earned these severely low wages in 2024.

FIGURE 5

The bottom end of underpayment has improved for Working Holiday Makers: substantially fewer are earning below the National Minimum Wage in 2024 than in 2016



Proportion of Working Holiday Makers in each wage rate bracket as a proportion of the National Minimum Wage at time of survey, comparing current survey with survey data from 2016

There are several potential explanations for the decrease in the proportion of participants paid at the most severe levels of underpayment. A key driver is likely the substantial reduction of international students and Working Holiday Makers in Australia during COVID coupled with acute labour shortages that may have removed the very low paid jobs at the bottom of the market. There has also been progressive tightening in the labour market since the 2016 and 2019 surveys were conducted, with national unemployment moving from 5.8% in 2016 to 5.0% in 2019 and 4.0% in 2024,¹⁴ which may have allowed some migrants to move to better paid jobs.

Policy reforms and Fair Work Ombudsman information and enforcement campaigns may have contributed, in the context of a growing recognition by government and business of the extent of wage theft following numerous high-profile wage theft cases involving migrants. For instance, one key driver for the improvement among Working Holiday Makers may have been the introduction in 2022 of the Horticulture Award requirement that 'piece rates' be set at a level which allows a competent pieceworker working at an average productivity to receive more than a specified minimum rate. In this survey, 18% of Working Holiday Makers had their lowest paid job in horticulture.

Another potential contributor could have been improvement in migrant workers' awareness of minimum wages, although the data suggests this is not the case. Comparing our data on international students across the 2016, 2019 and 2024 surveys, there has always been a reasonably high proportion of participants who knew the National Minimum Wage. Among participants paid below the National Minimum Wage in 2016, 73% knew the National Minimum Wage, compared with 83% in 2019 and 72% in 2024. Knowledge of the minimum wage for a casual employee has remained consistently low, with only a small increase from 25% who knew the casual minimum in 2019 to 34% in 2024 (we did not ask this in 2016). About a quarter

of participants still do not know the National Minimum Wage and two thirds of participants still do not know the casual minimum wage.

Finally, three differences in survey methodology may provide a partial explanation. First, previous surveys asked about migrants' lowest paid job at any point, whereas the 2024 survey focused on migrants' lowest paid jobs in 2023-24. It is possible that earlier survey data captured more historic wage rates, though the impact of this would have been moderate as 76% of participants had arrived within two years of the 2016 survey¹⁵ so the time periods would have been comparable for most participants. Second, in the 2024 survey we have a substantially larger international student survey population than previous surveys, with many more students recruited through emails sent by their education provider rather than primary reliance on recruitment via social media and other methods in prior surveys. We also offered more gift card prizes in the 2024 survey than in previous surveys, which likely broadened participation by international students and provided additional motivation beyond reporting negative experiences. In combination these factors may have increased participation among students.

Businesses Engage Most Migrants in Insecure Work Arrangements that Give Employers Overwhelming Leverage

This section reports on the structure of participants' employment in their lowest paid job between 1 January 2023 and 31 August 2024. It compares migrants' employment structure with the broader Australian labour force and considers the implications of insecure work arrangements for migrants' vulnerability to workplace exploitation.

Most work in the general Australian labour force occurs in permanent and fixed-term employment, but the vast majority of migrants in our survey worked on an ABN or as a casual employee

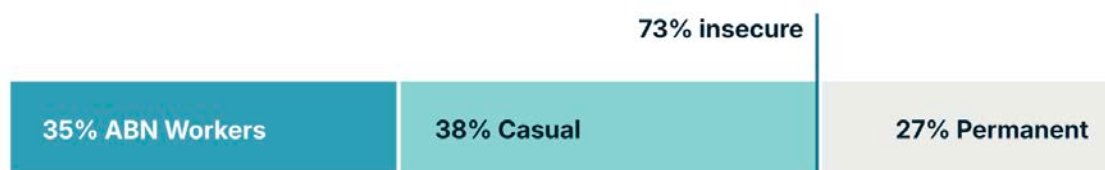
Permanent employment is the norm across the labour market in Australia. ABS data shows that three quarters (74%) of the Australian workforce were permanent or fixed-term employees at the time of the survey (August 2024).¹⁶

Under the Fair Work Act, permanent employees and those on fixed-term contracts have a firm advance commitment to ongoing employment and can usually expect to work regular hours each week – either part-time or full-time.¹⁷ They are entitled to at least four weeks paid annual leave, and two weeks paid sick or carer's leave and must give and receive notice to end the employment.¹⁸ In this report, we refer to permanent and fixed term employment as 'permanent employment'.

Only 27% of survey participants were permanent employees. The remainder were in insecure work arrangements as casual employees or on an ABN.

FIGURE 6

Three quarters of migrant workers were engaged in insecure work arrangements



Participants' work arrangements (n=6,778)

Casual employees have no advance commitment to ongoing work, no predictability of future work, and no entitlement to paid sick or annual leave. In recognition of these diminished entitlements and the insecurity of their position, casual employees are entitled to a casual loading or specific casual pay rate under an award.

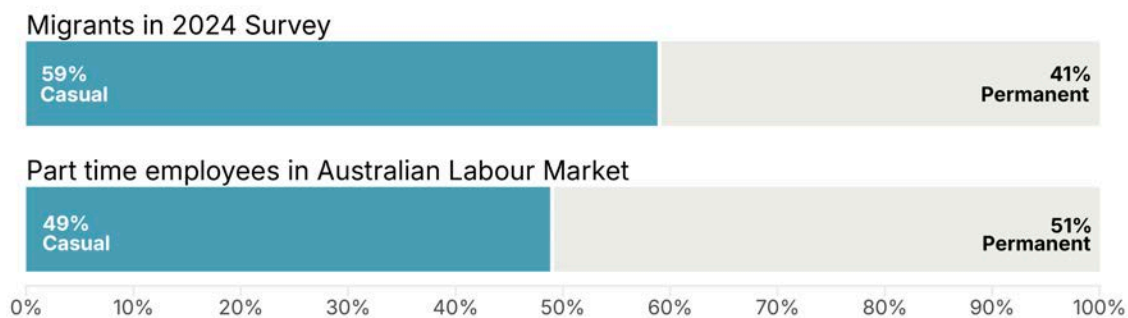
At the time of the survey, 18% of the Australian labour market was in casual employment.¹⁹ However, casualisation was higher among employees who did not work full-time hours: 49% of employees who worked part-time hours were engaged as casuals' based on information from ABS (August 2024).²⁰

We are unable to distinguish full-time and part-time employees in our survey cohort. However, within the full cohort of migrant employees in our survey (including those working full-time), 59% were employed as casuals - a higher proportion than in the Australian part-time workforce.

Within our survey cohort a slightly larger proportion of women than men were casual employees in their lowest paid job (39% vs 37%), while 37% of men worked on an ABN compared with 33% of women. The proportions of casual workers and ABN workers in urban, regional and other regional/remote areas were similar.

FIGURE 7

A higher proportion of migrant employee participants in the survey were employed as casuals, compared with the proportion of part-time employees in the Australian labour market who are employed as casuals



Proportion of employees who are casual versus permanent employees, comparing survey participants (n= 4,415) with ABS data on part-time employees in the Australian labour market.

Source: [Australian Bureau of Statistics, 'Casual employment' Australian Bureau of Statistics \(August, 2024\)](#)

Over a third of migrants in our survey were engaged on an ABN – exponentially higher than the prevalence of ABN work in the Australian labour market

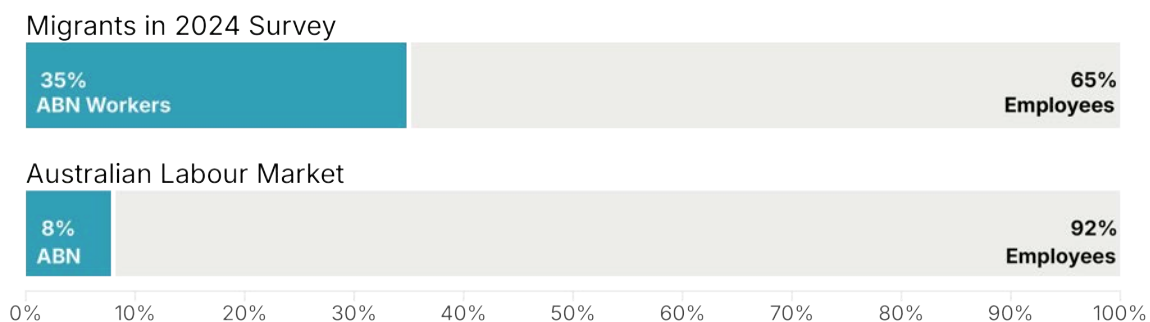
ABS data indicates that 7.5% of all workers in Australia worked on an ABN at the time of the survey (August 2024).²¹ Industries where the use of independent contractors was most common were construction (24% of people in construction) and administrative and support services (19%).²² By comparison, 35% of migrant workers in our survey were engaged on an ABN.

“Many times your boss wants you to trade with them using ABN, so that you become a business entity instead of a legal TFN employee ... Because if they need to pay more money by time, they prefer you to trade with ABN so as not to pay pension.”

Female international student from China, 22, in Victoria

FIGURE 8

ABN work among survey participants was over 4 times more common than in the Australian labour market



Proportion of workers on an ABN, comparing survey participants (n= 6,778) with ABS data.

Source: [Australian Bureau of Statistics, 'Working Arrangements' Australian Bureau of Statistics \(August 2024\)](#)

Legal framework governing work on an ABN

ABNs are used by independent contractors who perform work or provide services for others without having the legal status of an employee. Independent contractors are engaged under a contract for services (a commercial contract), negotiate their own fees and working arrangements and frequently work for more than one client at a time. By contrast, employees are engaged under a contract of service (an employment contract), performing work under an employer's control.

How protections differ for employees and contractors

Employees are entitled to minimum protections under the Fair Work Act and relevant industrial awards. These include minimum wages, paid leave or a casual loading, and penalty rates for overtime or work on nights, weekends or public holidays. Independent contractors are not entitled to a minimum wage or pay rate. They may also have reduced entitlements to workers compensation and superannuation.

How to distinguish an employee from a contractor

In law, several factors must be considered together, including: the amount of control over how work is performed; financial responsibility and risk; who supplies the tools and equipment; ability to delegate or subcontract work; hours of work; and expectation of work continuing.

Prior to 26 August 2024, in cases where there was a written agreement between the parties, the critical point at which to consider these factors was at the 'start of relationship', based on the terms of that agreement.ⁱ From 26 August 2024, the Labor government's Closing the Loopholes Act re-instated the previous approach which considers the factors above in light of the 'whole of relationship' between the parties.ⁱⁱ Rather than a narrow focus on the agreement between the parties, the factors are now considered in light of 'the real substance, practical reality and true nature of the relationship' and 'all parts of the relationship between the parties, including the terms of the contract and how the contract is performed in practice'.ⁱⁱⁱ

'Misclassification' and 'sham contracting'

Misclassification occurs when a business treats a worker as an independent contractor, including by asking them to provide an ABN and submit invoices for their work, even though the agreed working arrangements indicate that the worker is an employee.^{iv} A worker on an ABN who is a misclassified employee is entitled to the same protections under the FW Act as all other employees, regardless of the state of mind of the employer. However, in practice, in order to assert their rights as an employee, the ABN worker must first prove that they are misclassified.

Sham contracting occurs where an employer unlawfully misrepresents to the employee that the employment relationship is an independent contracting arrangement when the employer does not reasonably believe this.^v Businesses engage in sham contracting to avoid paying legal entitlements such as minimum wages, super, leave and workers' compensation. The Labor government's Closing the Loopholes Act narrowed the defence for an employer from a 'recklessness' test to a 'reasonableness' test.^{vi} To defend a sham contracting claim, an employer must now prove they reasonably believed they properly engaged the worker as a contractor.

Basic protections for contractors who are not misclassified but are vulnerable

In 2024, the Labor government introduced a new scheme for 'regulated workers',^{vii} defined as contractors who are 'employee-like workers' doing 'digital platform work' in the road transport industry. These reforms gave the Fair Work Commission jurisdiction to make minimum standards orders for these Independent contractors, including protections against unfair deactivation (similar to dismissal) and minimum wage standards. This scheme was not yet in place at the time of the survey.

ⁱ Fair Work Ombudsman, 'Independent Contractors' *Fair Work Ombudsman* (Web page) <<https://www.fairwork.gov.au/find-help-for/independent-contractors#difference-between-contractors-and-employees>>. And see *CFMMEU v Personnel Contracting Pty Ltd* [2022] HCA 1 and *ZG Operations Australia Pty Ltd v Jamsek* [2022] HCA 2.

ⁱⁱ *Fair Work Act 2009* (Cth) s 15AA; *Closing Loopholes Fair Work Legislation Amendment (Closing Loopholes No. 2) Bill 2024* (Cth) Sch 1 s 237; Fair Work Ombudsman, 'Whole of relationship test' *Fair Work Ombudsman* (Webpage) <<https://www.fairwork.gov.au/find-help-for/independent-contractors/whole-of-relationship-test>>.

ⁱⁱⁱ *Ibid*.

^{iv} Fair Work Ombudsman, 'I think I could be an employee not a contractor' *Fair Work Ombudsman* (Webpage) <<https://www.fairwork.gov.au/workplace-problems/common-workplace-problems/i-think-i-could-be-an-employee-not-a-contractor>>.

^v *Fair Work Act 2009* (Cth) s 357(1).

^{vi} *Ibid* s 357(2)-(3).

^{vii} *Ibid* Part 1-2 Division 3A.

Most migrants on an ABN are likely misclassified employees who are denied their Fair Work Act entitlements

One in every five survey participants (21%) worked on an ABN in an industry in which independent contracting is not common.²³ For many of these workers, it is more likely that they were misclassified employees who are in fact entitled to protections under the Fair Work Act.²⁴

This includes 760 workers in hospitality, 206 in retail, 208 in commercial cleaning, 51 factory/warehouse workers, 43 health care workers, 42 aged care workers, 39 childcare centre workers, 27 farm workers, 17 car wash workers, 16 nail salon workers, 15 petrol station attendants, 14 meat workers and others. For the remainder of this report we refer to this cohort as 'likely misclassified' ABN workers.

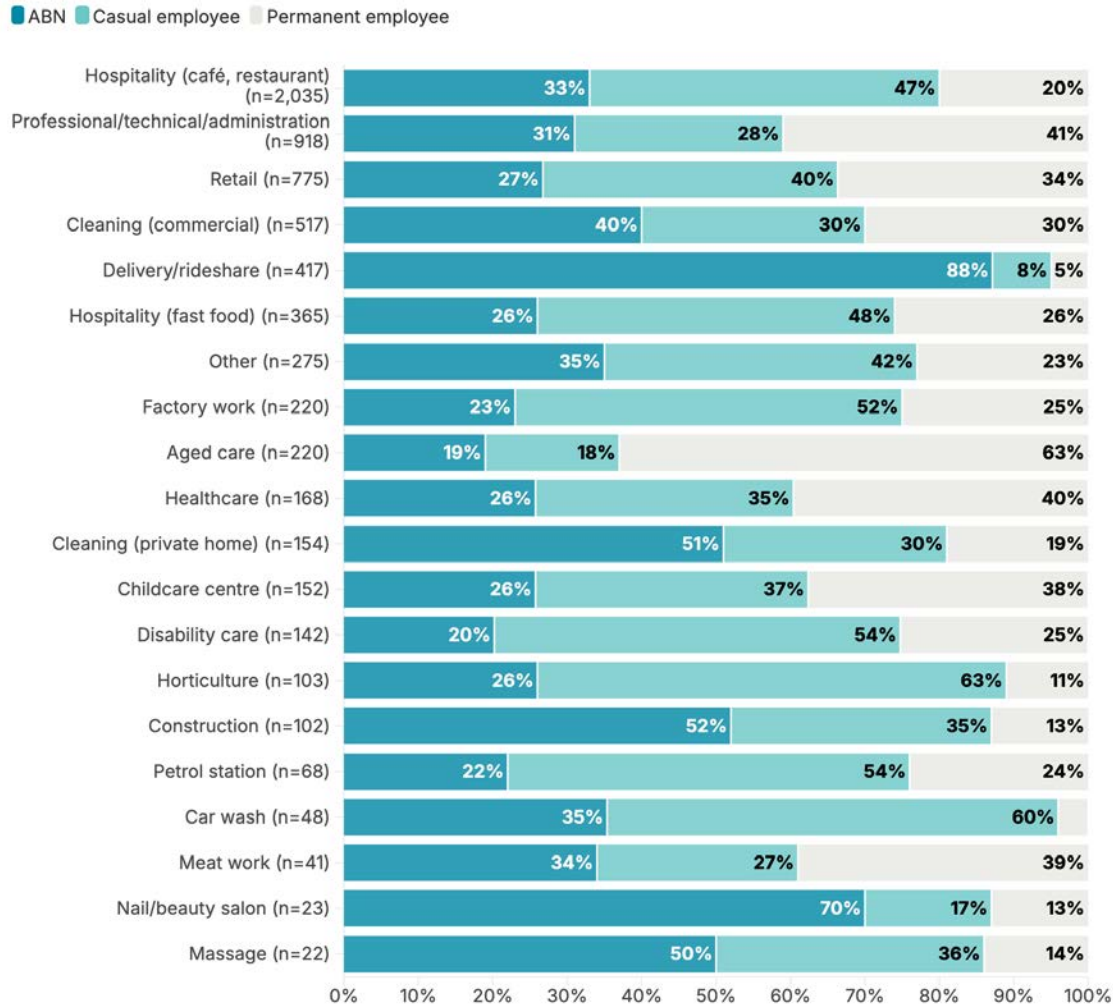
“There was this one restaurant. It is very well known... They use to pay some employees on ABN and a lot of times they wouldn't pay the amount we are owed. When I told them I want to leave they threatened me. Saying things like in Australia you can't leave without a 3 week notice and they can complain to fair work about me and have me prosecuted. I was going through a lot at that time. My grandma back in India was diagnosed with cancer. I was struggling”

Female international student, 24, in NSW

Around one in seven participants (14%) worked on an ABN in jobs in which a larger proportion would likely have met the legal criteria for an independent contractor running their own business (see *Figure 9*).²⁵ These include 365 delivery riders, rideshare and taxi drivers, 202 professional or technical services workers, 85 administration workers, 25 gig workers, 79 cleaners in a private home, 53 construction workers, and smaller numbers of NDIS care workers, nannies/ babysitters, hairdressers, massage workers, and others.

FIGURE 9

Across most industries migrants were primarily engaged as casuals or on ABNs and many workers on ABNs were in industries in which they were likely misclassified employees



Structure of employment among participants in their lowest paid job (n=6,765)

After-hours work is ubiquitous for migrant workers regardless of the structure of the work relationship

Most survey participants (83%) worked at night or on a weekend in their lowest paid job. There is no recent ABS data on trends in the broader Australian labour market,²⁶ however the NSW Government recently reported that in 2024 night-time workers comprised 21% of the NSW workforce.²⁷

However the data is cut, between roughly 80% and 85% of migrant workers in their lowest-paid job worked nights or weekends.

The pattern holds across employment type and gender, and sits well above the NSW workforce baseline. By industry, between 70% and 90% of MJJ participants worked nights or weekends in every industry except childcare centres and professional/administration roles.

NSW WORKFORCE BASELINE — NIGHT WORK

All NSW workers 21%

MIGRANT WORKERS (LOWEST PAID JOB IN 2023–24) — NIGHT AND WEEKEND WORK

All participants 83%

BY EMPLOYMENT TYPE

Casual employees 85%

ABN workers 85%

Permanent employees 79%

BY GENDER

Men 85%

Women 82%

0% 25% 50% 75% 100%

Sources: MJJ survey; NSW Government, 2024.

Night and weekend work may suit some international students who attend classes during the day. However, the reduced visibility of work on nights and weekends also makes those workplaces less physically safe. Fewer other workers may be present, supervision may be more limited, and there may be less visibility by the public. Commutes to and from work often take longer on public transport, and returning home alone at night on foot or on public transport late at night can pose particular safety risks for women. More than four in five female participants (82%) worked nights and weekends, almost the same figure as for men (85%).

Working outside business hours, and reduced visibility of the migrant's work, also creates challenges for the worker to prove their hours worked. As discussed in the next section, after hours work is independently associated with increased risk of underpayment.

*“It is difficult to avoid being exploited on a temporary visa.
This is the truth.”*

Female international from China, 40, in Tasmania

Many Australian Businesses Abuse Their Leverage Over Migrant Casual and ABN Workers to Engage in Severe Wage Theft

This section considers the effect of insecure employment status on the likelihood and extent of underpayment.

Insecure work drives underpayment

As discussed later in this section, we found that the majority of participants who worked as casual employees were paid well below their individual minimum entitlements. It might have been hypothesised that because employment as a casual was more common among certain cohorts (see discussion in the next section), those distinguishing features were the real drivers of the underpayment.

However, we found that even when factors like industry, visa and nationality were held constant, participants in casual employment were still 50-60% more likely to be underpaid their entitlements than workers in permanent employment.²⁸

Casual employment was a substantial independent driver of underpayment regardless of the participant’s industry, nationality or visa.

“Being a casual worker is like walking on egg shells. Not knowing when they will decide that they no longer need you”

Male international student from Zimbabwe, in NSW

Casual and ABN workers were twice as likely as permanent employees to be paid beneath the National Minimum Wage floor

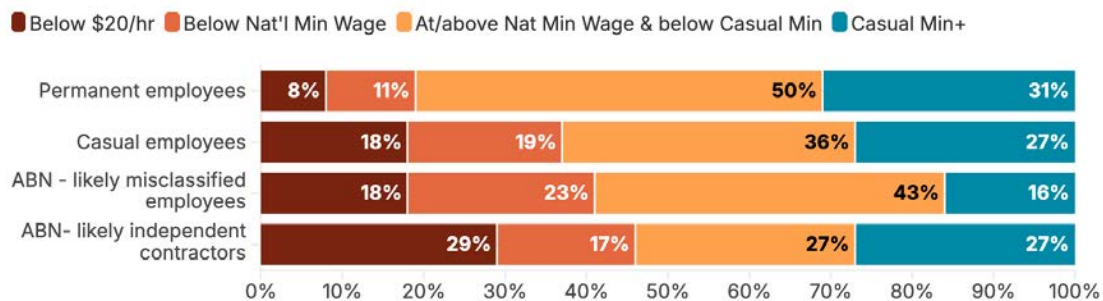
It appears that a substantial number of employers are engaging migrants through these less visible arrangements in order to avoid meeting even the National Minimum Wage floor for these workers.

