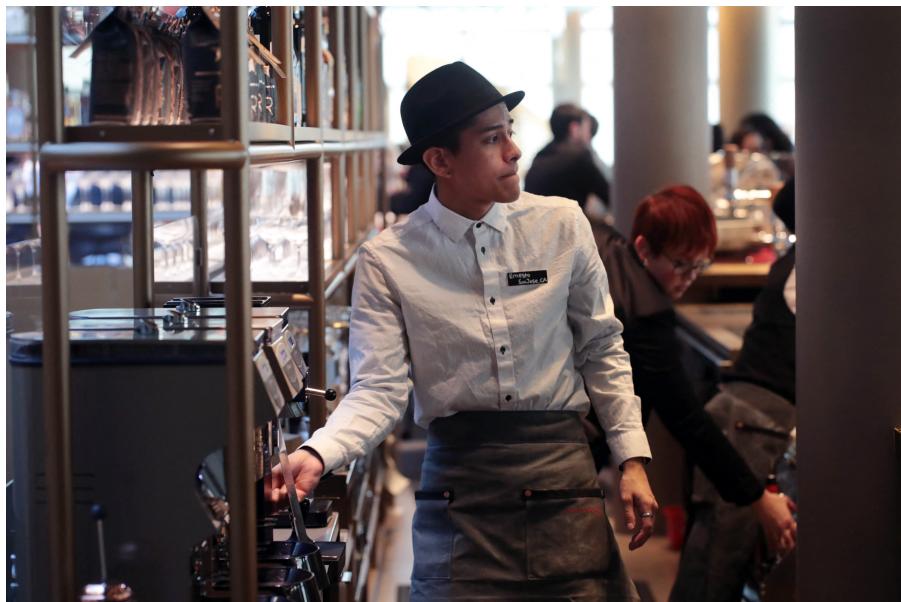




# Can int'l students in Australia reclaim their unpaid wages soon?

BREAKING NEWS | STUDY INTERNATIONAL STAFF | 03 JUN 2022



A "groundbreaking" court decision could make it easier for international students in Australia to seek justice for unpaid wages. Source: Scott Olson/Getty Images/AFP



**A**re you an international student in Australia who has been affected by wage theft? A new "groundbreaking" decision by The Federal Circuit and Family Court of Australia could make it easier for you to seek justice for unpaid wages and other entitlements. It ruled that individuals, not just employers, can be sued in small claims cases, reported ABC News.

Gabrielle Marchetti — the principal lawyer at employment rights centre JobWatch — said vulnerable workers can name the person who employed them as a third party in their small claim applications and have a



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higher success rate of recovering their entitlements. Those planning to seek justice for unpaid wages could recover unpaid wages and entitlements up to 20,000 Australian dollars.

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The decision overturns a 10-year legal precedent and was made as part of a JobWatch underpayment case. In that case, eight international students alleged that they were unpaid or underpaid, with amounts ranging between A\$675 and A\$7,256. These students had participated in work that included cleaning, housekeeping and other duties related to accommodation.

Jaqueleine Outram 

@JaquelineOutram

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### ‘A move in the right direction’

The court decision is considered a big win for underpaid workers; Marchetti said it could mean more people would receive unpaid wages after a court order.

Marchetti said the decision was not a silver bullet for recovering unpaid wages because individuals could still move money to avoid paying debts but described it as “a move in the right direction”. She added that it would make it harder for employers to avoid paying what the court said they needed to pay.

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