Migrants in casual jobs or on an ABN were paid fewer dollars per hour in absolute terms than migrants in permanent employment. 37% of casual employees and 43% of ABN workers were not even paid the base National Minimum Wage.

John Howe and Tom Dillion have also observed this pattern in the context of insecure employment of young Australian workers. They note that, ' it is unsurprising that contractors and non-permanent employees indicated high levels of exploitation within their lowest paid jobs; firms' detachment from the conventional employment model is motivated substantially — if not primarily — by efforts to circumvent the suite of rights afforded to permanent employees under workplace legislation'.²⁹

FIGURE 10

Substantial numbers of casuals and misclassified ABN workers were paid below the National Minimum Wage



Wages received in lowest paid job by permanent employees, casual employees and ABN workers in industries in which many were likely misclassifiedⁱ (n=6,772)

ⁱ As discussed above in *Most migrant work on an ABN is likely misclassification of employees as contractors*, we considered that 21% of participants were likely misclassified employees because they worked on an ABN in industries in which independent contracting is not common (including hospitality, retail, commercial cleaning and factory/warehouse workers). Others (14% of participants) worked on an ABN in jobs where they likely met the legal criteria for an independent contractor running their own business (including delivery riders, rideshare drivers, and professional, administrative and construction workers).

“Where I work, the salary is no more than \$21, the highest is \$20.50. I have told my family about this, but they said that we are not Australian citizens, so it is normal to be bullied.”

Female international student from China, 20, in South Australia

Casual employees

When looking at the dollars paid per hour to casual workers, it appears that many employers of these workers are simply making up a wage that does not bear any relationship to minimum wages under the Fair Work Act.

The minimum entitlement for a casual worker on 1 July 2023 was \$29.04 per hour (National Minimum Wage plus 25%, not taking into account Award rates or penalty rates for work on nights and weekends).³⁰

Wage distribution amongst casual employees

73%

were paid below the casual minimum wage
Casual minimum on 1 July 2023: \$29.04/hr

42%

earned \$20-\$25 per hour

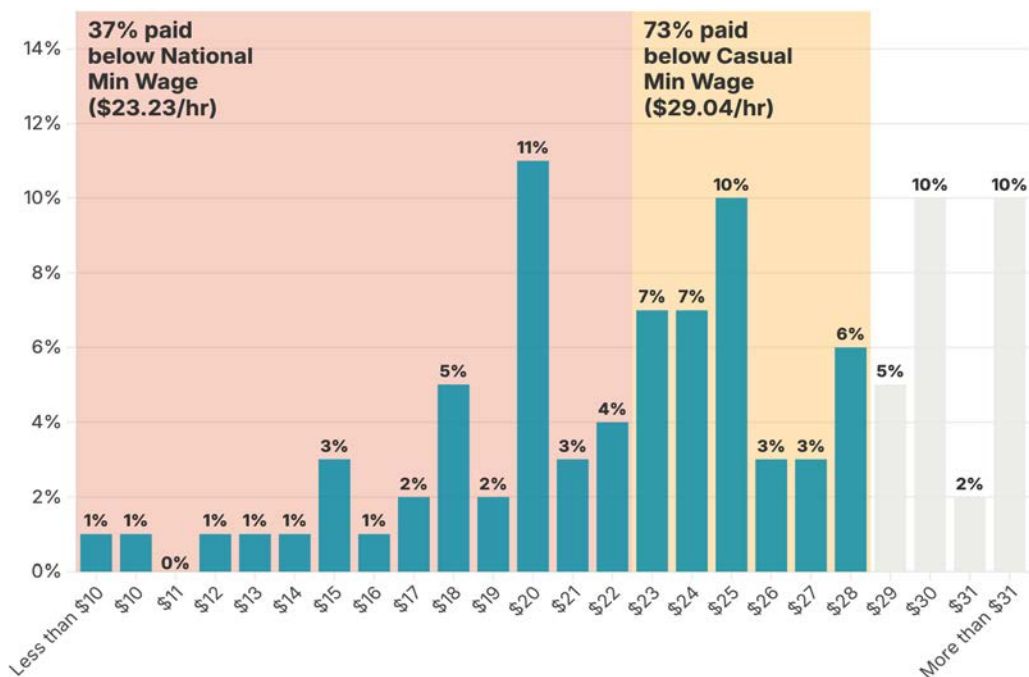
18%

earned less than \$20 per hour

Full distribution shown in the chart below.

FIGURE 11

Many casual employees were paid wages that bore no relationship to the Fair Work Act, and far beneath the casual minimum wage



Participants' hourly wage in their lowest paid job, for casual employees (n=2,596)

ABN workers: independent contractors and misclassified employees

The wage rate pattern for all workers on an ABN was remarkably similar to that for survey participants who were casual employees (with almost no relationship to Fair Work Act casual minimum wages).

The overwhelming majority were earning far less than they would have earned as employees under the Fair Work Act.

Wage distribution amongst ABN workers

79%

were paid below the casual minimum wage
Casual minimum on 1 July 2023: \$29.04/hr

47%

paid \$20–\$25 per hour

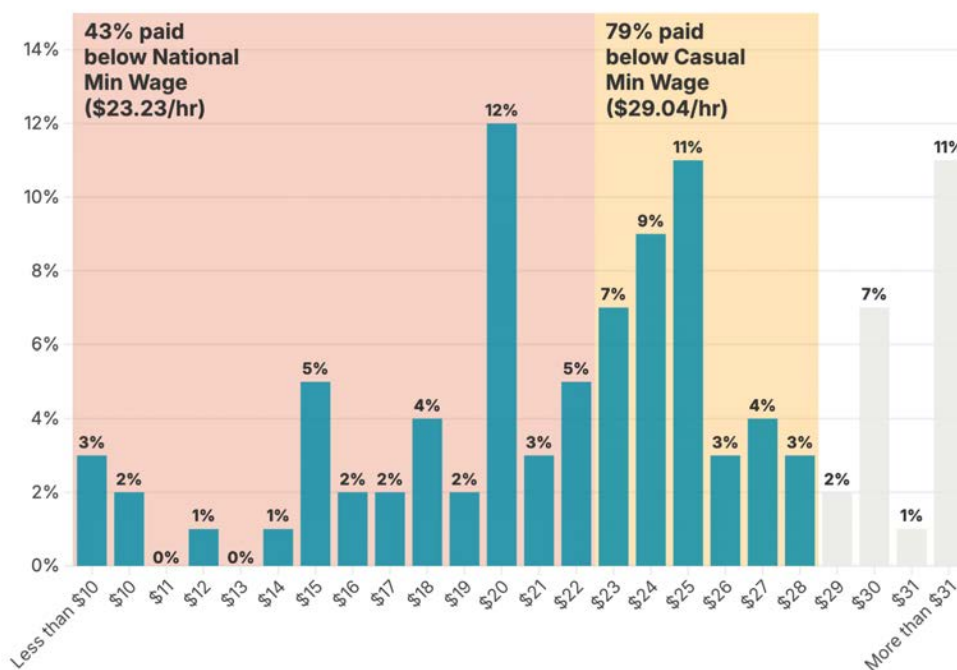
22%

paid less than \$20 per hour

Full distribution shown in the chart below.

FIGURE 12

Businesses that engaged workers on an ABN paid far less than they would have been required to pay an employee under the Fair Work Act, and well beneath the casual minimum wage



Participants' hourly wage in their lowest paid job, for ABN workers (n=2,363)

We considered the wages earned by workers on an ABN against the minimum wage for a casual employee in a similar job, because most workers on an ABN were likely misclassified (see previous section) and lawfully entitled to that wage. For the others who were lawful contractors, the casual minimum is still an appropriate yardstick because they should reasonably expect to earn at least these basic minimum hourly rates that compensate for the lack of predictable work and paid leave.

Workers on an ABN had different wage profiles when comparing those who were likely misclassified (i.e. working in industries in which genuine independent contracting is unusual) with those in industries in which lawful independent contracting is more common.

Those who were likely misclassified looked more similar to casual employees but were substantially less likely to be paid the casual minimum than casual employees (16% vs 27%) and more likely to be paid below National Minimum Wage than casual employees (41% vs 37%). Among likely misclassified employees, 43% were at or above minimum wage and below the casual minimum (compared with 36% of casuals). A likely explanation is that when employers of this large cohort engage these workers on an ABN, they make the arrangement appear reasonable to the worker by paying above minimum wage, which some may consider market rate because they do not take into account the casual loading (and penalty rates) that would apply as an employee.

SNAPSHOT

Delivery and rideshare workers

Especially low hourly wage rates were widespread in gig work jobs, such as delivery riders and rideshare/ taxi drivers. As minimum employment standards typically do not apply in these jobs, hourly wage rates can vary wildly.

Among the 190 participants who worked as a delivery rider in their lowest paid job, 87% were on an ABN, as were 88% of the 227 rideshare and taxi drivers. Among these workers, 59% earned less than \$20/hour. In contrast, among the smaller cohort of workers who were engaged as employees, 42% received less than \$20/hour.

It should be noted that this was their 'lowest pay per hour' in this job rather than their average hourly wage, though it is unclear how much more they were earning across all of the hours they were working, or what proportion of this wage was needed to cover expenses related to their vehicle and equipment. 92% of these workers worked nights and weekends.

“As an immigrant, finding a job can be quite challenging initially. Therefore, I often resort to working for UberEats and DoorDash. However, there is no minimum wage for these gigs, and sometimes I earn only \$10 to \$15 per hour because we aren't paid for the time spent waiting.”

Male international student, 27, in WA

Migrants who worked nights or weekends were more likely to be paid below National Minimum Wage, especially those who were misclassified ABN workers

Among employees who worked nights and weekends, 29% were never paid more for those hours and 16% were paid more for some but not all of those hours. Because work after hours attracts penalty rates under most awards, many migrants working nights and weekends who were paid the same as their ordinary business hours rate would have been substantially underpaid.

The impact of working nights and weekends goes beyond non-receipt of penalty rate entitlements for those hours.

Employees who worked nights and weekends were over 50% more likely to be paid below the National Minimum Wage than those who did not work nights and weekends.

Over a third (34%) of employees who worked nights and weekends were paid below the National Minimum Wage, compared with 21% who did not work nights and weekends.

Independent contractors are not entitled to penalty rates (or minimum wages). This is a key driver of sham contracting by employers seeking to avoid responsibilities to pay penalty rates for after-hours work.

Among ABN workers who were likely misclassified and may have been sham contracted, 90% worked on nights and weekends and 42% did not even receive the National Minimum Wage.

“My employer pays other staff weekend higher rate but not for me. I cannot say that because I might lose my job.”

Female international student from Mongolia, 30, in NSW

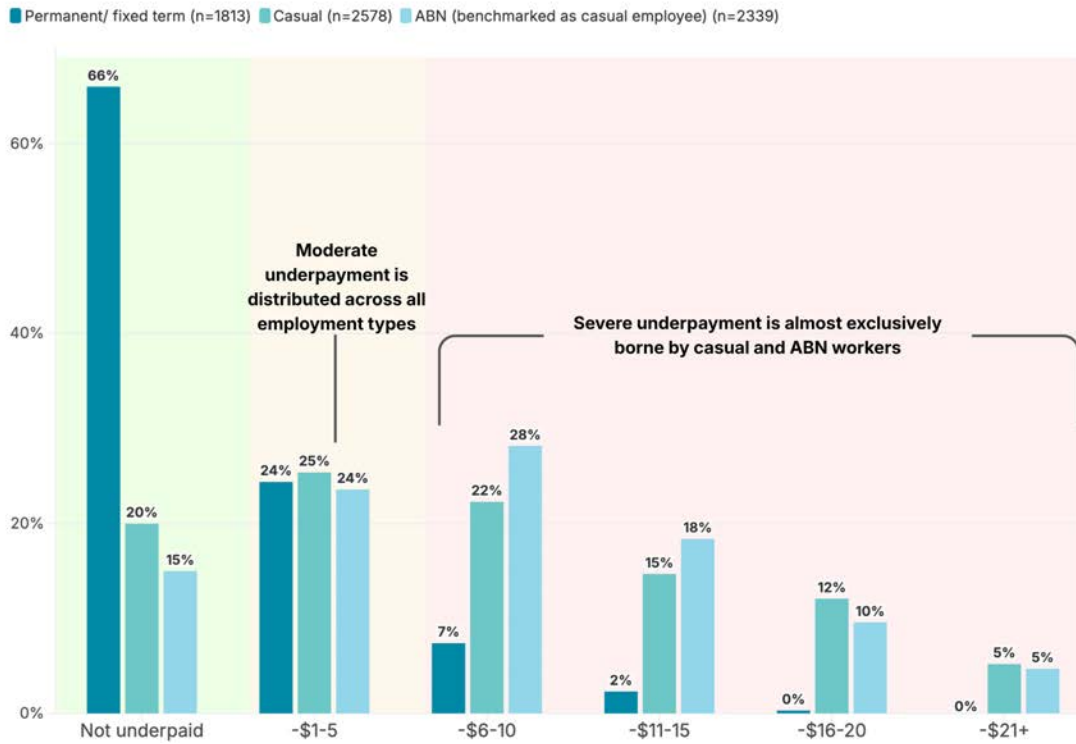
Underpayment of individual minimum entitlements is systemic and extreme for those working as casuals or on an ABN

In addition to evaluating participants' wages against statutory minimums, we also evaluated wages against each participant's individual minimum entitlements based on: the lowest level under the award for their job (or the National Minimum Wage if no award applied); youth rates under the award for those aged 18-21; penalty rates under the award for those who worked at night or on weekends (using the lowest penalty rate); and application of a 25% casual loading for those not entitled to paid annual and sick leave.

Roughly the same proportion of permanent and fixed-term, casual and ABN workers were underpaid between \$1 and \$5 per hour (24-25%). However, at greater levels of underpayment, casual and ABN workers were vastly more likely to be underpaid.

FIGURE 13

Casual and ABN workers were more than 5 times as likely as permanent employees to be underpaid by greater than \$5 per hour, and 10 times more likely to be underpaid by greater than \$10 per hour



Dollars per hour participant was underpaid, based on individual entitlements in lowest paid job, as a proportion of all participants in that employment structure (ABN workers benchmarked to casual employee entitlements) (n=6,730)

Insecure work, deeper underpayment.

Migrants in casual or ABN work were more than twice as likely to be paid below their legal entitlement as those in permanent employment — and when they were underpaid, the gap was more than twice as large.



"Below legal entitlement" combines award rate, 25% casual loading where applicable, youth rates and minimum penalty rates.

ABN workers: independent contractors and misclassified employees

The overwhelming majority of ABN workers were paid less than the minimum entitlements they would have had under the Fair Work Act if they were classified as a casual employee.

89% of likely misclassified workers were paid less than the minimum entitlements they would have had under the *Fair Work Act* as a casual employee. A third (33%) of ABN workers were paid more than \$10 per hour beneath the minimum entitlements of a casual employee.

Casual employees

The overwhelming majority of casual employees were paid substantially below their individual minimum entitlements:

- 80% of casual employees were paid below their minimum entitlements;
- More than half (54%) were underpaid by at least \$6 per hour and a third (32%) were underpaid by more than \$10 per hour; and
- One in six (17%) were underpaid by more than \$15 per hour.

In reality, it is unlikely that the workers paid those rates had been given a formal employment contract as a casual employee. Most likely simply had an informal agreement that they would work certain hours at a certain rate, determined each week verbally or via text message, with no reference to Fair Work Act classification or entitlements.

Many participants would not have known that they were a casual employee, and that this meant they were entitled to a 25% loading on minimum wages. Indeed, when asked 'What is the legal minimum hourly wage for a casual worker?', two thirds (66%) of those who had been a casual employee in their lowest paid job could not identify the minimum as at least \$29 per hour. One third of participants (32%) who had been a casual worker believed the legal minimum for a casual worker was \$24 or \$25 - the National Minimum Wage at the time of the survey. In contrast, 80% of casual worker participants knew the standard minimum wage was \$23 or above.

“I agreed with my boss on the minimum wage and working part-time. In fact, my boss didn't know that the minimum wage had increased to 23, and still paid me 22/hour. My boss told me that I was working part-time, but in fact, he only asked me to come to work when he was busy and needed help. Sometimes I didn't go to work for two weeks.”

Male international student from China, 28, in NSW

Casual and ABN Work Especially Disempower Migrant Workers, and Many Perceive Lawful, Secure Jobs as Unavailable to Them

This section considers the ways in which casual and ABN structures give employers significant leverage and profoundly disempower migrant workers. It draws on survey participants' open responses to illuminate the impact of this insecurity on migrants' decisions and behaviour, including why migrants accept and remain in these jobs despite underpayment and unlawful conditions.

Casual and ABN work drive underpayment because they give businesses significant leverage over workers

Unlike permanent or fixed-term employees, workers who are retained as a casual employee or work on an ABN:³¹

- Lack any guarantee of ongoing work;
- Are not provided with a regular pattern of hours, and may be given no or little notice of timetable changes for shifts;
- Are assured only a minimum number of hours work on a shift, which may be as little as 2 hours depending on their award;
- Have no entitlement to paid holiday or sick leave; and
- Have few protections against summary dismissal.

Survey participants in these situations were acutely aware of their employer's ability to retaliate against any undesirable worker conduct by rostering the worker on fewer or worse shifts, or no shifts at all.

“I realized that working as a casual the employee may will pay less because the wages doesn't include sick leave and holidays ... If I have a problem at work and I need to report at HR how can I be sure they will not take retaliation against me? Or I would not lose my job after I reported?”

Male international student from Colombia, in Victoria

“

Nothing changed, My job got worse because I complained and they straight to give me more night shifts. In my work place night shifts are always horrible... They considered workplace rules superior to Australian laws. I spoke to all the managers and every level I could reach, including the HR department, but nothing changed. I was forced to comply with the coordinator's demands. This New Zealand coordinator often approached me with racist remarks. He never liked the work I did. He was supposed to train me, but instead of educating me, he always belittled me under the guise of training. I swear I have never been so humiliated in my life. I tried to keep working and keep my mouth shut for 8 months because the feeling of humiliation was less intense than the fear of losing my job. The company didn't follow many Australian standards to make more profit, but what could I do? Even though I reached out to the people I was taught to report issues to, the problems were never resolved. After 8 months, I had to quit because I couldn't take it anymore. This work experience has made me fear working because of these people. As an international student, I have been unemployed for a long time and struggling to stay afloat. I am looking for an internship, searching for jobs related to my profession, but my applications are rejected because I am an international student. I didn't come here to work, but I wanted to gain experience through internships while studying. Surviving and thriving in this country is really difficult. After graduation, we have the right to apply for a graduate visa, but this causes hesitation for me. Maybe it's time for me to return to my own country. I am not wanted in this country. When I try to solve problems, I am silenced...

Male international student from Turkey, 24, in NSW

”

Casual employees may in principle have general protections against adverse action by an employer for exercising industrial rights. However, workers would have been aware that in practice, if the worker complained about their wages or conditions, the employer could give the worker less or worse work, or no future work at all and assert that this was due to the unpredictable workflow of a casual position rather than adverse action taken against a particular employee. Most ABN workers lack protection against summary dismissal.³²

“As they are no much jobs around the employers takes the benefit and reduces the work hours and also threatens to remove from job, says should be thankful that he employed [me].”

Male international student from India, 25, in Victoria

The lack of entitlement to sick leave, and prospect of employer retaliation if the worker declines to work their shifts, also forces migrant workers to work when sick or injured.

“ They get underpaid, cannot take sick leave, if they try to take one day off from work the employer fires them... we have to manage our accomodation charges, food, rental services, bills, transportation and medical bills also, some people are not from financially strong backgrounds and cannot manage to pay their study loans which results in heavy fines. All this leads to a cycle which is followed by international students, this also includes working overtime by breaching visa conditions in order to pay all these things.”

Male international student from India, 20, in NSW

Casual and ABN status also shield the business from legal accountability. It is far more difficult for migrants in these insecure roles to prove underpayment or other labour noncompliance and access remedies. In the absence of accurate payslips, casual workers and ABN workers must adduce evidence of each hour they worked without reference to any regular hours. Workers who are aware of their lack of evidence would be more reluctant to take action.

“Without payslip, so cannot provide evidence”

Female international student from Malaysia, 22, living in NSW

Misclassified workers on an ABN are even further disempowered

Genuine independent contractors are assumed to be reasonably empowered business owners with freedom to enter into contracts on terms that are beneficial to them. However, because few minimum labour standards apply, independent contractors in a more disadvantaged position are left highly vulnerable to extremely low wages, bullying and other mistreatment. Importantly, independent contractors fall outside the jurisdiction of the Fair Work Ombudsman ('FWO') without support and with little government oversight (with the exception of the new category of 'regulated workers' who may access assistance from the FWO).

Workers who are misclassified or victims of sham contracting are lawfully entitled to all the rights and protections of employees. However, in order to give effect to these protections, these workers must first challenge their unlawful designation as independent contractors. Although they may seek assistance of the FWO to do this, they face an uphill battle to discharge this burden. They must demonstrate that their facially legal independent contracting arrangement in fact misclassifies them, in circumstances where the worker likely has very little understanding of this highly technical area of law, and often with no written contract and scant evidence of the actual nature of the arrangement.

Many workers likely do not seek advice or assistance from the FWO because they wrongly assume that they lack labour entitlements because they are working on an ABN. Some may also be fearful to approach the FWO because they assume that if they draw attention to their engagement on an ABN they will place themselves at risk of punishment and potential immigration consequences for participating in the misclassification.

"I was told to open an ABN and my accountant said that some employers do this to avoid paying benefits and doing the taxes. My salary was less than what was agreed on and I don't feel like I can do anything about it since I'm on ABN and made it look like I agreed on whatever pay I was given anyway."

Female international from the Philippines, 30, in Queensland

When lead firms conduct risk assessments or due diligence for modern slavery or other noncompliance within their operations or supply chain they rarely if ever look for misclassification or sham contracting (or engagement of independent contractors at all).

As a result, dishonest employers who engage in misclassification or sham contracting can generally assume this will not be challenged (or even understood) by the worker or detected by the FWO or auditors.

Business' leverage is intensified because workers on temporary visas critically depend on retaining these jobs

Many migrants noted that they rely on their job to meet their basic subsistence needs, especially in the context of rising cost of living. Many international students' open responses noted that they arrived in Australia with debt they needed to repay, including those who personally assumed debt and those whose families have borrowed money to enable them to study in Australia.

“many people do more shifts, they save the money and pay the debts and cannot tell the family back home, no friends or family here in new place , new country, everyone is a student and is sorting their own life , no support from anywhere”

Female international student from India, 23, in NSW

Most do not have the safety net of family and social support structures in Australia, and unlike local workers, they cannot access social security to cover periods of unemployment.

“Workers have to accept the bad condition because of their situation and responsibilities toward family. And as a temporary you are not entitled to any social security.”

Female partner visa holder from India, 30, in Queensland

Some migrants also feel they must retain their job at all costs because it is critical to their immigration pathway. This is especially the case for those seeking to accrue points for a skilled visa through work experience in the job, or who are hopeful that their employer will sponsor them for a further visa. It is also the case for workers whose visa is tied to a specific employer.

“[I worked for] Employer who did not pay me superannuation for 3 years, nor full salaries, whom I did not report for fear that it would affect my visa, a job that I did not leave because I needed to prove the hours for my skill assessment and I was also afraid of not getting any other job than during a pandemic. [I also worked for a] Company that compensated only a small portion of its employees, when they paid us much less than legal. Which I did not report because I ... was afraid that it would affect my visa and that I would lose my job. These are among many other experiences that I lived and endured to achieve the goal of being a resident.”

Female permanent resident from Colombia, 33, in Victoria

Many migrant workers feel confined to the “cash jobs” labour market

Many survey participants shared open responses explaining why they were confined to taking “cash jobs” - a term used to broadly describe underpaid, noncompliant and often unsafe casual or ABN jobs that operate outside Australian labour laws. Indeed, many open responses suggested that migrant workers see cash jobs as a third category of work arrangements alongside regular employment (described as “on TFN” (tax file number) or “on tax”) and working on an ABN.

“I asked my supervisor about my less wage amount and they told me it is for tax jobs. Mine is not included. I work as school cleaner through an agency and i dont know what they meant by that sentence.”

Female international student from India, 23, in SA

Migrants face a range of obstacles to employment by businesses that pay lawful wages in safe, respectful workplaces. Upon arrival, migrant workers lack local experience and connections in the Australian labour market that are essential to accessing employment. Migrant workers with poorer English language skills face

even greater barriers to accessing the labour market and may be confined to seeking less specialised jobs in which they are aware that they are easily replaceable.

“not having a good command of English complicates the issue of ... job search, likewise on many occasions the jobs that people get are because they are recommended by a friend and not knowing anyone in Australia it becomes difficult to establish themselves at work, I work delivering homes with the Uber app this me It has allowed me to at least be able to pay my rent and my food, but it means that I have to work 8 hours a day to at least earn between 80-100 dollars, in this job you cannot stop, nor enjoy getting to know Australia and much less get sick.”

Male international student from Colombia, 32, in Victoria

Although some migrants are able to access somewhat better jobs as they accrue local work experience and connections, many face similar obstacles to new arrivals when they are in the last few months of their visa as employers are reluctant to invest in a worker who may imminently leave.

“It gets harder to secure long-commitment jobs as my visa gets shorter though.”

Male Graduate visa holder from Myanmar, 26, in Tasmania

The 48-hour per fortnight work restriction on the student visa pushes international students into unlawful and exploitative jobs

International students face a significant additional barrier to employability due to their restricted hours under their visa (48 hours per fortnight during session). This was one of the most common themes expressed across scores of open responses.

Many participants noted that they applied for tens of jobs with lawful conditions, but employers were not willing to consider hiring them because of the cap on their working hours. As a result, they concluded that the only jobs available to them were “cash jobs”.

“I came in 2021, I had full working rights in Australia [during COVID] I was happy managing everything on my own until July 2023 I had limited working rights due to 24 hours per week restrictions job finding was difficult for me I had to do toxic job as limited options for students were there. People took advantage of me offering job but physically forcing them upon me , abusing me verbally and mentally putting a lot of pressure to work flawless . I had to go through severe depression also I was being sexually abused too.”

Female Bridging visa A holder from Pakistan, 24, in Victoria

Some international students also felt they could not refuse hours that would cause them to breach their 48-hour per fortnight work limitation because of the unpredictability of casual work, and their understanding that their work hours and income are at the complete discretion of their employer. This places them at risk of visa cancellation if the breach were to come to light, making them even more vulnerable and more likely to stay silent in the face of serious exploitation. Although it is now an offence for an employer to coerce a migrant to work in breach of their visa conditions,³³ it is unlikely that the inherently coercive nature of casual work and misclassified ABN work, and the coercive flow-on consequences of underpaid wages, would be caught by this offence.

“I have a casual job and sometimes I have more hours than I am allowed and how my work fluctuates, I feel committed to accepting those hours because I don't know if at some point they won't give me hours ... It is not enough for rent and food because we have fewer hours and they pay us the minimum.”

Female international student from Mexico, in Queensland

International students observed that the restriction on their hours did not enable them to earn sufficient income to cover their tuition and living expenses, resulting in significant stress and acquiescence to exploitative working conditions.

“Had to resort to working in cash and be underpaid so I won’t exceed limit of student visa condition”

Female international student from India, 28, in Queensland

The hours restriction, and related underpayment and exploitative working conditions pushed many into a vicious cycle in which they needed to then work more hours than permitted to make ends meet.

“I see many students suffering in terrible employment circumstances because of fear of employers. Some institutions underpay workers and expect a full load of work. International students work so hard and still many can't make ends meet due to high school fees, rent, food, medical insurance, childcare, and other living expenses. The capping of hours, while understandably in place to protect students from burnout, also presents a huge challenge for those working for fees. It's a difficult life that international students live. Heartbreaking, backbreaking, demeaning, soul-crushing, lonely life. We see our domestic counterparts getting to enjoy their university experiences and just die a little more inside”

Female international student from Kenya, 31, in the ACT

Employers That Underpay Migrants Engage in Other Noncompliance and Cover Their Tracks

The previous section demonstrated that migrants working in casual jobs or on an ABN were more likely to be substantially underpaid compared with those in permanent/ fixed term employment. In this section we explore employer practices which either violate the Fair Work Act (such as non-payment of superannuation or breaches of record-keeping obligations) or allow employers to obfuscate underpayment (such as payments of wages in cash and making discretionary deductions from workers' pay).

We find migrants in insecure work, and migrants who are underpaid, are more likely to experience these noncompliant and obfuscatory practices. We explore each of these practices in turn before exploring how they cluster together for workers who are more substantially underpaid. At the conclusion of this section, we observe that migrants who were a member of a trade union at some point while working in Australia were less likely to experience these employer practices and less likely to be underpaid.

No payslips or misleading payslips

Australian courts have repeatedly underscored that accurate payslips are the "bedrock" of compliance with the Fair Work Act.³⁴ The Fair Work Act requires employers to provide their employees with a payslip within one working day of payday, either in an electronic form or on paper.³⁵ Payslips must set out the details of an employee's pay for each pay period, including the employer's and employee's name, the pay period, date of payment, gross and net pay, the hourly rate (if applicable), number of hours worked, loadings and deductions. Failure to comply with these requirements breaches an employer's record-keeping obligations. Deliberate provision of false payslips may also be an offence.³⁶

One in three casual employees received no payslip or a payslip that falsely recorded fewer hours worked

We asked participants who were employees whether, in their lowest paid job, they received payslips. Response options were: 'yes, for all my hours', 'yes, but not all my hours were recorded', or 'no'.

Almost a quarter (24%) of all migrant employees either received no payslip or a misleading payslip that did not record all their hours. Casual employees were more than three times more likely than permanent employees to not receive payslips or receive payslips that recorded a lower number of hours than the employee worked: 23% received no payslip and 10% received a misleading payslip.

Casual employees were more than three times more likely than permanent employees to not receive payslips or receive payslips that recorded a lower number of hours.

Lack of payslips, or payslips reflecting an incorrect lower number of hours worked, were particularly bad in certain industries. This was reported by 34% of employees in hospitality (cafes and restaurants) and horticulture, 29% of employees in petrol stations, 21% of commercial cleaning employees and 71% of employees in nail salons.

“[M]ost places I've worked for didn't provide pay slips”

Female international student from Vietnam, 19, in Victoria

Many participants provided open responses that described the way in which employers concealed underpayments by issuing payslips that falsely recorded fewer hours than the employee had worked so that the total amount of wages paid corresponded with a fictitious higher rate of pay per hour.

“In one of my casual jobs, I was paid \$15/hour in reality, but on the payslips, the rate was \$33/hour and it recorded less hours than the actual time I had worked.”

Female international student from Vietnam, NSW

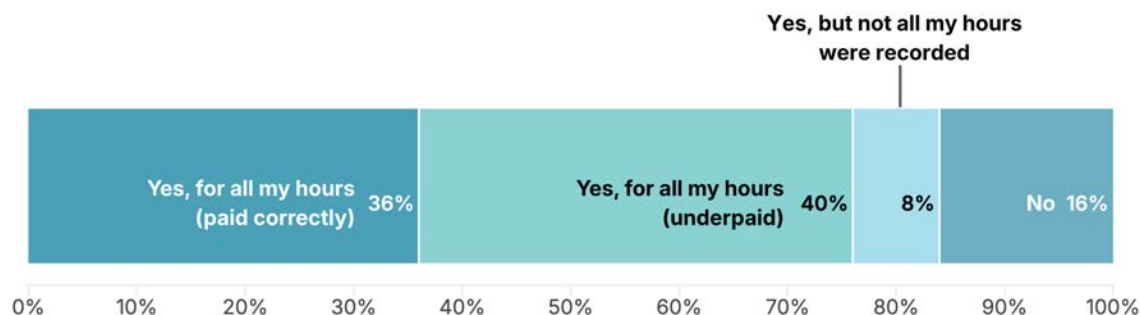
A further 40% of participants received a payslip that recorded all their hours but reflected underpaid wages. For these, we cannot know if this was a result of deliberate falsification of information on the payslip (such as non-specification of after-hours work that attracts penalty rates), or inadvertent error.

“Our working place problem is that in payslip there are no accurate dates when I worked so they give me same wage on Weekends and after 7 pm as well.”

Female international student from Korea, 23, in NSW

FIGURE 14

A quarter of employees received no payslips or misleading payslips, and a large cohort received payslips reflecting underpaid wages



Whether participants received payslips in lowest paid job (n=4,403)

Employer provision of payslips has increased, but most payslips are either misleading or reflect underpaid wages

Employer provision of payslips appears to have increased in the last 10 years: in 2016, 44% of participants never received a payslip,³⁷ while in 2024 only 16% of migrants received no payslips.³⁸

In 2017, the Fair Work Act was amended to apply a ‘reverse onus’ to underpayment claims when an employer fails to meet its record-keeping or payslip obligations.³⁹ If an employer fails to produce records for inspection (including payslips), the onus shifts to the employer to disprove an employee’s underpayment allegation in court.⁴⁰ In this period, the FWO has increased its publicity and deterrence activities concerning employers’ record-keeping obligations. It appears that employers have become more aware of the possible consequences of failing to provide a payslip, and the greater possibility of detection in a FWO audit or inspection.

However, our findings suggest that a substantial proportion of employers are now using the provision of payslips to conceal underpayment – either by not recording all worker hours, or by reflecting underpaid wages that may not be apparent on the face of the payslip.

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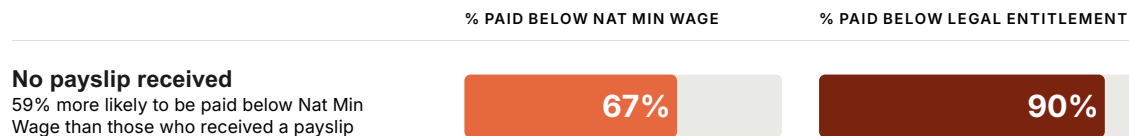
“As an international student, I got a job through a friend in a Japanese restaurant... No written contract was in place or any payslips were provided. I was given shifts a week before and I genuinely thought I was a part-time worker. The boss gave us some cash on top of bank transfer every week and I did not think too much about it and thought it was all legal as I received my wage through bank transfer... I was contacted one day by the hospitality job boss saying that the Fair work will be auditing their restaurant and was asked to lie to them that I was paid legally and provided with all my payslips which had the job title saying casual worker and the legal pay rate with less working hours than the hours I actually worked. I did tell them that due to my conscience I am unable to lie, and then the boss couple tried to contact me multiple times as they were scared of me reporting. They offered to back pay me for not reporting them. I knew they were some employees there working full-time and I did not want to make them lose their jobs, hence decided not to report them and not answer the phone calls from fair work. The boss couple promised me to increase their employees wages and pay them legally but I am not too sure how they are paying them.

Female current permanent resident from Korea, 24, in Tasmania

”

Absence of a payslip was a strong indicator of underpayment

When no payslip is given, underpayment is the rule.



Likelihoods are from regressions controlling for industry, employment type, gender, age and visa.

Absence of payslips is a powerful indicator that can be used by government regulators and industry to detect likely underpayment. Underpayment was near universal among those who did not receive a payslip, often egregiously so.

In some cases, the lack of information contained in a payslip creates difficulties for regulators and businesses to detect underpayment of entitlements without further investigation. Payslips may not differentiate times of work that attract penalty rates and, as discussed above, may fraudulently omit hours worked. Nevertheless, our survey data suggests businesses and regulators could potentially detect high likelihood of underpayment in a high proportion of cases of underpaid employees either based on detecting (1) absence of a payslip, or (2) a payslip that would have revealed underpayment on its face or with minimal further inquiry because all of the employee's hours were recorded and the employee was paid below the National Minimum Wage.

Among employee participants in our survey who were paid below their minimum entitlements:

- 24% did not receive a payslip;
- 23% of were given payslips that would have revealed wages below the National Minimum Wage.

Payment of wages in cash

It is not illegal for a worker to accept wages in cash provided they comply with taxation obligations. Nor is it illegal for an employer to pay wages in cash, provided they comply with national workplace relations system and taxation obligations. However, payment of wages in cash may be suggestive of deliberate employer noncompliance.

At the same time, records generated by electronic transfers of wage payments do not necessarily accurately reflect hourly wage rates. This is because, without compliant

payslips (recording an employee's pay, hourly rates and hours worked), an employer can dispute the number of hours worked, the rate of pay or deductions.

Nevertheless, payment of wages in cash is clearly more difficult to verify than bank transfers and enables the employer to deny even the existence of the employment relationship. This has repercussions for the worker's ability to enforce their workplace rights beyond underpayment, such as demonstrating their entitlement to worker's compensation if they are injured.

“the salary of my first job was only \$12/hour. I know this salary is much lower than it should be. However, all other chinese student that i know did not have job with legal payment, so I have to accept that. I was trying to keep some evidence of the illegal payment. But when I get paid, I was paid by cash in an envelop. I have no evidence that I get illegal payment.”

Female international student from China, 26, in NSW

Despite the dramatic post-COVID reduction of cash in the economy, many migrants are still paid wages in cash, especially casuals and ABN workers

In our 2016 survey of 4,332 participants, we found 44% were paid some or all of their wages in cash in their lowest paid job. Since then, there has been an exponential decrease of cash in the economy.⁴¹

In open responses many survey participants noted the prevalence of “cash jobs” as a categorical descriptor of a particular type of exploitative last-resort job for migrants on temporary visas. Among casual employees in the current survey, 28% reported being paid at least some of their wages in cash in their lowest paid job in 2023-24.

More than one in ten casual employees were paid only in cash, compared with 1 in 25 permanent employees. Similarly, among ABN workers, 22% received at least some wages in cash (4% received all wages in cash). By comparison, only 12% of permanent employees were paid at least some wages in cash (4% received all wages in cash).

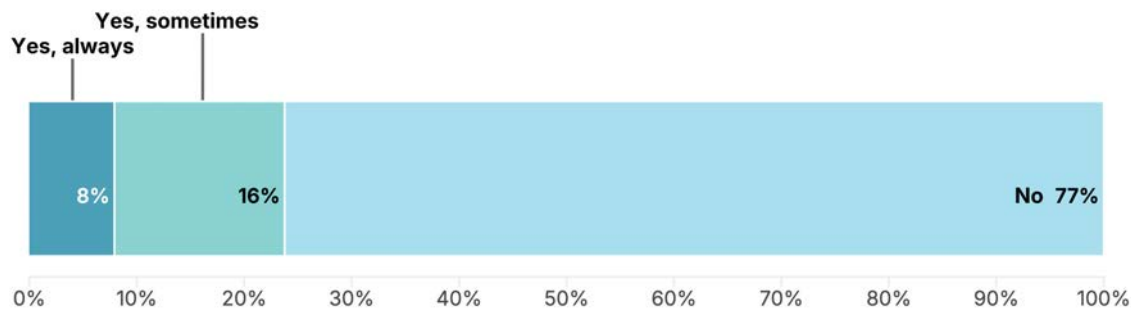
“Are employers allowed to pay very less when they opt for paying in cash ??”

Male international student from Bhutan, in WA

In some jobs with large cohorts of workers, cash payments were especially prevalent. These include waiters/food servers (38% were paid some or all of their wages in cash; 13% were paid all wages in cash), farm workers (34% paid some or all wages in cash; 10% only paid in cash), chefs and kitchenhands (32% paid some or all wages in cash; 10% only paid in cash), car wash workers (29% paid some or all wages in cash; 17% only paid in cash).

FIGURE 15

One in four migrant workers received wages in cash



Proportion of participants who received wages in cash in lowest paid job (n= 7,863)

Payment of wages in cash was a very clear indicator of underpayment

Unlike in 2016 when it was somewhat more plausible that cash was readily available to pay compliant wages, payment of wages in cash is more suspect now given the post-COVID reduction of cash in the economy.

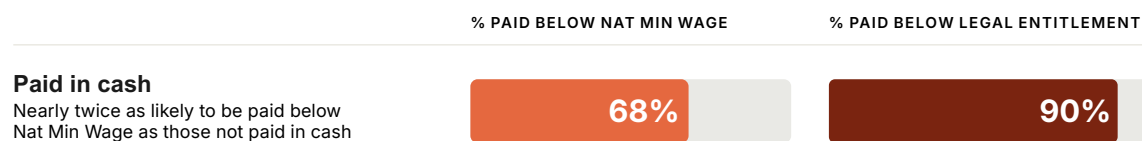
“Most employers paying in cash pay less than \$ 19 per hour in my experience.”

Male international student from India, in NSW

Unsurprisingly, we find payment of wages in cash is a strong indicator of underpayment, including severe underpayment.

When wages are paid in cash, underpayment is the rule.

Likelihoods are from regressions controlling for industry, employment type, gender, age and visa.



Non-payment of mandatory superannuation

Under the Super Guarantee, employers must pay super contributions based on an employee's ordinary time earnings (OTE), including temporary visa holders. For participants who worked in 2023-24, the super contribution rates were between 10.5% and 11.5%.⁴² OTE takes into account casual loadings and penalty rates for work during the employee's ordinary rostered hours.

The Super Guarantee applies to full-time employees, part-time employees and casual employees.⁴³ Since 1 January 2024, super has been established as an entitlement under the National Employment Standards, enabling most employees to take court action under the Fair Work Act to recover unpaid super.⁴⁴ Many independent contractors who are paid mainly for their labour are entitled to the Superannuation Guarantee on the same basis as employees.⁴⁵

The majority of migrant employees were either not paid super, or paid an amount less than their entitlement, and non-payment of super was three times worse for casual employees

We asked participants whether they received super in their lowest paid job in 2023-24. Since we are unable to determine which ABN workers were paid mainly for their labour, we evaluate whether participants received their super entitlement only among workers who were employees.

Among employees, 27% either did not receive super, did not know whether they received super or did not know what super was. Casual employees were three times as likely as permanent employees to not be paid super or not know if they were paid super (32% vs 10%).

A further 41% received super, however their super would have underpaid because it was calculated based on underpaid earnings.

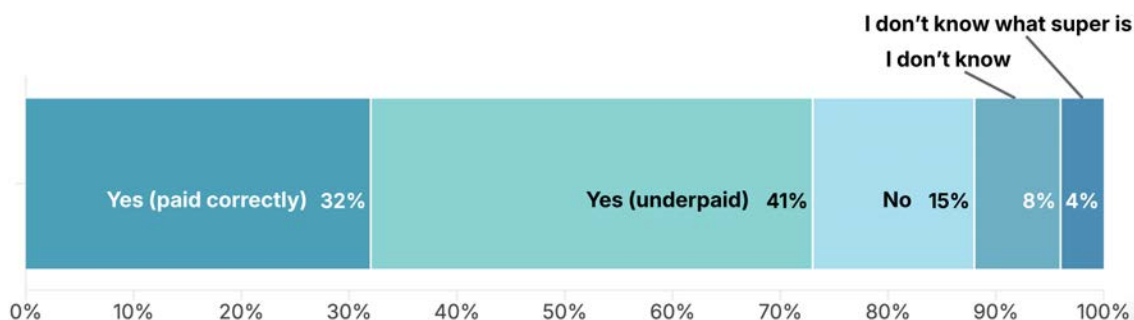
Only a third (32%) of employees reported that they received super that corresponded to their correct entitlements.

"I found out recently that my employer did not pay the amount of superannuation that was on my payslip. I recently checked my super fund and saw there is only \$600 in there. In contrast my payslips state that they have contributed close to \$4,000. I stopped working for this company over a year ago but still have the documentation. Unfortunately I am not sure exactly where to go to fix this."

Male Bridging visa A holder from America, 31, in Queensland

FIGURE 16

A minority of employees received their correct super entitlements



Proportion of employees who received super in lowest paid job, indicating whether those who received super had been underpaid their wages and therefore underpaid super (n=5,394)

Non-payment of super is a clear indicator of underpayment

When super isn't paid, underpayment is the rule.



Likelihoods are from regressions controlling for industry, employment type, gender, age and visa.

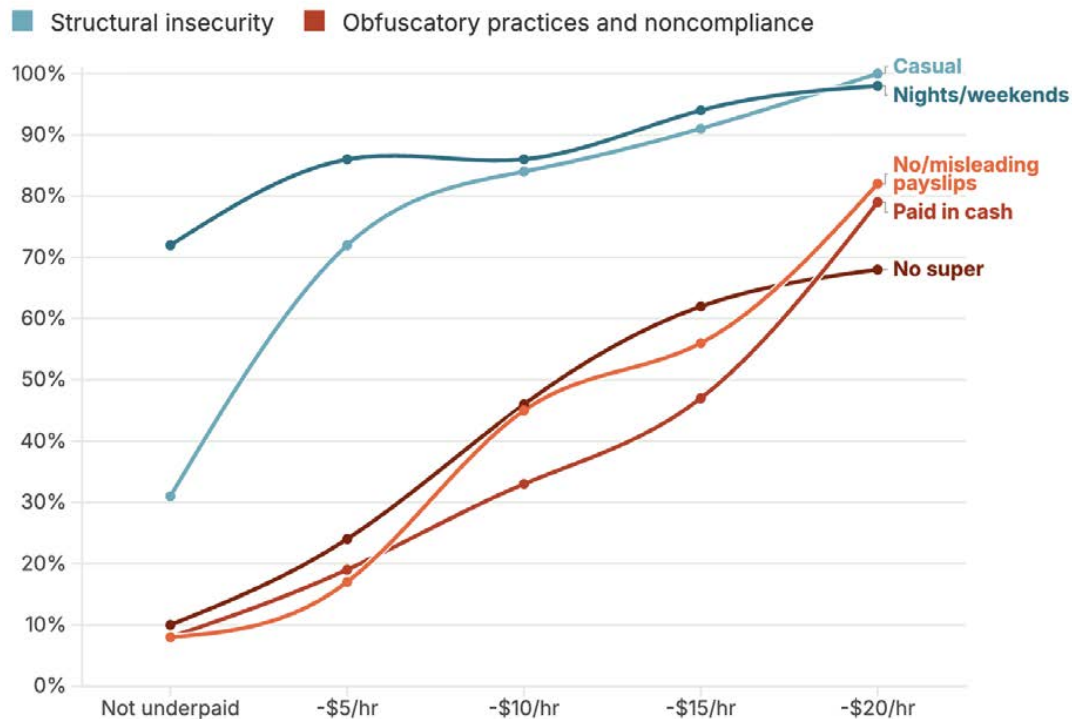
Employers that underpay migrants engage in multiple simultaneous noncompliant and obfuscatory practices: violations cluster together

This Section has explored the prevalence of workplace contraventions (including non-provision of superannuation and payslips) and other employer practices which can obfuscate underpayment (such as payment of wages in cash). In each case, migrants who were underpaid or paid below the National Minimum Wage were more likely to report these practices. And in each case, these practices were more common among casual employees.

Workplace noncompliance and job insecurity go hand in hand with these two measures of underpayment. Moreover, the greater the quantum of underpayment, the more likely the business also engaged in other contraventions and placed the worker in an insecure work arrangement.

FIGURE 17

The more egregious a migrant employee's underpayment, the greater the likelihood that the migrant is also employed as a casual, paid wages in cash, worked after hours, and was denied superannuation and payslips



Proportion of employees who received no superannuation, no/misleading payslips, casual employment status, cash payments, and after hours work among underpaid employees (by \$/hour underpaid).ⁱ

ⁱ Cohorts were different for each line as they only considered participants who answered these questions. For cash (n=5,456), superannuation (n=5,377) and after-hours work (n=5,433) questions these included all employees including those who were not sure whether they were on an ABN. Payslips (n= 4,393) and casual (n=4,391) questions were only asked to participants who were not on an ABN.

Employers that engaged in these noncompliant practices were also more likely to deduct sums from workers' pay

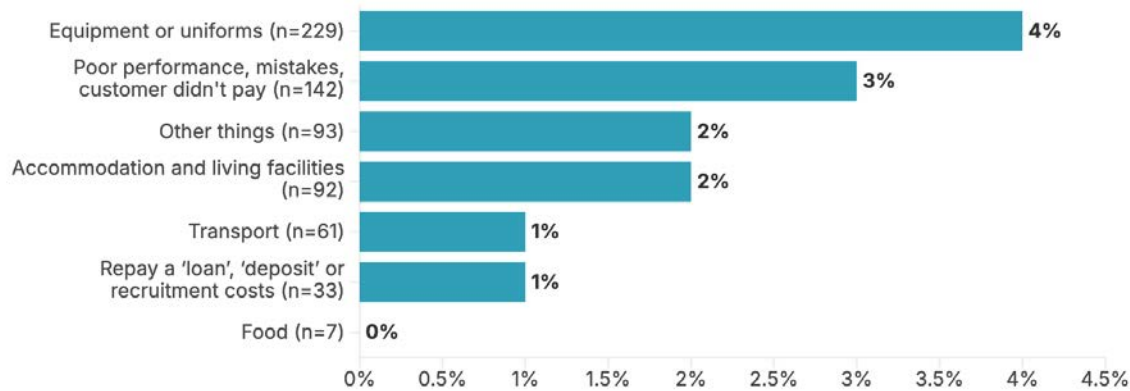
An employer can lawfully deduct money from an employee's pay in certain circumstances. A deduction may be lawful if the employee agrees in writing and it is mainly for the employee's benefit.⁴⁶ Deductions must be recorded and the amount must appear on the employee's payslip.⁴⁷ Deductions are unlawful where they benefit the employer and are unreasonable.⁴⁸

All participants were asked whether their employer took any amount out of their pay. They could select 'No' or indicate a range of different purposes for any deductions made. Some of these might have been lawful if reasonable, mainly for the worker's benefit and

deducted with the worker’s consent. These include deductions for accommodation or transport. Others (such as 'for poor performance, mistakes, or customer not paying' or 'equipment or uniforms') were likely unlawful (although there are limited exceptions for lawful deductions of this kind under relevant awards or registered agreements).⁴⁹ 535 participant employees (10%) indicated that their employer deducted money from their wages for one or more purposes.

FIGURE 18

One in ten employees indicated their employer deducted money from their wages



Purposes for employer deduction of money from employees' pay in lowest paid job (multiple answers permitted) (n=5,482)

Employers that deduct money from workers' wages are substantially more likely to engage in other noncompliant behaviour

Employees who indicated that amounts had been deducted from their pay reported other noncompliance in greater numbers than among participants with no employer deductions.

- Migrants who had wage deductions were twice as likely to be denied super than those who did not have wage deductions (in relative terms) (50% vs 25%)
- Migrants who had wage deductions were more than twice as likely to receive no payslips or misleading payslips than those who did not have wage deductions (in relative terms) (47% vs 21%)
- Migrants who had wage deductions were 26% more likely to be casual (rather than permanent) employees than those who did not have wage deductions (in relative terms) (72% vs 57%)
- Migrants who had wage deductions were more than twice as likely to be paid some or all wages in cash than those who did not have wage deductions (in relative terms) (45% vs 21%)

“Last summer during my semester break, I managed to get a cash office cleaning job paying \$22 an hour. Unfortunately, I lost the key to one of the sites. The person who gave me the job withheld my two weeks' pay, claiming he would deduct the cost of a new key. Even though, I decided to take legal action, I was unsure if I could file a case against him as an international student, as it was a cash job even though I worked on my semester break. But luckily, I got to fill this survey and now I am clear that I can take legal actions against him. Thank you so much for this information!”

Male international student from Nepal, 22, in NSW

Delayed payments, unpaid ‘trials’ and unpaid ‘training’

Though we did not address these issues in the survey questions, many survey participants provided open responses documenting ways in which employers cause migrants to work for no pay. Numerous participants described unpaid 'trial' periods lasting several days or even weeks.

“Having to do with lower than minimum wage has been a normalised norm especially if you’re on an international student on a student visa. Most employers especially expect you to do more than what is expected in order for you to even be able to hold your job. When I first landed in Australia I was asked to work for a week without any wages as a ‘trial’ to prove to my employer that I could perform the given task. Losing a week worth of wages is not a small amount when you have bills to pay.”

Female international student visa from India, in NSW

Participants also referred to extended periods in which the employer did not pay them on the basis this work was 'training'.

“When I queried back to the owner about my salary for the days that I worked, she replied that there was a misunderstanding on my end as it was three days of unpaid training. I defended myself by saying that this was not what I had been told when I succeeded in the trial one week before, and that in any case, even under training, there should be a minimum wage. I was rejected with a simple "no" and was told to go to Fairwork if I would like to; that the wait time would be so long that I would get nothing from there also.”

Male international student from Mauritius, 34, in WA

Others noted that employers charge migrant workers fees to undertake unpaid 'internships' with a an expectation of further work that never materialises.

“There are Companies that hire only and only interns, keep them on a 3month period promising them job if they turn out resourceful but at the end of the 3 month contract they will simply ask the intern to leave be replaced by another intern to do their job or be asked to work for free being fooled to be doing it for the sake of experience. Whats worse is individuals pay around 2200 dollars to get hired into such companies for the sake of experience. They pay them with an expectation to get an entry point into their industry but are left without being actually employed.”

International student from India, 22, in Victoria

Many participants noted their employer delayed their salary payments by weeks or even months, causing substantial financial distress and stress for the migrant.

“The employer sometimes does not pay the salary on time as we discussed at the beginning or as in the contract. For example in my case, my boss did not pay salary weekly as written in the payslip and contract. He even ignored my message until I let him know I would contact Fair Work to help me. He always delayed the payment for one month or two months which significantly impact my life.”

Female international student from Vietnam, in SA

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“Previous work place the person who hired us gave job for both me and my husband. but he only paid for only one person. But we both worked there. It was the time we just arrived Australia. We were not familiar with our rights and that was the first job we did. We found it with great effort. So we couldn't stop it because we have to cover our living expenses. Later we thought we should stop that job because we two people engaged the job but getting paid for only one. So we told the supervisor and quit the job, he was really angry we had arguments and he did not pay for 5 days. That means he paid our salary after reducing 5days. He told that because we quit the job he has to train someone again and that will cost for him so deducted 5days salary. He was a sub cleaning contractor...”

Female permanent resident from Korea, 24, in Tasmania

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Union Membership and Perceptions of Peer Experience Shape Underpayment Risk More Than Geography, Gender or Length of Stay in Australia

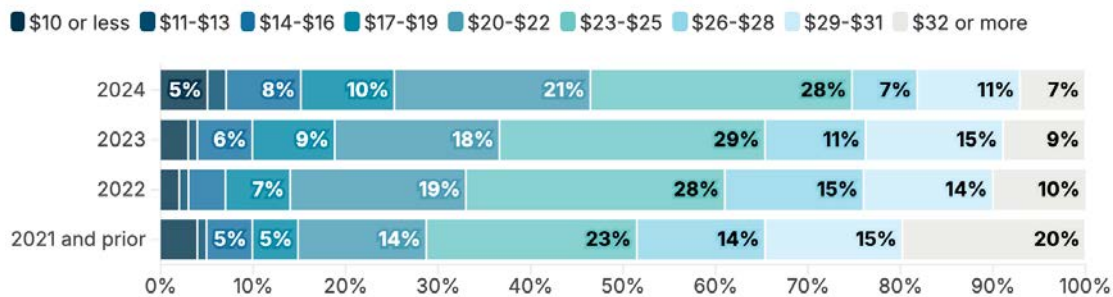
Underpayment risk is greatest for new arrivals but remains substantial regardless of length of stay

The risk of underpayment was greatest for those who had arrived within 6 months of the survey, with almost half (46%) paid below the National Minimum Wage and 81% paid below the casual minimum. Wage rates improve and the risk of underpayment drops somewhat the longer migrants are in Australia.

These figures suggest a benefit to industry and regulators of especially targeting information, detection and enforcement efforts towards newer arrivals. However, the problem is not confined to new arrivals. Even for migrants who had been in Australia for at least three years, over a quarter (28%) were still paid below the National Minimum Wage and two thirds (65%) were paid below the casual minimum. Indeed, once we control for job characteristics and other factors, the impact of length of time in Australia on risk of underpayment is diminished.

FIGURE 19

The risk and extent of underpayment are most acute for newer arrivals and progressively reduce (but remain substantial) over length of stay



Wages earned per hour in lowest paid job in 2023-24 by year of arrival (n=8,184)

Geographic location does not significantly affect likelihood of underpayment

More than half of the participants' lowest pay jobs were located in New South Wales (31%) and Victoria (26%). Another 35% of lowest paid jobs were in Queensland (13%), South Australia (11%) and Western Australia (11%). The remainder were dispersed across Tasmania and the territories.

In capital cities, 26% of participants were underpaid by more than \$10/hour, compared with 20% who were underpaid by that amount in inner regional areas and 21% in regional or remote areas. However, when we controlled for industry and other demographic characteristics, geographic location did not significantly affect the likelihood of underpayment. This was the case for both state/territory location during lowest paid job, and ABS remoteness classification of location. This aligns with results from the Grattan Institute that found that controlling for job, demographic and other characteristics, geography did not have a significant impact on underpayment.⁵⁰

Gender has little impact on migrants' risk of underpayment

We found that once the impact of job characteristics and other factors have been accounted for, females are less likely than males to be paid their full individual minimum entitlements. However, gender has no impact on the risk of payment below the National Minimum Wage.

Migrants' perception of the prevalence of underpayment among peers on their visa is strongly connected with their own likelihood of underpayment

Migrants who believed other migrants on their visa are underpaid were also much more likely to be underpaid themselves.

When one controls for participants' visa, job and other demographic factors, participants who believed that 'many' or 'some' people on their visa are underpaid were 67% more likely to be paid below the National Minimum Wage themselves.

Migrants' perception of their peers' experiences of underpayment likely shapes their expectations of 'reasonable' wage rates within their labour market, independent of the wage rates required under Australian workplace laws.

“In some areas, employers take it for granted that they pay international students less than the statutory hourly wage and pay them in cash because they generally believe that international students have “poor English” and “low ability”

Female international student from China, 27, in South Australia

One in two (50%) international students perceived underpayment as widespread among their peers, with a further third (33%) believing that 'some' international students are underpaid. Figures were similar for Temporary Graduate visa holders. Among Working Holiday Makers, 39% believed underpayment was widespread and 42% believed 'some' of their peers are underpaid.

“I feel that being an immigrant with an Asian English accent and having no local experience makes it difficult for me to find a normal, good job, even though I am willing to learn and don't mind going the extra mile... To pay the bills and expenses, especially when first arriving in Australia, many of us (students) agree to work for lower-than-minimum pay rates, often paid in cash without a payslip and superannuation.”

Female international student from Vietnam, 30, in Tasmania

Even among those on skilled visas that generally have minimum annual salary thresholds, a third (32%) believed many skilled visa holders are underpaid, and a further third (32%) believed some are underpaid.

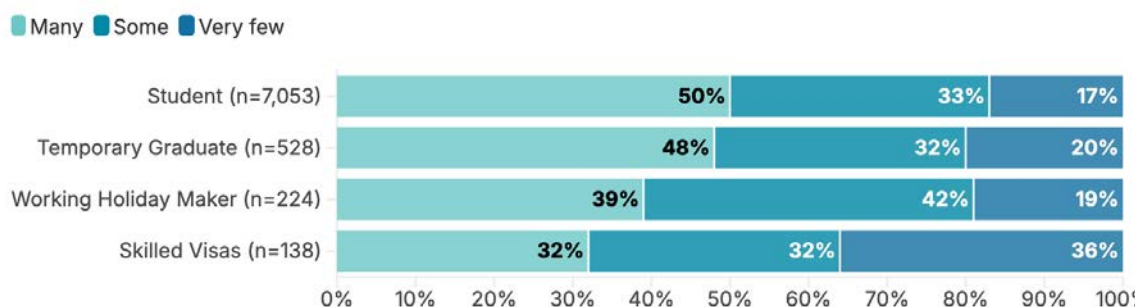
Employers also anchor migrants' expectations of reasonable wages based on prevailing wages in industries with high numbers of migrant workers.

“Sometime the boss would say the wage rate is already better than the other cafes to convince you accept the wage.”

Female international student from Taiwan, 28, in Queensland

FIGURE 20

Migrants believe underpayment is widespread across all major visa classes



Perception of the proportion of people on the same visa who are underpaid (n=7,943)

Among international students, Working Holiday Makers and temporary graduates, perception of the prevalence of underpayment was especially high among those who worked in certain industries in their lowest paid job in the 18 months prior to the survey. Among those who worked in cafes and restaurants, 56% believed many others on their visa were underpaid. Only 13% believed very few were underpaid.

Although risk of underpayment decreased somewhat over participants' time in Australia, their perceptions of the prevalence of underpayment among peer visa holders were remarkably similar regardless of participants' year of arrival.

Union members have a reduced likelihood of underpayment, insecure work and noncompliance

It is widely reported that most temporary visa holders are reluctant to join a trade union in Australia.⁵¹

Seven percent of survey participants reported that they had been a union member in Australia - around half of the proportion of employees across Australia who were union members in August 2024 (which was 13%), and around the same proportion of workers aged 20-24 across Australia who were members at the time (7%).⁵² It is higher than the proportion of migrants who reported they were union members in our 2016 survey (which was 4%).⁵³

Nevertheless, we found that union membership had a distinct impact on underpayment.

Holding all other factors constant, union membership was associated with decreased likelihood of underpayment in participants' lowest paid job.

It is likely union membership in our survey cohort is higher than the incidence of union membership among temporary visa holders in Australia generally. This is because unions assisted with dissemination of the survey to their members in several industries, as reflected in particularly high unionisation rates in jobs such as aged care (24%), healthcare including nursing (17%), disability care (10%) and petrol station attendants (11%).

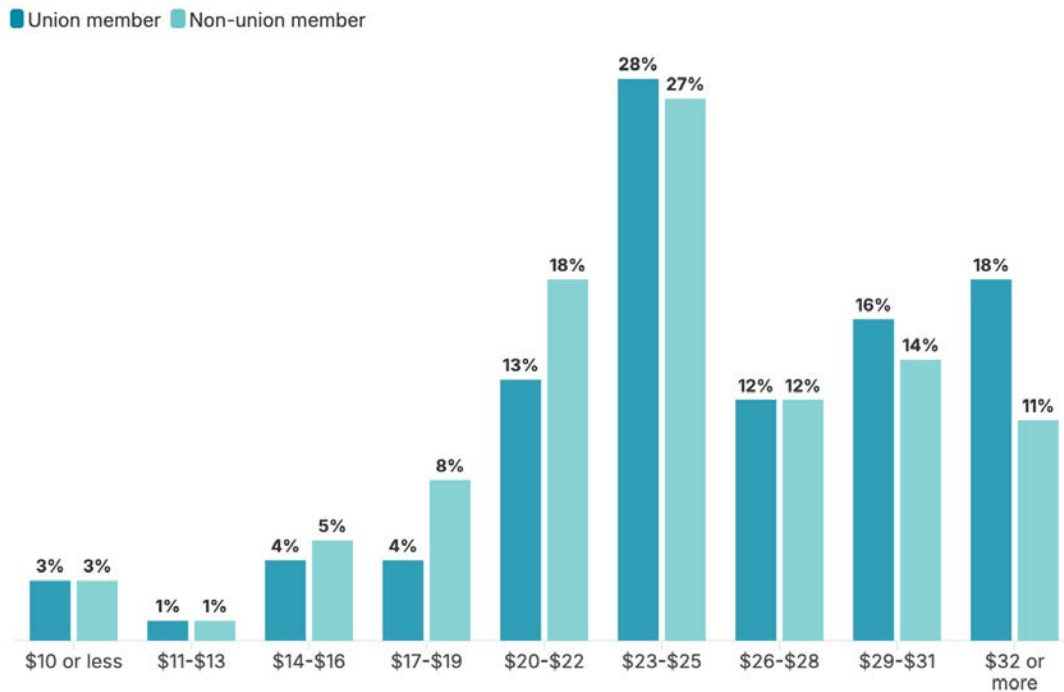
“After joining union i feel safe and secure”
Male Graduate visa holder from India, in Victoria

Over a third of non-members (35%) reported receiving \$22 per hour or less in their lowest paid job, compared with 25% of union members. It is difficult to determine whether union membership positively protects migrant workers against underpayment, or whether more empowered workers who insist on compliant wages are more likely to join a union.

“If I have more access of the information about the trade union I will know about my right”
Male Graduate visa holder from Colombia, in WA

FIGURE 21

Union members were less likely to report wages below the National Minimum Wage floor



Participants' hourly wage in their lowest paid job, among union members and non-members (n=7,357)

“Can the government make it mandatory for the workers to be a part of the workers union they are working in? In this way, the workers will feel safe and can escalate issues directly.”

Female Bridging visa E holder from India, 35, in Victoria

In addition to reduced underpayment, participants who indicated they had been a union member during their time in Australia were also less likely to be engaged in insecure employment structures including misclassification in their recent lowest paid job, and less likely to experience noncompliance with super and payslips in that job.

- Union members were 31% less likely to be denied super compared to non-union members (in relative terms)
- Union members were 25% less likely to receive no payslips or misleading payslip than non-union members (in relative terms)
- Union members were 32% less likely to be a casual (rather than permanent) employee than non-union members (in relative terms)

Underpayment and Noncompliance Define Migrant Work in All Industries, but Some Carry Especially High Risk

Our survey asked participants to identify their lowest paid “job”, rather than industry. We calculated participants’ individual minimum entitlements based on the lowest level under the award for that job in that industry (e.g. the minimum wage for an aged care worker in the aged care sector rather than a cleaner in the aged care sector).

When we hold constant participants’ nationality, visa, year of arrival and other key factors, the industries in which migrants work appear to have the greatest influence on their risk of underpayment. This suggests substantial benefit to enforcement approaches tailored to industries in which noncompliance is most prevalent and most severe. Government should also take differential industry risk profiles into account when considering applications for employer sponsorship of skilled migrants in particular roles.

Data on underpayment, employment structure and other non-compliance in each industry is available in [Appendix 2](#).

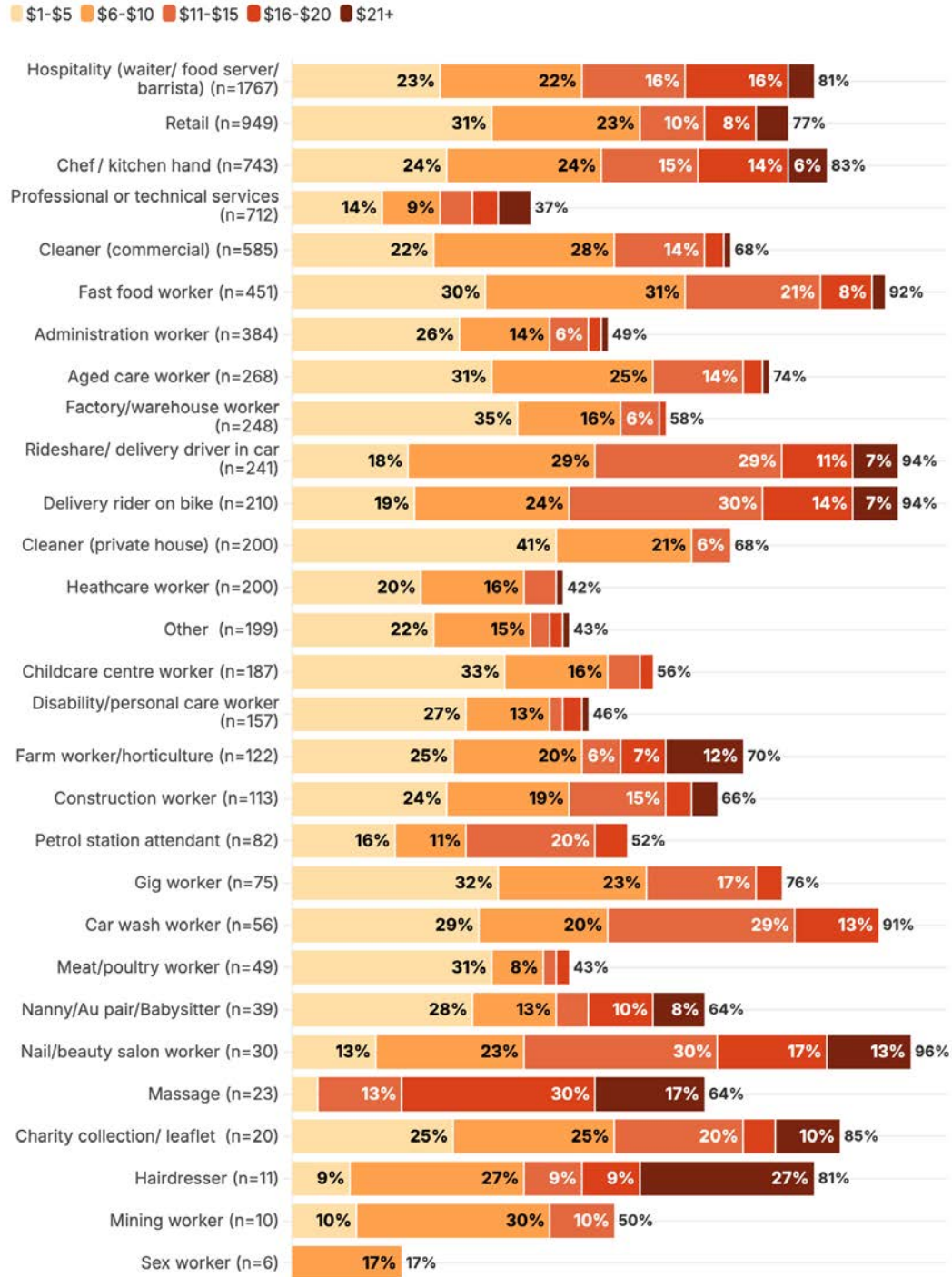
We note, however, that our data on numerous industries is based on a small number of participants and further industry-specific research is needed.

“I have worked in many different industries and it is almost same everywhere if one is on student visa or temporary visa. Sometimes they ask you to stay to do overtime and next week they don’t pay. Sometimes they don’t pay full superannuation. Sometimes they call for trial make you work whole shift and not pay. Sometimes they offer job to fresh graduates and when you are about to end your probation period, they try to make sexual advances like asking you to be personal assistant even you applied job as software engineer. I have faced all these problems. Too scared to go fair work in fear that if words get out no one will hire me in future.”

Female from Nepal, 33, in NSW

FIGURE 22

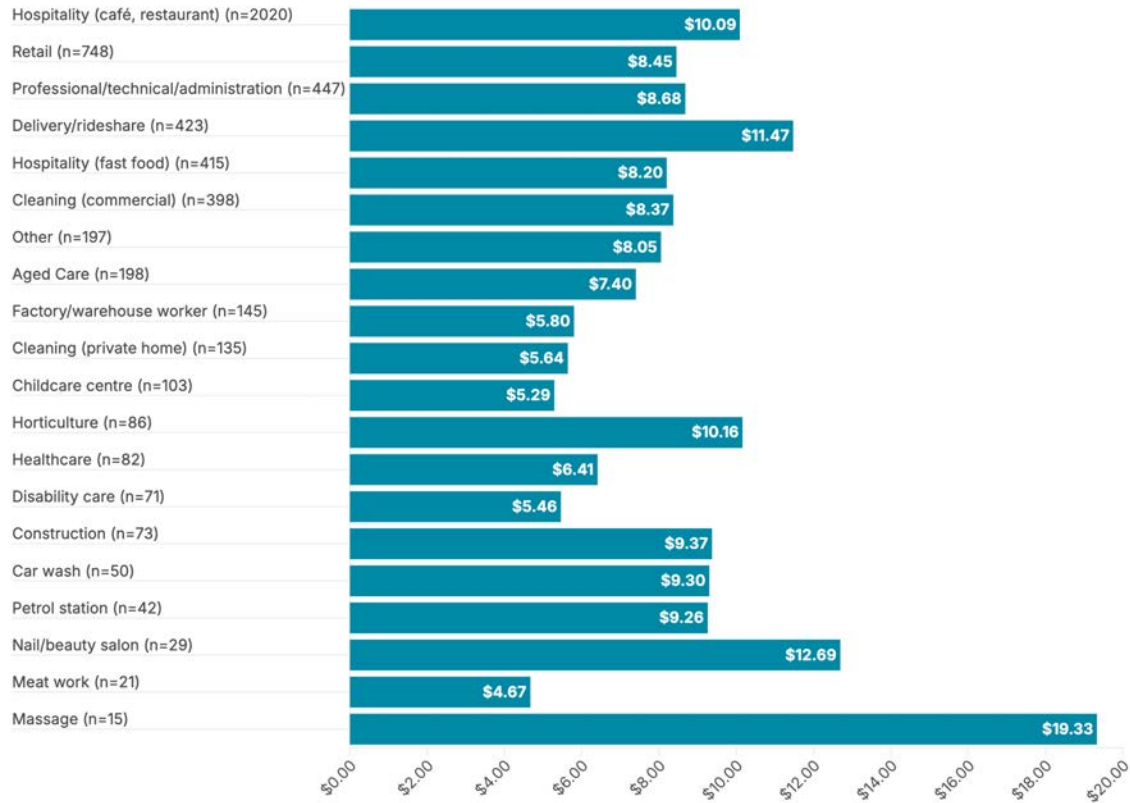
Underpayment defines migrant work in all industries, but is especially prevalent and severe in some



Dollars per hour participants were underpaid in their lowest paid job in 2023-24, by job type (with ABN workers' hourly income benchmarked to casual employee minimums) (n= 8,137)

FIGURE 23

In many industries, the average underpayment is between \$8 and \$12 for every hour they work



Average underpayment (\$/hour) among underpaid participants (with ABN benchmarked against casual minimum wages), by industry (n=5,698)

“The low wage payment is mostly seen in restaurants or cleaning jobs. They pay in cash which is way lower than the minimum wage. The hours are not guaranteed and also they don't pay you more if you do weekends or late night.”

Female international student from Nepal, 23, in South Australia

Migrants' Experiences of Modern Slavery Indicators Increase as the Extent of Underpayment Deepens

Modern slavery and forced labour are criminal offences in Australia.⁵⁴ Commonwealth and NSW laws require many Australian businesses and public entities to report on their efforts to identify and address modern slavery risks in their operations and supply chains. The Australian Anti-Slavery Commissioner and others are pressing for reporting entities to have mandatory risk-based due diligence obligations in relation to modern slavery in their Australian operations.⁵⁵

The Commonwealth Attorney-General's Department has issued a detailed guidance for reporting entities which includes a 'Table of risk indicators' with the observation that a 'combination of these signs may indicate a person is in a situation of modern slavery and that further investigation and assessment is required'.⁵⁶ The International Labour Organisation has also issued lists of operational indicators of forced labour to assist labour inspectors, law enforcement, businesses and others to identify potential victims and trigger further investigation.⁵⁷ Each of these sets of indicators spans across a range of severity: some are unlawful labour practices, others are criminal conduct in themselves in most jurisdictions in the world. Forced labour involves 3 elements: work/service, lack of voluntariness, and menace/threat of penalty. However, the lists of indicators provide no hierarchy and there is no formula for determining which indicators taken together are likely to amount to forced labour in any individual case.

Given that the legal definition of forced labour requires lack of voluntariness, we asked participants whether they had 'experienced any of the following problems in any job in Australia', framing each as coercive employer behaviour rather than general employer noncompliance:

- Made to work in unsafe conditions,
- Made to work for no pay or less pay than you were owed,
- Made to work very long hours or different hours than agreed,
- Made to work for long periods with no breaks,
- Made to work full days for more than 14 days without a day off,
- Had to stay in a job that I wanted to leave,
- Tricked about the job and it was worse than promised,
- Threats of harm to me or my family,

- Threats of reporting me to Immigration or the police,
- Made to pay back some of my wages in cash to my boss,
- Unwanted touching, sexual comments, sexual harassment,
- My boss or someone else held my passport, or
- Not allowed to leave my accommodation or my workplace without permission.

3,096 participants (34%) indicated that they had experienced at least one of these.

When they did, we asked in what job they had that experience. In a subsequent report we will examine participants' experiences of these forced labour indicators in detail, including the co-incidence of different indicators in different contexts and among different migrant worker cohorts.

For the purpose of this report, we examined only forced labour indicators that were reported in the migrant's lowest paid job, in relation to underpayment.

We found that, the greater the extent of underpayment in the migrant worker's lowest paid job, the more likely the worker reported the following indicators in that job: being made to work for long periods with no breaks, being made to work for long hours or different hours than agreed, being made to work in unsafe conditions, having to stay in a job they wanted to leave, and/or having been tricked about the job and it was worse than promised.

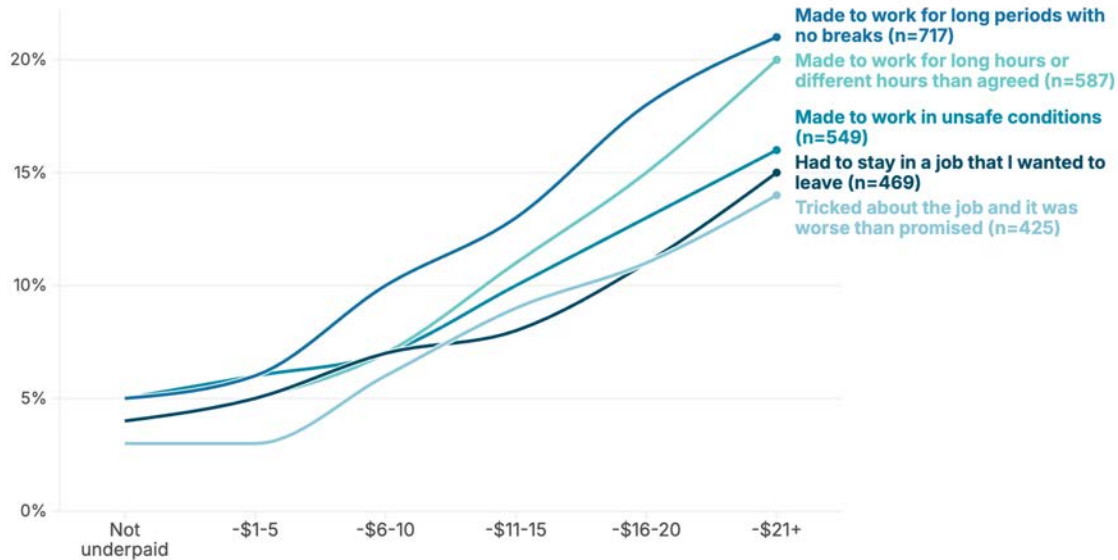
We also found that most cases of more severe labour conditions that are indicators of forced labour were also more frequently reported by migrants who experienced more egregious underpayment.

These findings underscore that forced labour sits on a continuum of labour noncompliance. They also suggest that businesses that want to systemically prevent and detect forced labour in their operations and supply chains must seek to identify and address systemic underpayment and other forms of labour noncompliance.

Businesses that want to systemically prevent and detect forced labour in their operations must seek to identify and address systemic underpayment and other forms of labour noncompliance.

FIGURE 24

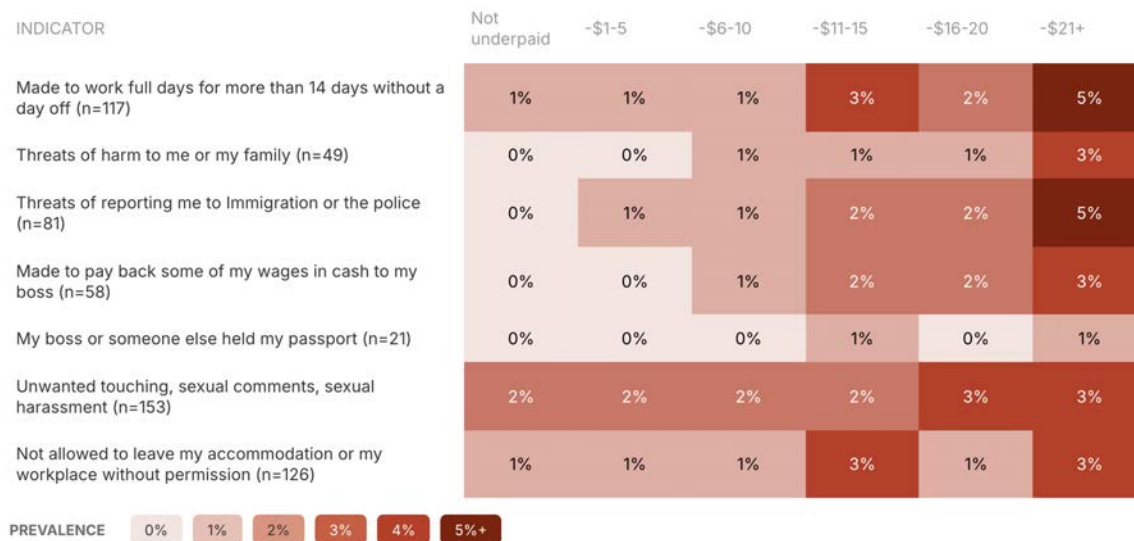
The more workers are underpaid, the more likely they are to experience key forced labour indicators



Participants who experienced the 5 most common forced labour indicators, as a proportion of participants in each bracket of underpayment below individual minimum entitlements (n=7,497)

FIGURE 25

The more participants are underpaid, the more likely they experience particularly serious (and often criminal) forced labour indicators



Participants who reported more severe but less common forced labour indicators, as a proportion of participants in each bracket of underpayment (n=7,497)

“

“Some companies or factories make the employee work for 12 hours straight and pay the same rate. This is happening with my friend who work in a factory. In my case, I work in two cleaning company, one company ... gives me the same rate, I have go early at 4 am and there is no holiday in weekend. They pay the same rate on weekends and government holidays. They want the work to be prefect... I wanted to complain but was worried as it may affect others working same like me. They are taking advantage of the international students as we can't voice due to fear of repercussions.”

Male international student from Bhutan, 36, in Queensland

”

The Evolution of Migrant Exploitation in Australia Over the Past Decade

It is clear that underpayment remains widespread and systemic among temporary visa holders in Australia. For many migrant workers, it is also severe. The average underpaid migrant in our survey was short-changed by close to \$9 per hour. Figures from this survey suggest international students alone are underpaid by around \$61 million every week and approximately \$3.18 billion per year.

While our 2016 and 2019 studies show that underpayment of migrants is not new, the landscape of systemic exploitative practices appears to have shifted since we conducted those studies. In particular, businesses' strategies to underpay migrant workers and evade detection have evolved, perhaps responding to government interventions to address noncompliance and changed conditions in the economy.

For instance, payment of wages to migrants in cash has decreased, although to a far lesser extent than the reduction of cash in the broader economy post-COVID (see *Payment of wages in cash*). One in four participants (23%) were still paid at least some of their wages in cash in their lowest paid job in 2024, compared with 44% in 2016.⁵⁸

Many migrant workers in our survey referred to an employment category widely known as "cash jobs", a category that is distinguished from jobs "on tax" by its sweeping noncompliance with the Fair Work Act without leaving an evidence trail. Though many of these jobs involve some cash payment, employers have also moved to new ways to pay migrants 'off the books'.

Most notably, many employers are now concealing underpayment by misclassifying employees as independent contractors. Over a third (35%) of participants worked on an ABN in their lowest paid job which is nearly 4.5 times the prevalence of ABN work in the broader Australian labour market. One in every five survey participants (21%), were likely misclassified employees – migrants working on an ABN in an industry such as commercial cleaning, hospitality or retail where genuine independent contracting is uncommon. Noting that cash and sham contracting are often interchangeable, one participant observed, "*I went to find jobs in several places they said the wage will be in abn or cash \$15 or \$18 per hour.*" Only 11% of ABN workers in these industries were paid the minimum entitlements they would have had under the Fair Work Act if they were classified as a casual employee. This suggests that a substantial proportion were likely sham contracted in a deliberate attempt to evade minimum standards under the Fair Work Act.

Employer provision of payslips appears to have increased in the last ten years: in 2016, 44% of participants never received a payslip in their lowest paid job,⁵⁹ while in 2024 only 16% of migrants received no payslips in their lowest paid job. As discussed in *No payslips or misleading payslips*, in 2017 the Fair Work Act was amended to apply a 'reverse onus' that presumes a worker's underpayment allegations to be correct when an employer fails to meet its record-keeping or payslip obligations.⁶⁰ During this period the FWO has also conducted increased employer education, deterrence and enforcement activities, including issuing more compliance notices and sanctions for record-keeping breaches.⁶¹ It is possible that the heightened likelihood and consequences of detection in a FWO audit or inspection have contributed to the marked increase in provision of payslips. However, there is a dark side to this trend. Although provision of payslips has increased, a substantial proportion of employers are issuing payslips that conceal underpayment: 8% of participants received payslips which omitted some hours of work (making the hourly rate of pay appear falsely higher) and 40% received a payslip which reflected underpaid wages.

Employers' engagement of 38% of migrant workers as casuals facilitates concealment of underpayment on a systemic scale, where workers cannot prove the hours and times that they worked. This is exacerbated by the fact that 85% of casual and ABN workers worked nights and weekends, times when their employment was less visible (and their workplaces and commutes were often less safe).

Each of these practices is directly and independently linked to increased likelihood of underpayment. The greater the underpayment, the more likely the participant was paid in cash, received no or misleading payslips, was not paid super, worked on an ABN or as a casual employee, and worked nights and weekends. Similarly, the greater the underpayment the more likely the worker was subjected to indicators of forced labour.

Casual employment and ABN work (generally misclassified) facilitate underpayment. Four in five casual and ABN workers were paid below their individual minimum entitlements under the Fair Work Act (for ABN workers, pegged at the equivalent minimum of a casual employee). An overwhelming 43% of ABN workers and 37% of casuals did not even receive the National Minimum Wage. Not only are they not receiving casual and penalty rates, they are also being paid beneath the National Minimum Wage floor at twice the rate of permanent employees. Casual employees were far more likely to receive no payslips or misleading payslips than permanent employees, and casual and ABN workers were far more likely to be paid in cash. They were also substantially more likely to report working conditions that were indicators of forced labour.

In our next report, we will address in detail the reasons why migrant workers do not speak up and do not seek to recover unpaid wages. It is clear that rising cost of living and migrants' dependence on these jobs for basic subsistence, and to retain

immigration pathways, give employers overwhelming leverage over these workers. Many feel they have no choice but to accept unlawful, and often unsafe, working conditions. For international students, this is compounded by the debt many take on to study in Australia driving them to work additional hours to compensate for underpaid wages, and the 48-hour per fortnight restriction pushing them into “cash jobs”.

It is therefore not surprising that the overwhelming majority of underpaid migrant workers take no action to recover unpaid wages. As our next report will show, migrants report that their main reasons for this were fear of job loss and fear of immigration consequences, followed by lack of knowledge and support to take action.

These findings indicate that migrant exploitation must be tackled by recalibrating the drivers of employers’ unchecked leverage over migrant workers. This must begin by addressing ways in which insecure work arrangements (casual employment or work on an ABN), and immigration settings, are used by employers to systematically avoid their responsibilities under the Fair Work Act. It must also include addressing the hurdles migrants face to proving underpayment, which can be compounded by other strategies deployed by employers (such as sham contracting, issuing no or inaccurate payslips and payment of wages in cash) to further evade detection.

These practices create an unlevel commercial playing field across numerous industries and place honest businesses at a significant competitive disadvantage. Addressing the drivers of migrants’ vulnerabilities to exploitation and holding dishonest employers to account is everyone’s business.

Recent Reforms, Their Limits, and Further Measures Needed to Address Systemic Migrant Exploitation

In its first term, the Albanese government introduced a broad array of reforms to address the proliferation of insecure work across the Australian labour market.⁶² Many of these reforms were introduced at or after the time of the survey and their impact is therefore not reflected in the survey data (for example, a new "regulated worker" scheme for delivery riders and rideshare drivers and amendments to the definition of employment that address misclassification of employees as independent contractors).

These reforms are important steps in the right direction. However, they are inadequate to address the widespread, deliberate underpayment of migrant workers revealed in this report. We recommend a number of further key measures that are critical to enable protection of migrants and enable them to report noncompliance, enable misclassified ABN-holders to more easily prove they are employees, and enable regulators to hold dishonest businesses to account.

"I felt like most of the small business owners here don't follow the Australian rules."

Male international student from Bangladesh, in WA

Summary of Recommendations for the Commonwealth Government

Expand sham contracting accountability.

Reduce the burden on workers to prove misclassification, strengthen enforcement of misclassification and sham contracting laws, and consider accessorial liability for sham contracting within business operations.

Protect workers who report abuse.

Strengthen and expand access to the Workplace Justice Visa and reduce reliance on employer sponsorship for permanent residency pathways.

Expand proactive detection and support.

Invest in whole-of-government enforcement processes targeting poorly performing industries with insecure migrant workforces and establish dedicated migrant worker support services including Migrant Worker Centres in every state and territory and increased FWO support.

Link sponsorship eligibility to compliance.

Connect government agency and court data to DHA to ensure business eligibility to sponsor migrant workers takes account of prior workplace noncompliance, and industry-level risk.

Increase transparency and accountability.

Introduce a national Labour Hire Licensing Scheme and an enforceable risk-based due diligence obligation under the Modern Slavery Act, reform payslip obligations to prevent businesses from disguising noncompliance, and explore strengthened general protections preventing employer retaliation against migrant workers.

Ensure migrants recover the wages they are owed.

Establish underpayment jurisdiction in the Fair Work Commission alongside a new co-located Fair Work Court, extend the Fair Entitlements Guarantee to migrant workers, and create a government-funded wage guarantee scheme.

Increase cap on student working hours.

Explore increasing the work limitation on Student visas above 48 hours per fortnight to reduce exploitation risks and respond to increased cost of living in Australia.

Invest in compulsory worker rights education.

Ensure visa holders receive clear, accessible information about workplace rights and support services at key touchpoints, including with visa grant and multiple times post-arrival.

Expand sham contracting accountability

Recommendation 1: Consider further reducing the threshold for a claim of misclassification or sham contracting, in light of its prevalence and impact as a driver of migrant exploitation.

Recommendation 2: The Fair Work Ombudsman should prioritise detection, compliance and prevention of misclassification and sham contracting, especially where this involves visa holders.

Recommendation 3: Consider introducing accessorial liability provisions to expand accountability for sham contracting within franchises, business operations and supply chains that gain unfair financial benefits from sham contracting.

One in every five survey participants (21%) worked on an ABN in an industry in which independent contracting is not common (see *Most migrant work on an ABN is likely misclassification*). Among these participants, 41% were not even paid the base National Minimum Wage, let alone penalty rates or casual loading. This finding on the systemic use of ABNs to underpay migrant workers suggests that deep reforms are needed to disincentivise businesses from taking advantage of migrants' insecurity while working on an ABN and ensure government regulators are adequately resourced to enforce existing laws and hold dishonest businesses to account.

In 2024, the government tightened the regulation of misclassification and sham contracting.⁶³ These reforms were introduced at the time this survey was conducted. As claims for underpayment, misclassification and/or sham contracting work through the system, it is possible that this publicity and FWO compliance activities will raise awareness and deter the more conscientious employers who are concerned about noncompliance or penalties from engaging in these practices. However, a substantial proportion of employers of survey participants are apparently not concerned about compliance with minimum labour standards and are unlikely to be influenced by the enactment of these law reforms on their own. These employers may only be influenced by the demonstrated effect of the widespread enforcement of these laws,

recognising that it remains challenging if not impossible for many migrant workers to bring an enforcement action themselves, much less prove misclassification.

There is, therefore, a critical role for the FWO in pursuing misclassification and sham contracting of migrant workers as a priority. The effectiveness of FWO compliance activities may be assisted by further reducing the evidentiary threshold for misclassification or by a reversal of the burden of proof in some cases (i.e. in situations in which misclassification is widespread, a worker on an ABN would be presumed to be an employee unless the employer can demonstrate the worker was correctly classified as an independent contractor).

The introduction of accessorial liability provisions could expand accountability for sham contracting within franchises, business operations and supply chains that obtain unfair financial gains from this practice, even if they are not directly involved in the arrangements. This would incentivise lead firms to undertake due diligence to identify use of workers on ABNs and misclassification risks.

The Commonwealth Government should provide the regulator with additional resources to conduct education campaigns for visa holders and businesses on misclassification and sham contracting in priority industries. It should also be resourced to provide direct assistance to migrant workers to demonstrate they have been misclassified. To determine whether a request for assistance by a visa holder on an ABN falls in the FWO's jurisdiction, the FWO should be empowered to apply a presumption that a visa holder on an ABN is an employee (noting that otherwise, FWO generally does not have jurisdiction over independent contractors).

This could include a reversal of the onus of proof for the purpose of FWO Compliance Notices in some circumstances such that, where the legal status of a worker is in dispute, the party asserting that the worker is an independent contractor is required to demonstrate that the worker is not, in fact, an employee under the Fair Work Act.⁶⁴ Visa holders on an ABN should be included where they indicate they have been paid less than they would have been entitled to as an employee under the Fair Work Act. A defence could be available to businesses that take reasonable steps to detect and address the deliberate unlawful engagement of migrants on ABNs within their franchise or business operations.

Protect workers who report abuse

Recommendation 4: Make the pilot Workplace Justice Visa and Strengthening Reporting Protections permanent and genuinely accessible nationwide, including by expanding the number and range of ATPs that can certify claims to ensure equal access across all states and territories, including for non-union members.

Recognising the need for greater accountability of employers that exploit migrant workers, in 2024 the Labor government introduced new offences criminalising an employer's use of a migrant's immigration status to coerce them in certain circumstances.⁶⁵ It also introduced a prohibition declaration scheme which enables the Department of Home Affairs ('DHA') to ban businesses from employing migrant workers for a period if they engage in egregious exploitation.⁶⁶

While in principle these new measures may deter some employer misconduct, they are unlikely to be effective in the absence of whistleblower protections that enable migrant workers to safely report abuse. These protections have not yet been made widely available, and, unsurprisingly, almost two years after these reforms were enacted there is only a single company listed on the Prohibited Employer Register.⁶⁷

If exploited migrant workers are to come forward, much more is required to reduce risks to those who report underpayment and abuse. The government already has the tools to ameliorate migrants' fear of immigration consequences if they report abuse through the Workplace Protections Pilots which commenced in July 2024.⁶⁸ These 2-year pilot programs introduced a new Workplace Justice visa and Strengthening Reporting Protections Pilot which could enable migrant workers to safely pursue claims against dishonest employers without risking their visa.

However, the government denied access to the protections for the vast majority of migrant workers. The protections depend on certification of workplace claims by the FWO, unions and community legal centres that are designated by the Minister for Home Affairs as Accredited Third Parties (ATPs). The FWO provides certifications when it has commenced investigation in accordance with their Compliance and Enforcement policy with a priority for vulnerable and 'at risk' workers. However, for workers whose claims are not subject to FWO investigations or who are reluctant to approach the regulator, there are currently only three community legal centres in NSW and Victoria that can provide the necessary certification, along with a range of unions across Australia. As the 2-year pilot approaches its conclusion, the protections remain broadly inaccessible, except to migrants who are open to joining trade unions where the union is willing to run individual claims, or who are living in

Sydney or Melbourne and can access the limited assistance available through those three CLCs. Thousands of migrants who reported underpayment and other mistreatment in this survey would not have had access to the protections. The pilot should be made permanent and access to the protections should be urgently, and equitably, extended to migrant workers across Australia.

The federal government should also expand the definition of a 'workplace exploitation matter' to reflect the common workplace matters that affect workers approaching ATPs for certification, including General Protections matters in cases of employer retaliation. It is also critical that eligibility for the Workplace Justice visa be extended beyond 28 days before or after visa expiry, and that the visa be available to Bridging visa holders and undocumented workers.⁶⁹

Expand proactive detection and support

Recommendation 5: Resource whole-of-government approaches to address systemic noncompliance in industries with highly insecure migrant workforces, in coordination with state and territory regulators.

Recommendation 6: Expand dedicated support services for migrant workers to identify underpayment and take action. This includes establishing dedicated migrant worker support within the Fair Work Ombudsman; establishing Migrant Worker Centres in every state and territory; and resourcing Community Legal Centres and Legal Aid to provide advice and representation to more migrant workers in workplace matters.

The Commonwealth Government introduced significant legislative reforms in its first term of government to increase the likelihood of detection, as well as the likelihood of penalty and severity of penalties, for businesses that do not comply with the Fair Work Act. These include a new criminal offence of wage theft.⁷⁰ The government strengthened union right of entry powers to investigate suspected underpayment.⁷¹ and the FWO has increasingly adopted a tripartite enforcement model in collaboration with worker representatives and industry.⁷² These reforms were all introduced around or after the time of the survey, and their impact is not reflected in the survey data. Indeed, it may take several years before the effect of the new civil remedy provision reforms and the new FWO criminal jurisdiction can be evaluated.

Nevertheless, the extent of systemic noncompliance revealed in this survey suggests that the FWO cannot fix this alone, even with the new powers and tools that have been introduced. There remain critical gaps in industry-specific government enforcement that require multi-agency collaboration (as the FWO has recently undertaken with the ATO to address sham contracting).⁷³

Greater coordination is therefore required between agencies such as the FWO, ATO, ASIC, DHA, ABF and AFP, as well as coordination with state regulators in relation to labour hire and workplace health and safety contraventions, to address migrant exploitation in industries such as hospitality, retail, commercial cleaning, nail salons, car washes and massage shops. The extent of underpayment and noncompliance in these industries should 'provide to regulators a mandate to direct time, attention and resources' to the situation of workers in these industries, and to develop and implement processes for effective coordination.⁷⁴

It also critical that migrant workers can access support services through multiple touchpoints to assist with understanding and assertion of their rights, including underpayment calculations, advice on misclassification, and advice on employer retaliation and other workplace claims.⁷⁵ Services must be adequately resourced to ensure accessibility in regional locations where exploitation risks are especially high for workers who are especially isolated and alone.

“It’s very exhausting. It’s very disheartening. We feel alone, especially as students. Constantly feeling the threat of being harmed or affecting our visa because many of us are literally not even 20 and in our late teens. Away from family and not aware of our rights.”

Female international student from India, 22, in NSW

Link sponsorship eligibility to compliance

Recommendation 7: Create a structured mechanism that brings information about previous workplace noncompliance to DHA's attention as part of the 'adverse information' DHA considers when determining a business' migrant sponsorship application.

Mechanisms should be developed to systematically marshal existing information on workplace noncompliance for DHA, to ensure that employers who breach workplace responsibilities are not approved to sponsor new migrant workers. Improved intelligence gathering by DHA, and structured information-sharing with the FWO and other agencies, courts and commissions, could better ensure that 'adverse information' as to a person's prior workplace noncompliance is brought to DHA's attention when determining a new visa sponsorship application or nomination.

Under reg 1.13A of the *Migration Regulations 1994* (Cth), 'adverse information' could include FWO investigations and compliance activities, court judgments including wage cases in the Small Claims jurisdiction and state industrial relations tribunals, and Fair Work Commission orders. Given the practice of corporate phoenixing by problematic employers of migrant workers, this information should extend to prior workplace noncompliance by a company's officers and directors. Adverse information could also relate to prevalence of migrant exploitation at an industry level, with a higher level of scrutiny applied to sponsorship or nomination applications for industries with known systemic workplace noncompliance in relation to visa holders, such as hospitality. Measures should be adopted to protect existing sponsored workers and other visa holder employees when an employer sponsor is barred from sponsorship.

Increase transparency and accountability

Recommendation 8: Introduce a national Labour Hire Licensing Scheme.

Recommendation 9: Introduce an enforceable, risk-based due diligence obligation on business to detect and address forced labour, through an amendment to the Modern Slavery Act 2018 (Cth).

Recommendation 10: Industry should voluntarily play a greater role in detecting underpayment and other noncompliance in their Australian operations and supply chains, starting with routine auditing of payslips and scrutiny of visa holders engaged on ABNs and as casuals.

Recommendation 11: Explore measures to strengthen general protections against common forms of employer retaliation against migrant workers that prevent migrants from asserting workplace rights.

There is a pressing need for government to address the well-documented exploitation of migrant workers engaged through unscrupulous labour hire providers (rather than direct employment), particularly in horticulture where small operators disappear overnight and cannot be held to account. We did not ask survey participants whether they were employed directly or via labour hire because we believed this question would be difficult for some participants to understand and as a result the data would be unreliable.⁷⁶ However, existing research indicates this is a clear enforcement gap that must be urgently filled in order to systemically address underpayment and exploitation of migrant workers.⁷⁷

This is best addressed through a licensing regime to hold these providers to account for Fair Work Act noncompliance, enable businesses to reliably source workers from reputable compliant labour hire providers, and remove fly-by-night operators.⁷⁸ Failing this, every state and territory should establish a scheme at the state level, with harmonisation across jurisdictions wherever possible.

More effective business responses are also needed to proactively detect underpayment and other noncompliance, as well as modern slavery indicators, in their operations and supply chains. These are critical to level the playing field for honest businesses trying to compete in industries riven with migrant exploitation, and to meet their responsibilities with respect to modern slavery.

Large businesses should not only be required to report annually on their efforts to address modern slavery, but to take reasonable actions to address the most severe risks of modern slavery in their operations and supply chains. Responsibilities should be heightened for their operations within Australia. Our research can also be used to guide businesses seeking to identify systemic noncompliance and forced labour indicators in their operations and supply chains.

Following the release of this report we will publish a separate Practical Guidance setting out specific insights and recommendations for industry.

Our findings show that migrant workers who are casual employees are at far greater risk of underpayment and other noncompliance than permanent employees. Many do not try to assert their rights for fear their employer will retaliate by cutting their shifts, giving them worse work, or terminating their employment. These forms of retaliation are recognised as a form of prohibited adverse action under the Fair Work Act's general protections. However, because of the irregular nature of casual work and lack of guaranteed future work, retaliation is very difficult to prove in this context. This is especially the case when retaliation involves a gradual reduction of shifts or subtle changes to fewer hours or worse shifts.

Within the 2024 Fair Work Act reforms, the federal government recognised the insecurity of casual work and introduced a new 'casual conversion' law.⁷⁹

Unfortunately, this does not address the key threat of employer retaliation against underpaid migrant casual employees because most would be ineligible for conversion because they remain genuinely casual and work in small businesses for less than 12 months.

In addition, and beyond the casual employment context, numerous survey participants described threats of employer retaliation in the form of withdrawing current sponsorship of migrant workers on employer-sponsored visas, withdrawing a promise of future sponsorship for residence or rescinding an offer of future sponsorship for other temporary visa holders such as Temporary Graduates or students. Stronger measures are required to strengthen general protections around employer retaliation against migrant workers, in particular targeting an employer's rostering of fewer or worse shifts for casual employees who assert their workplace rights (including misclassified workers on ABNs) and retaliation in the form of an employer's withdrawal of visa sponsorship or rescinding a promise of future sponsorship.

Ensure migrants recover the wages they are shortchanged

Recommendation 12: Establish jurisdiction for underpayment in the Fair Work Commission, alongside a new co-located Fair Work Court.

Recommendation 13: Establish a government-funded wage guarantee scheme to ensure that any worker with a wage judgment in their favour receives their lawful entitlements if their employer does not pay.

Recommendation 14: Extend the Fair Entitlements Guarantee scheme to migrant workers to provide redress for unpaid wages when their employer liquidates, as is provided to non-migrant workers.

Our research has found that the current small claims process in the Federal Circuit and Family Court of Australia is too complex, technical and formal for most migrant workers to navigate without assistance.⁸⁰ We therefore recommend amendments to the Fair Work Act to enable the Fair Work Commission to conduct compulsory conciliation to resolve wage and/or entitlement claims, modelled on the FWC's existing general protections (involving dismissal) jurisdiction.

We also recommend the establishment of a new Fair Work Court to sit alongside the FWC, with Commissioners and Judges jointly appointed to both institutions. This would create a simple, affordable, accessible, and efficient process for employees to pursue underpayment claims.

In addition, to ensure no worker who obtains a court-ordered wage payment in the small claims jurisdiction remains unpaid, the Government should establish a guarantee scheme administered by DEWR that pays unpaid debts to affected workers. DEWR could then decide whether to deploy resources to take enforcement action against the employer and recover the debt. To minimise the number of matters to be paid under this scheme, DEWR could also notify the employer that, if the debt remains unpaid, the matter will be referred to the Department of Home Affairs resulting in a possible ban on the employer hiring temporary visa holders under the Prohibited Employer List, or unfavourable outcomes on migrant sponsorship applications.

Increase cap on student working hours

Recommendation 15: Explore increasing the work limitation on the student visa above 48 hours per fortnight to reduce exploitation risks and respond to increased cost of living in Australia.

This survey has revealed widespread sentiment among international students that this restriction critically limits their access to lawfully paid jobs, pushes them into “cash jobs” and then, in a vicious cycle, causes them to work more hours than permitted to make ends meet on these unlawfully low wages. Many international students also noted the substantially increased cost of living (in particular rent and food) that they struggle to meet with only 48 hours per fortnight of (generally underpaid) work. This is associated with high levels of stress and distress, with substantial mental health impact. Numerous open responses suggested 30 hours per week as the appropriate limit to enable them to access lawful work (and productively utilise their existing qualifications and skills) while they study and enable them to meet the increased cost of living in Australia.

The government should evaluate the impact of increased cost of living on international students, the impact of the work restriction on employer willingness to hire international students in lawfully paid jobs, and the impact of widespread underpayment and mistreatment in the jobs in which most international students work, including the consequences of poor working conditions and financial distress on international students’ studies, experience in Australia, and mental health.

Invest in compulsory worker rights education

Recommendation 16: Invest in compulsory worker rights education and awareness as a prevention measure.

There remain significant gaps in migrant workers’ knowledge of their workplace rights. Comparing our survey data over time, knowledge of the minimum wage for a casual employee has remained consistently low, with only a small increase from 25% who

knew the casual minimum in 2019 to 34% in 2024. Additionally, over a quarter of participants still do not know the National Minimum Wage.

Resourcing is required to expand dedicated support services for migrant workers to identify and address underpayment and assert other workplace rights. The government and unions should also invest further resources in compulsory worker rights education and awareness-raising at key touchpoints. Visa holders should receive clear, accessible information about workplace rights and where to get help at multiple key touchpoints throughout their migration journey. This includes embedding this information in the visa grant communication process predeparture, as well as in post-arrival processes, and on a regular basis through universities and other institutions engaging large numbers of visa holders. Information should include referrals to the relevant union in key industries with greater concentrations of migrant workers, as well as to local CLCs, student legal services, Legal Aid and the Fair Work Ombudsman.

“I feel there are some employers out there who take advantage of internationals lack of knowledge about the wage system in Australia. With minimum wage and award wages, casual work and part/full-time work being different. I think when coming to Australia on a visa that allows internationals to work, providing them with proper resources to educate themselves would be beneficial. For example, upon entry or granting of your visa, received an email with the basics explained and links to additional resources.

Female international student from the Netherlands, in Queensland

Taken together, these sixteen recommendations address an exploitation system that is newly visible. We now know how Australian businesses structure work to evade the Fair Work Act, which violations cluster, and what regulators and businesses can look for to detect underpayment and deeper exploitation of migrants. Each of these recommended reforms closes a gap migrants have named in their own words across this report. Implemented together, they would let workers come forward without losing their visa, their shifts, or their savings and would enable honest businesses to compete on a level playing field.

APPENDIX 1 – PARTICIPANT DEMOGRAPHICS

Visa held in lowest paid job in 2023-24

Four in five participants (80% , 6,627) held a student visa when working in their lowest paid job in 2023-24. Among non-student visa holders, the largest cohorts were Temporary Graduate (subclass 485) (4% , 334), Working Holiday (417/462) (3% , 270), skilled visas (1% , 104), and bridging visas (1% , 105). A further 2% were on a range of other visa classes and for 8% their visa in their lowest paid job in 2023-24 was unknown. There were 155 secondary visa holders.

FIGURE 26

Participants' visa when working in lowest paid job in 2023-24 (n=8,269)

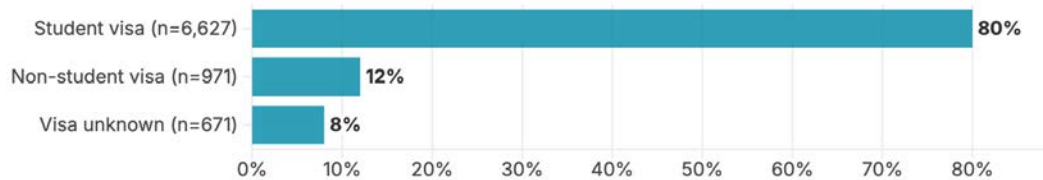
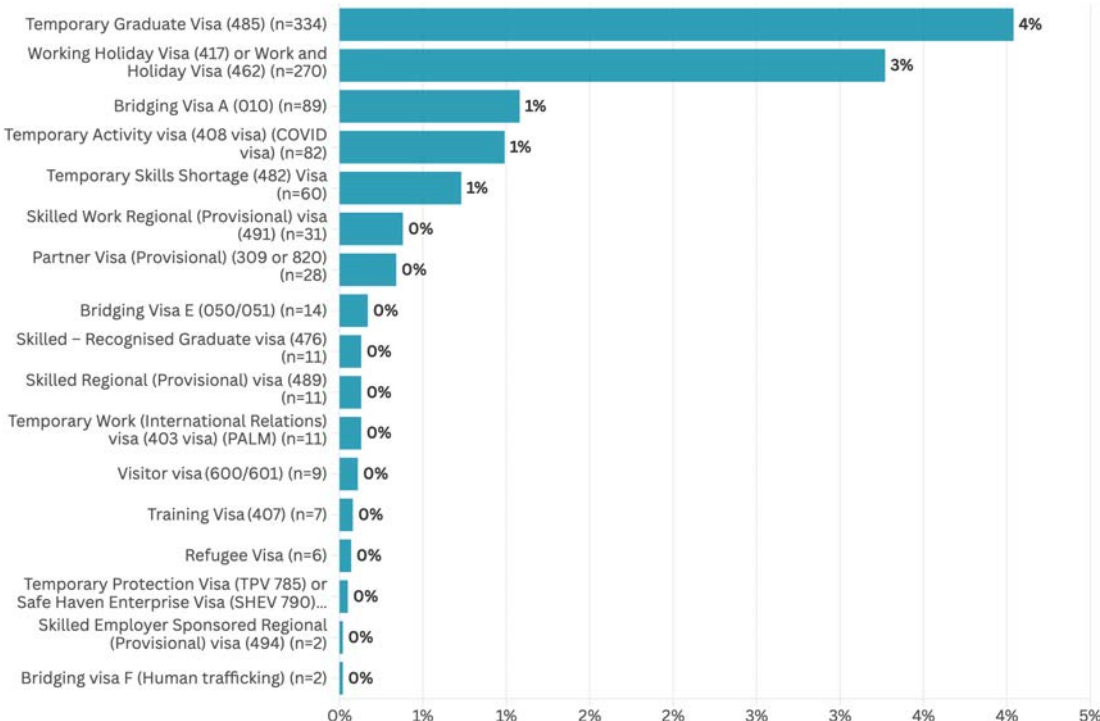


FIGURE 27

Breakdown of non-student visas (n=971)



Nationality of participants who worked on a temporary visa in 2023-24

Participants were nationals of 140 countries. The largest cohorts were from India (16%), China (11%) and Nepal (9%).

FIGURE 28.1

Nationalities of participants who worked on a temporary visa in 2023-24 (n=8,369)

Number of participants 1  1340

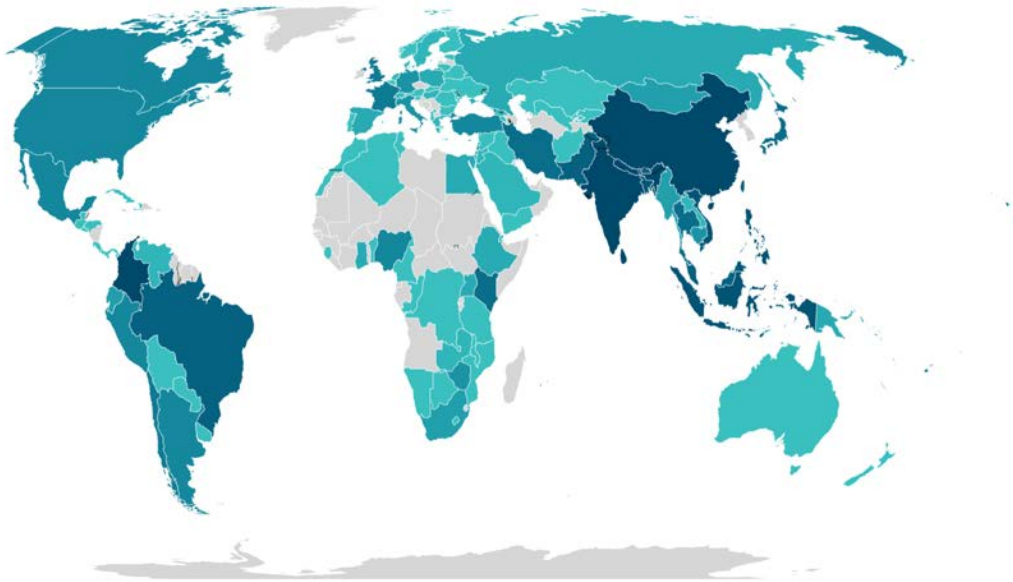
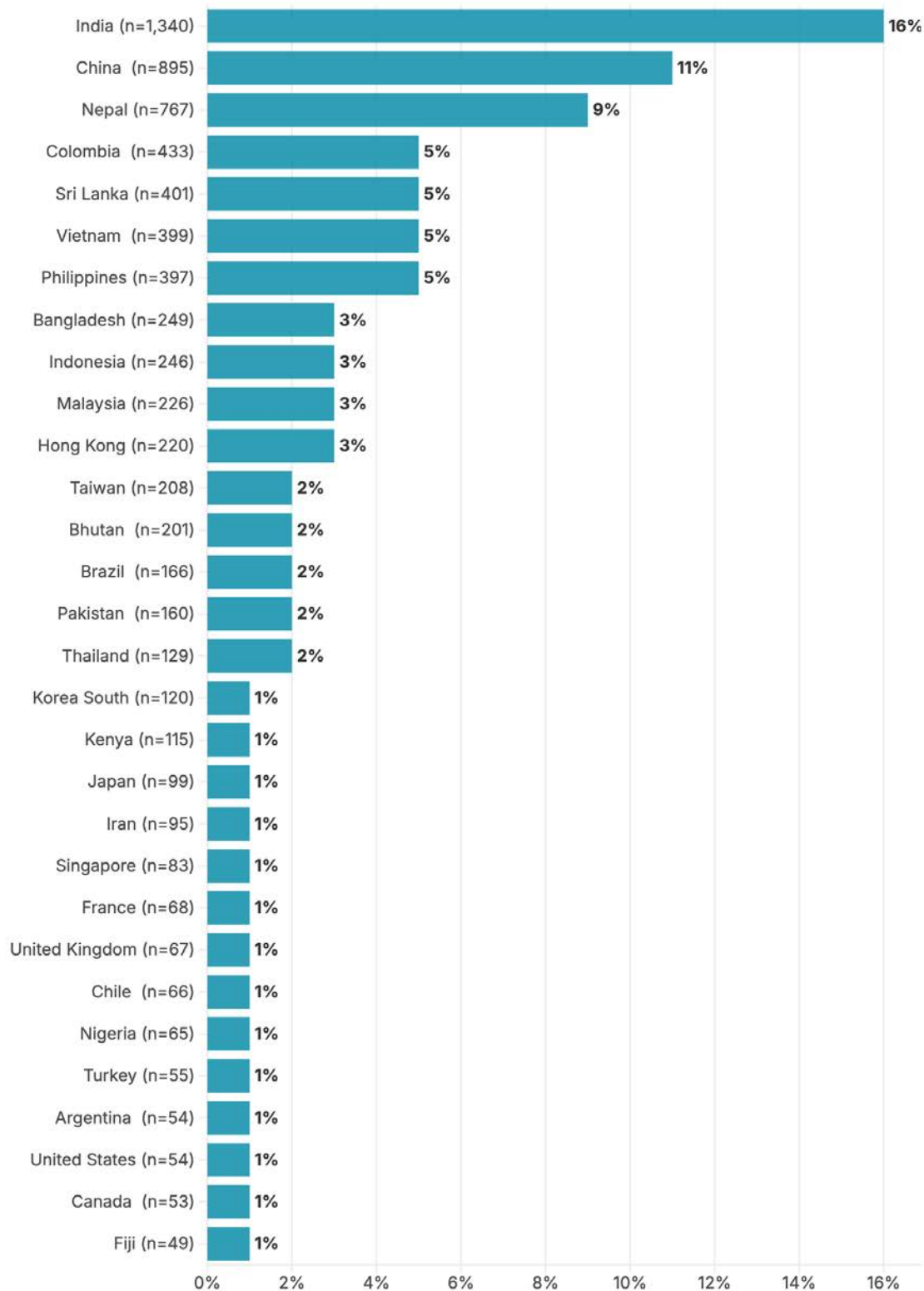


FIGURE 28.2

Nationalities of participants who worked on a temporary visa in 2023-24 (n=8,369)

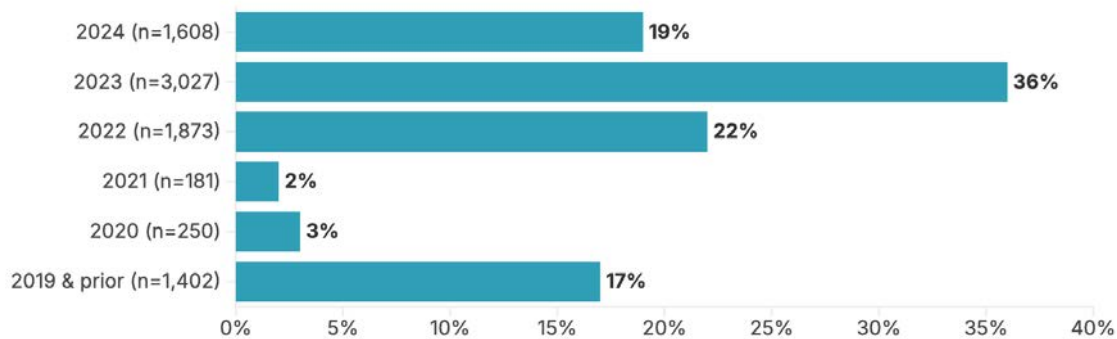


Year of arrival of participants who worked on a temporary visa in 2023-24

A majority of participants arrived in Australia within 18 months of the survey, including one in five (19%) who were in their first 6 months in Australia. Over three quarters had been in Australia for 2.5 years or less.

FIGURE 29

Year of arrival of participants who worked in 2023-24 (n=8,341)

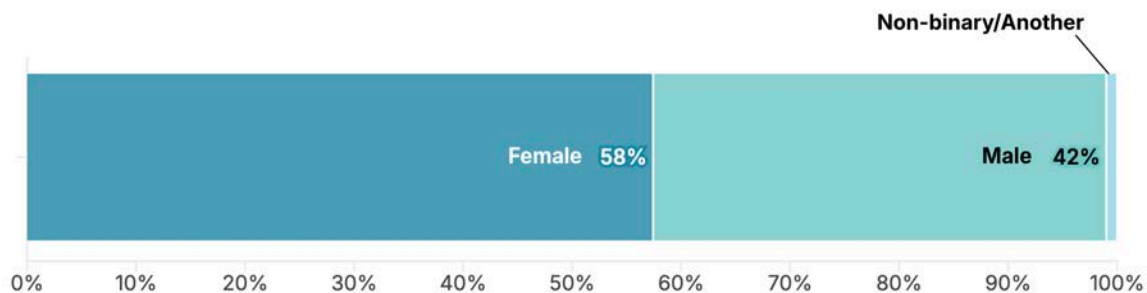


Gender

Substantially more women (58%) than men (42%) participated in the survey. One percent of participants identified as another gender.

FIGURE 30

Gender of participants who worked in 2023-24 (n=8,369)

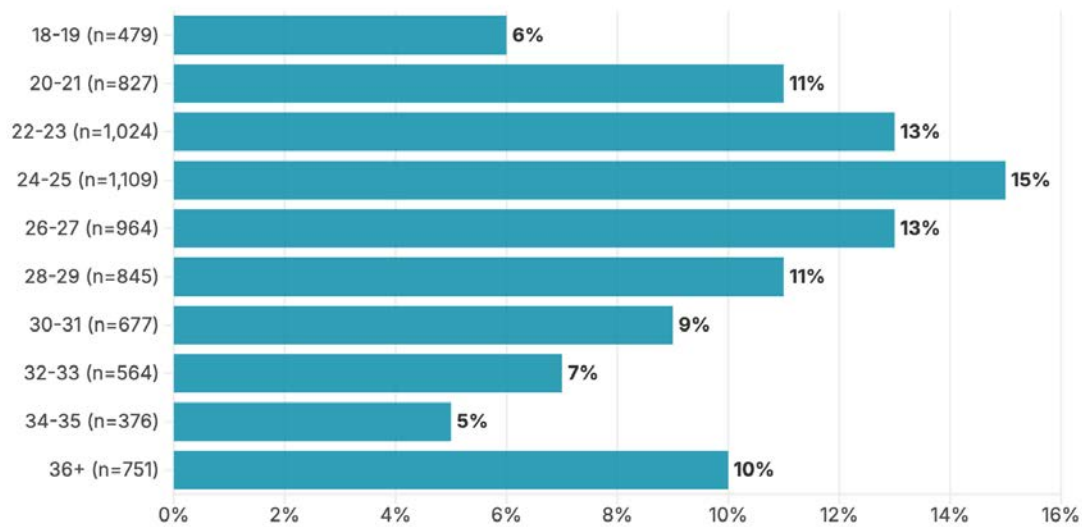


Age of participants at the time of the survey

Participants were required to be at least 18 years old in order to participate in the survey. Forty one percent of participants were aged between 22 and 27. About a third were aged 30 years or older (31%).

FIGURE 31

Age of participants at the time of the survey, among those who worked in 2023-24 (n=7,616)



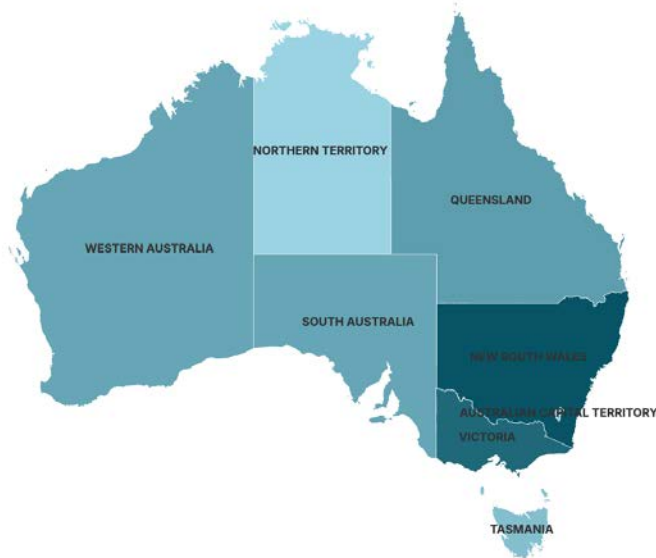
Location of participants' lowest paid job in 2023-24

Participants' lowest paid jobs were distributed across all states and territories. The majority (6,365 participants; 84%) were located in major cities. Around one in eight (975 participants; 13%) were located in Inner Regional Australia. The remaining 263 participants (3%) were located in Outer Regional, Remote or Very Remote Australia.

FIGURE 32

Location of participants lowest paid job in 2023-24 (n=8,213)

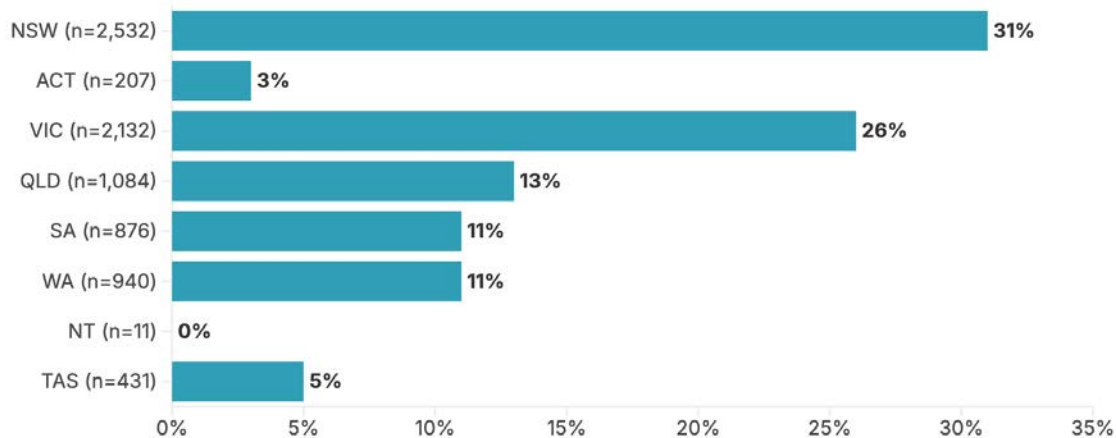
Percentage of participants 0%  31%



Source: Australian Bureau of Statistics: States and Territories (2021) (boundaries)

FIGURE 33

State in which participants worked in their lowest paid job in 2023-24 (n=8,213)



APPENDIX 2 – INDUSTRY SPECIFIC DATA

Hospitality – café, restaurant

Survey participants: n = 2,538

OVERALL UNDERPAYMENT 81% of workers were underpaid*	AVERAGE SHORTFALL -\$10.09 per hour, average underpayment	BELOW THE FLOOR 48% paid below the National Minimum Wage
EMPLOYMENT STRUCTURE		
33% Worked on an ABN 91% paid below equiv. casual employee minimum	47% Casual employee 88% of casual employees underpaid	20% Permanent employee 40% of permanent employees underpaid
PAY PRACTICES		
36% Paid in cash	24% Not given payslips 10% given a payslip missing hours	35% Not paid superannuation
AFTER HOURS AND DEDUCTIONS		
93% Worked nights / weekends 57% of those not paid penalty rates	11% Had wage deductions	

* ABN workers pegged to the casual employee minimum.

Professional, technical & administration

Survey participants: n = 1,121



Retail

Survey participants: n = 961



* ABN workers pegged to the casual employee minimum.

Cleaning (commercial)

Survey participants: n = 594



Delivery/ Rideshare

Survey participants: n = 468



* ABN workers pegged to the casual employee minimum.

Hospitality – fast food

Survey participants: n = 454



Aged care

Survey participants: n = 270



* ABN workers pegged to the casual employee minimum.

Factory/warehouse

Survey participants: n = 250



Healthcare

Survey participants: n = 204



* ABN workers pegged to the casual employee minimum.

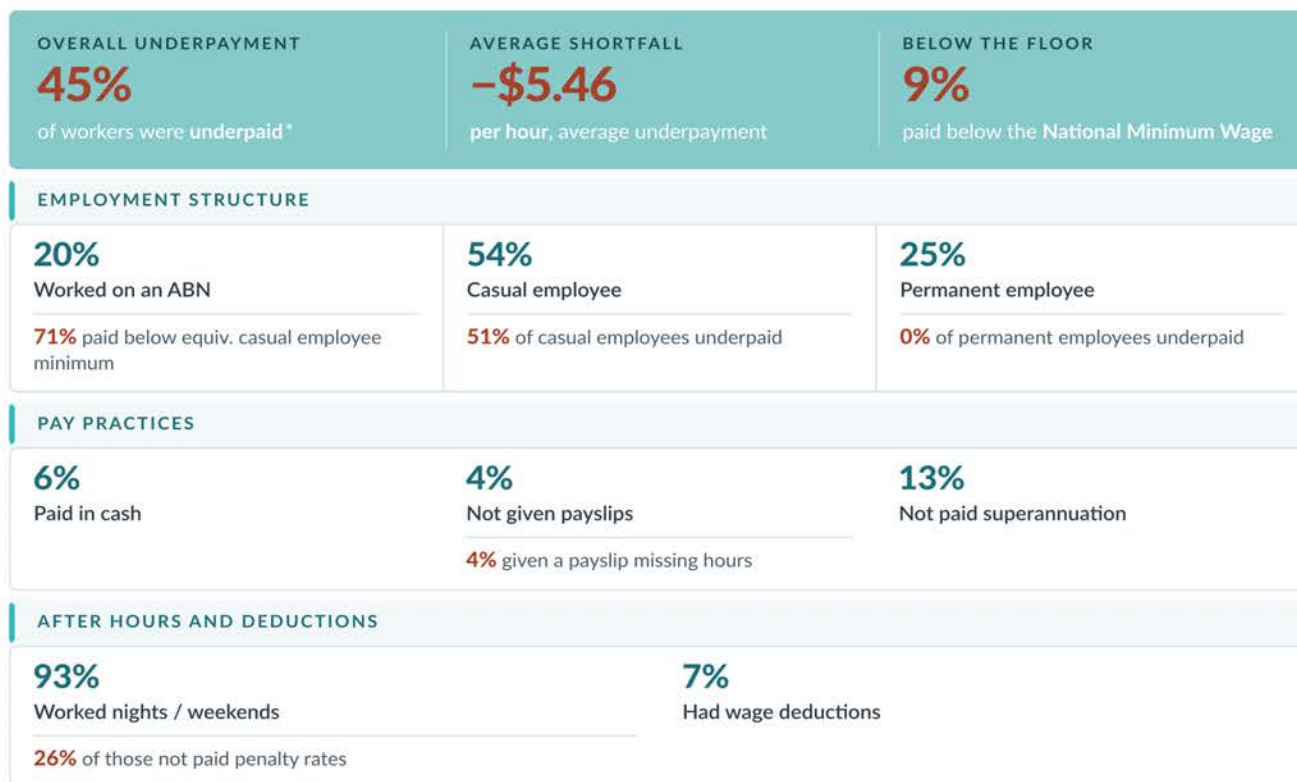
Childcare centre

Survey participants: n = 189



Disability care

Survey participants: n = 165



* ABN workers pegged to the casual employee minimum.

Horticulture

Survey participants: n = 124



Construction

Survey participants: n = 114



* ABN workers pegged to the casual employee minimum.

Petrol station

Survey participants: n = 84



Car wash

Survey participants: n = 56



* ABN workers pegged to the casual employee minimum.

Meat work

Survey participants: n = 50



Nail / beauty salon

Survey participants: n = 30



* ABN workers pegged to the casual employee minimum.

Massage

Survey participants: n = 24



* ABN workers pegged to the casual employee minimum.

ENDNOTES

¹ '7-Eleven: The Price of Convenience', *Four Corners* (Australian Broadcasting Corporation, 31 August 2015) <<https://www.abc.net.au/news/2015-08-30/7-eleven-promo/6729716>>; Adele Ferguson & Sarah Danckert, *Revealed: How 7-Eleven is ripping off its workers* (Report, 31 August 2015) <<https://www.smh.com.au/interactive/2015/7-eleven-revealed/>>.

² Australian Government, *Report of the Migrant Workers' Taskforce* (Report, March 2019).

³ Joint Standing Committee on Foreign Affairs, Defence and Trade, *Hidden in Plain Sight An inquiry into establishing a Modern Slavery Act in Australia* (Report, December 2017); The Senate Education and Employment References Committee, *Corporate avoidance of the Fair Work Act 2009* (Report, September 2018); The Senate Economics References Committee, *Inquiry into Unlawful Underpayment of Employees' Remuneration 'Systemic, Sustained and Shameful'* (Report, March 2022); Office of the NSW Anti-Slavery commissioner, *Be Our Guests: Addressing urgent modern slavery risks for temporary migrant workers in rural and regional New South Wales* (Report, 2024).

⁴ *Fair Work Amendment (Protecting Vulnerable Workers) Act 2017* (Cth); *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth); *Fair Work Legislation Amendment (Protecting Worker Entitlements) Act 2023* (Cth); *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* (Cth); *Fair Work Legislation Amendment (Closing Loopholes No 2) Act 2024* (Cth); *Migration Amendment (Strengthening Employer Compliance) Act 2024* (Cth).

⁵ Bassina Farbenblum and Laurie Berg, *Wage Theft in Australia: Findings of the National Temporary Migrant Work Survey* (Report, November 2017); Bassina Farbenblum and Laurie Berg, *Wage Theft in Silence: Why Migrant Workers Do Not Recover Their Unpaid Wages In Australia* (Report, October 2018); Bassina Farbenblum and Laurie Berg, *International Students and Wage Theft in Australia* (Report, June 2020).

⁶ See <https://www.migrantjustice.org/reports>.

⁷ Although 8,370 participants responded that they had worked on a temporary visa in Australia in the 18 months prior to the survey, 8,276 participants provided a response to the next question, 'What was that job?'

⁸ Award rates were calculated as at 1 July 2023.

⁹ *Ibid.*

¹⁰ As discussed in the next Part, most of these were likely misclassified employees, and potentially victims of sham contracting, legally entitled to the National Minimum Wage and casual loading. Others worked in jobs in which it was more likely they were lawful Independent Contractors, with no minimum wage entitlements in their lowest paid job between 2023 and August 2024. We look at the wages of both groups in relation to the National Minimum Wage. Some lawful Independent Contractors such as delivery riders are at such a structural disadvantage they should morally expect to earn income at least above minimum wage, and generally above the casual minimum wage, given that like casual employees they do not get paid leave, regular hours or other Fair Work Act entitlements: *Fair Work Act 2009* (Cth). The structural disadvantage of these workers has now been recognised with the introduction of the "regulated worker" category in the *Fair Work Act* that opens the possibility for minimum standards for these workers.

¹¹ Award rates were calculated as at 1 July 2023.

¹² Laurie Berg and Bassina Farbenblum, *Wage Theft in Australia: Findings of the National Temporary Migrant Work Survey* (Report, November 2017).

¹³ Bassina Farbenblum and Laurie Berg, *International Students and Wage Theft in Australia* (Report, June 2020).

¹⁴ ABS, *Labour Force, Headline estimates of employment, unemployment, underemployment, participation and hours worked from the monthly Labour Force Survey* (Release, 19 February 2026) <<https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia/latest-release>>; ABS, *Labour Force, Australia Summary results of the monthly Labour Force Survey containing estimates of employed and unemployed persons* (Release, 23 January 2020) <<https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia/dec-2019>>.

¹⁵ Laurie Berg and Bassina Farbenblum, *Wage Theft in Australia: Findings of the National Temporary Migrant Work Survey* (Report, November 2017) 15. Likewise for the 2019 survey see: Bassina Farbenblum and Laurie Berg, *International Students and Wage Theft in Australia* (Report, June 2020) 21.

¹⁶ Australian Bureau of Statistics, 'Working Arrangements' *Australian Bureau of Statistics* (Web page, August 2024) <<https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/working-arrangements/aug-2024#independent-contractors>>.

¹⁷ *Fair Work Act 2009* (Cth) s 15A.

¹⁸ Ibid s 87, 96, 117-118.

¹⁹ The Characteristics of Employment (COE) survey was conducted throughout Australia in August 2024 as a supplement to the monthly Labour Force Survey (LFS). As of August 2024 (the time of our survey):

22% of employees did not have paid leave entitlements (18% of all workers);

For employees who work part-time in their main job (i.e. fewer than 35 hours/week), 49% did not have paid leave entitlements

Paid leave entitlements were more common among higher paid workers. In August 2024, 92% of employees who earned the median wage of \$1,396 per week or more were entitled to either paid sick leave or paid holiday leave, or both. For employees in the lowest 25 per cent of earners (less than \$899 per week), 45% had paid sick leave or paid holiday leave entitlements.

Australian Bureau of Statistics, 'Characteristics of Employment, Australia methodology', *Australian Bureau of Statistics* (Web page, August 2024) <<https://www.abs.gov.au/methodologies/characteristics-employment-australia-methodology/aug-2024#introduction>>; Australian Bureau of Statistics, 'Casual employment' *Australian Bureau of Statistics* (Web page, August 2024) <<https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/working-arrangements/aug-2024#casual-employment>>.

²⁰ Ibid.

²¹ Australian Bureau of Statistics, 'Working Arrangements' *Australian Bureau of Statistics* (Web page, August 2024) <<https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/working-arrangements/aug-2024#independent-contractors>>.

²² Ibid.

²³ Industries with the lowest total numbers of independent contractors in 2023 and 2024 were 'Retail trade', 'Information media and telecommunications', 'Financial and insurance services', 'Accommodation and food services', 'Public administration and safety', 'Wholesale trade', 'Mining and Electricity, gas, water and waste services': Australian Bureau of Statistics, 'Characteristics of Employment, Australia – Working Arrangements' *Australian Bureau of Statistics* (Web page, August 2024) <<https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/working-arrangements/aug-2024#independent-contractors>>.

Only 1% of non-employing businesses in financial years 2025 and 2024 in Australia were café/restaurant businesses, takeaway food businesses and hairdressing and beauty services. Fuel retailing, childcare services, mining (including coal, iron, gold, mineral, oil and gas), and meat and poultry processing made up less than 1% of non-employing businesses in Australia during this time. In contrast, the most common non-employing businesses in financial years 2024 and 2025 were in the construction industry or professional/technical services: Australian Bureau of Statistics, *8165.0 Counts of Australian Businesses, including Entries and Exits, June 2021 to June 2025* (Data release, 16 December 2025) <<https://www.abs.gov.au/statistics/economy/business-indicators/counts-australian-businesses-including-entries-and-exits/latest-release#data-downloads:~:text=employment%20size%20ranges-Download%20XLSX,%5B2.05%20MB%5D,-Data%20cube%203>>.

²⁴ We cannot make any definitive conclusion about which participants were subjected to misclassification, because we did not ask participants for the particulars of their work arrangement to distinguish workers providing services as an Independent Contractor from employees pursuant to the *Fair Work Act 2009* (Cth) s 15AA.

²⁵ As mentioned above, we cannot make any definitive conclusion about which participants were subjected to misclassification, because we did not ask participants about the particulars of their work arrangement, including whether the level of control exercised by their employer/principal, to distinguish participants who were properly conducting their own business from those who were in fact undertaking work as an employee. Nevertheless, we can give benefit of the doubt to workers in certain sectors based on ABS data from 2024 and our own knowledge about care work, household services and transport sector: Australian Bureau of Statistics, 'Characteristics of Employment, Australia – Working Arrangements' *Australian Bureau of Statistics* (Web page, August 2024) <<https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/working-arrangements/latest-release#data-downloads>>.

According to ABS Working Arrangements data (August 2024) 24% of construction workers considered themselves Independent Contractors, 19% of administrative and support services workers, 12% of professional and technical services, 12% of transport workers.

²⁶ The Australian Bureau of Statistics' Working Time Arrangements survey was conducted every two to three years between 1993 and 2012.

²⁷ NSW Government, *NSW 24-Hour Economy Strategy A new state of night* (Report, 2024) <<https://www.nsw.gov.au/sites/default/files/noindex/2024-09/24-hour-economy-strategy.pdf>>.

²⁸ All regression analyses in this report were conducted using a robust Poisson model to estimate the impact of certain characteristics on the likelihood of underpayment. Our outcome variable is a binary: whether

someone has been underpaid or not. We run the regression with different definitions of underpayment, including:

Whether respondents were paid below their own entitlements (taking into account their entitlement to the statutory minimum, casual entitlements, award entitlements and penalty rates).

Whether respondents were paid below the statutory minimum (\$23.23). We round down the minimum and class anyone who earns \$1 less than that as underpaid, i.e. \$22 for the statutory minimum of \$23.23.

²⁹ John Howe and Tom Dillon, *Underpaid and Overlooked: The Wage Crisis Facing Young Workers in Australia Final Report of the Fair Day's Work Project* (Report, July 2025) 18.

³⁰ Order of Justice Hatcher, President, Vice President Catanzariti, Vice President Ashbury, Deputy President Hampton, Ms Labine-Romain, Professor Baird, Mr Cully in *Annual Wage Review 2022-23* (Fair Work Commission, PR762107, 20 June 2023). This does not take youth rates into account, however those rates were taken into account when calculating each participant's individual minimum entitlements. Only 5% of participants were under 20 years old.

³¹ *Fair Work Act 2009* (Cth) s 15A; Fair Work Ombudsman, 'Hours of work', *Fair Work Ombudsman* (Webpage) <<https://www.fairwork.gov.au/employment-conditions/hours-of-work-breaks-and-rosters/hours-of-work>>.

³² Although there are exceptions for contractual rights against termination and the new unfair deactivation provisions for delivery riders: Fair Work Commission, 'Who the law protects from unfair dismissal' *Fair Work Commission* <<https://www.fwc.gov.au/job-loss-or-dismissal/unfair-dismissal/about-unfair-dismissal/who-law-protects-unfair-dismissal>>.

³³ *Migration Act 1958* (Cth) s 245AAA.

³⁴ *Fair Work Ombudsman v Quickpoint Pty Ltd* [2022] FedCFamC2G 991 [141]; *Fair Work Ombudsman v Dosanjh* [2016] FCCA 923 [46] per Altobelli J; *Fair Work Ombudsman v ACN 052 182 180 Pty Ltd & Anor* [2013] FCCA 688, [20]; *Fair Work Ombudsman v Soleimani & Anor* [2014] CA 2380 at [55].

³⁵ *Fair Work Act 2009* (Cth) s 536. See also s 557C and Part 3-6 Div 3 of *Fair Work Regulations 2009* (Cth).

³⁶ Under the *Fair Work Act 2009* (Cth) s 536(3) an employer must not 'give a pay slip for the purposes of this section that the employer knows is false or misleading.' This is a civil remedy provision. But deliberately providing a false payslip may also satisfy other criminal offences i.e. false or misleading documents under the *Crimes Act 1900* (NSW) s 307C and similar offences under other state legislation.

³⁷ Bassina Farbenblum and Laurie Berg, 'Wage theft in Australia' (2017) 23(3) *Australian Journal of Human Rights* 310, 314.

³⁸ Both figures exclude skilled visa holders from the relevant pool of migrant workers.

³⁹ *Fair Work Amendment (Protecting Vulnerable Workers) Act 2017* (Cth).

⁴⁰ *Fair Work Act 2009* (Cth) s 557C.

⁴¹ Mary-Alice Doyle, Chay Fisher, Ed Tellez and Anirudh Yadav, *How Australians Pay: Evidence from the 2016 Consumer Payments Survey* (Research Discussion Paper, 2016) 17; Jack Mulqueeny and Tanya Livermore, *Cash Use and Attitudes in Australia* (Report, June 2023) 30-31.

⁴² The proportions were 10.5% up to 30 June 2023, 11% up to 30 June 2024 and 11.5% from 1 July 2024.

⁴³ *Fair Work Act 2009* (Cth) s 116B; *Superannuation Guarantee (Administration) Act 1992* (Cth) s 12, 16; Fair Work Ombudsman, 'Tax and superannuation' (Webpage) <<https://www.fairwork.gov.au/pay-and-wages/tax-and-superannuation#super-guarantee>>.

⁴⁴ *Fair Work Legislation Amendment (Protecting Worker Entitlements) Act 2023* (Cth) Sch 3 s 1; *Fair Work Act 2009* (Cth) s 61(2)(ha).

⁴⁵ *Superannuation Guarantee (Administration) Act 1992* (Cth) s 12(3).

⁴⁶ *Fair Work Act 2009* (Cth) s 324(1).

⁴⁷ *Fair Work Regulations 2009* (Cth) Reg 3.46(2).

⁴⁸ *Fair Work Act 2009* (Cth) s 324(1A), 326.

⁴⁹ An employer can make deductions for breakages or till shortages where the hospitality worker has acted with wilful misconduct. *Hospitality Industry (General) Award 2020* (Cth) Cl 36.

⁵⁰ Brendan Coates, Trent Wiltshire and Tyler Reysenbach, *Short-changed: How to stop the exploitation of migrant workers in Australia* (Report, 23 May 2023) 17, 98.

⁵¹ *Ibid* 66.

⁵² Australian Bureau of Statistics, 'Trade union membership', *Australian Bureau of Statistics* (Web release, 9 December 2024) <<https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/trade-union-membership/latest-release>>.

⁵³ Bassina Farbenblum and Laurie Berg, 'Migrant workers' access to remedy for exploitation in Australia: the role of the national Fair Work Ombudsman' (2017) 23(3) *Australian Journal of Human Rights* 310, 314.

⁵⁴ *Criminal Code Act 1995* (Cth) div 270-271.

⁵⁵ Office of the Australian Anti-Slavery Commissioner, *Recommendations to strengthen Australia's modern slavery laws* (Initial position paper, 30 January 2026); Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Sixth Periodic Report of Australia*, UN Doc E/C.12/AUS/CO/6 (23 March 2026); Walk Free, 'Time for action as Australia considers mandatory due diligence on modern slavery' *Walk Free* (Article, 17 February 2026) <<https://www.walkfree.org/news/2026/time-for-action-as-australia-considers-mandatory-due-diligence-on-modern-slavery/>>.

⁵⁶ Attorney-General's Department, *Commonwealth Modern Slavery Act 2018 Guidance for Reporting Entities*, (Guidance, May 2023) 81-83.

⁵⁷ International Labour Organisation, *ILO Indicators of Forced Labour 2025 revised edition* (18 November 2025); International Labour Organisation, *ILO Indicators of Forced Labour* (1 October 2012). See also International Labour Organization and International Organisation of Employers 2025, *Combating Forced Labour: A Handbook for Employers and Business* (3rd ed, 2025)

⁵⁸ Bassina Farbenblum and Laurie Berg, *Wage Theft in Australia: Findings of the National Temporary Migrant Work Survey* (Report, November 2017) 38.

⁵⁹ *Ibid* 40.

⁶⁰ *Fair Work Amendment (Protecting Vulnerable Workers) Act 2017* (Cth); *Fair Work Act 2009* (Cth) s 557C.

⁶¹ See: Fair Work Ombudsman, 'Annual reports' *Fair Work Ombudsman* (Web Page) <<https://www.fairwork.gov.au/about-us/accountability/annual-reports>>.

⁶² These include extensive amendments to the Fair Work Act 2009 (Cth) through the Closing the Loopholes, Protecting Worker Entitlements, and Secure Jobs, Better Pay reforms, as well as the Strengthening Employer Compliance amendments to the Migration Act: Fair Work Legislation Amendment (Closing Loopholes) Act 2023 (Cth); Fair Work Legislation Amendment (Closing Loopholes No 2) Act 2024 (Cth); Fair Work Legislation Amendment (Protecting Worker Entitlements) Act 2023 (Cth); Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 (Cth); Migration Amendment (Strengthening Employer Compliance) Act 2024 (Cth).

⁶³ The reforms include a new broader definition of 'employment' which engages protections under the FW Act. An employee is now distinguished from an Independent Contractor by reference to the true nature of the relationship, rather than, as was previously the case, by reference to the terms of the contract.

For the purpose of the FW Act, the terms 'employee' and 'employer' would be determined by assessing the real substance, practical reality and true nature of the working relationship, by considering the 'totality' of the relationship. This returns to the multi-factorial assessment to determine whether a relationship is one of employment for national system employees prior to High Court decisions in 2022. These decisions held that the nature of the relationship was to be determined primarily by reference to the terms of the contract. See CFMMEU v Personnel Contracting Pty Ltd [2022] HCA 1 and ZG Operations Australia Pty Ltd v Jamsek [2022] HCA 2.

In addition, the defence to sham contracting is now narrower: to avoid offending, a business must now show that it 'reasonably believed' the contract was a contract for services (previously, a business could mount a defence against sham contracting simply by showing it was not reckless as to the misclassification): Fair Work Act 2009 (Cth) s 357(2). Greater penalties have also been introduced for certain businesses which have engaged in sham contracting.

⁶⁴ The Senate Education and Employment References Committee, *Corporate Avoidance of the Fair Work Act* (Report, September 2017) Recommendation 24.

⁶⁵ Migration Act 1958 (Cth) ss 245AAA, 245AAB and 245AAC.

⁶⁶ *Ibid* Division 12 Subdivision E.

⁶⁷ Australian Border Force, 'Prohibited Employer Register' Australian Border Force (Webpage) <<https://www.abf.gov.au/about-us/what-we-do/prohibited/prohibited-employer-register>>.

⁶⁸ Migration Amendment (Workplace Justice Visa) Regulations 2024 (Cth). Department of Home Affairs, 'Strengthening Reporting Protections Pilot' Department of Home Affairs (Webpage) <<https://immi.homeaffairs.gov.au/visas/working-in-australia/work-rights-and-exploitation/strengthening-reporting-protections-pilot>>; <https://immi.homeaffairs.gov.au/visas/working-in-australia/work-rights-and-exploitation/strengthening-reporting-protections-pilot>>; Department of Home Affairs, 'Australian Government Endorsed Events (Workplace Justice Pilot)' Department of Home Affairs (Webpage) <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-activity-408/australian-government-endorsed-events-workplace-justice-pilot>>.

⁶⁹ Department of Home Affairs, 'Australian Government Endorsed Events (Workplace Justice Pilot)' Department of Home Affairs (Webpage) <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-activity-408/australian-government-endorsed-events-workplace-justice-pilot>>; For further

information on measures required to strengthen the protections and make them accessible to migrants for whom they are needed, see Migrant Workers Centre, In review: Australia's visa protection pilots (Policy brief, 20 June 2025) <https://www.migrantworkers.org.au/visa_protection_pilots>.

⁷⁰ The reforms introduced higher maximum civil penalties for standard civil breaches and serious contraventions of certain civil remedy provisions of the Fair Work Act, and a lower threshold for a serious contravention (reduced from conduct done knowingly and systematically, to conduct done either knowingly or recklessly: Fair Work Act 2009 (Cth) s 12, 357(2), 539, 546, 557A. This applies to bodies corporate that are not small business employers, in line with the Australian Government's election commitment to implement the recommendations of the Australian Government, Report of the Migrant Workers' Taskforce (Report, March 2019) and ensures serious civil contraventions operate sensibly alongside the wage theft criminal offence introduced by the Fair Work Legislation Amendment (Closing Loopholes) Act 2024 (Cth). It also introduced a new criminal offence of wage theft for intentional employer conduct that results in underpayment of its employees (effective from 1 January 2025): Fair Work Act 2009 (Cth) s 327A.

⁷¹ This includes a new option of surprise inspections of the employer's records without the usual 24-hour notice: Fair Work Act 2009 (Cth) s 483A; The amendments provide that an entry permit holder can apply to the Commission for an exemption certificate, waiving the usual 24-hour notice period for entry to workplaces, but only where the Commission is satisfied there is a suspected underpayment of wages affecting a member of the registered organisation, and reasonably believes that advance notice of entry would hinder an effective investigation into the suspected contravention.

⁷² Fair Work Ombudsman, Office of the Fair Work Ombudsman Annual Report 2024–25 (Report, 30 September 2025) 39; Tess Hardy, Stephen Clibborn and Joel Cutcher-Gershenfeld, 'A Tripartite Experiment In Australia: Seeking To Improve Compliance Through Collaboration' (2026) Dispatches 5.

⁷³ Fair Work Ombudsman, 'Sham contracting in the spotlight' Fair Work Ombudsman (Media release, 13 March 2026) <<https://www.fairwork.gov.au/newsroom/media-releases/2026-media-releases/march-2026/20260313-sham-contracting-media-release>>.

⁷⁴ John Howe and Tom Dillon, Underpaid and overlooked: the wage crisis facing young workers in Australia — final report of the Fair Day's Work Project (Report, July 2025) Recommendation 1.

⁷⁵ Brendan Coates, Trent Wiltshire and Tyler Reysenbach, *Short-changed: How to stop the exploitation of migrant workers in Australia* (Report, 23 May 2023) Rec 24.

⁷⁶ Office of the NSW Anti-Slavery commissioner, Be Our Guests: Addressing urgent modern slavery risks for temporary migrant workers in rural and regional New South Wales (Report, 2024); Evidence to Modern Slavery Committee Inquiry into Modern Slavery Risks Faced by Temporary Migrant Workers in Rural and Regional New South Wales, New South Wales Legislative Council, Blue Room, C.ex Coffs, Coffs Harbour, 11 December 2025, 4-5 (Giles Fryer) .

⁷⁷ In 2024, the government introduced reforms to remove incentives for businesses to engage workers through labour hire agencies by empowering the Fair Work Commission to order that labour hire employees be paid what they would have received as a direct employee. Fair Work Act 2009 (Cth) s 306E. This is important, but does not address the critical lack of oversight and accountability of labour hire providers.

⁷⁸ Victoria, Queensland South Australia and the Australian Capital Territory have established licensing and enforcement regimes for these providers, however there is currently no licensing system for providers operating in other states and territories. See: <https://www.fairwork.gov.au/find-help-for/labour-hire-and-supply-chains/managing-your-labour-contracting>.

⁷⁹ *Fair Work Act 2009* (Cth) Part 2-2 Division 4A.

⁸⁰ Catherine Hemingway, Fiona Yeh, Laurie Berg and Bassina Farbenblum, *All Work, No Pay: Improving the Legal System so Migrants can get the Wages They are Owed* (Report, 2024) 8.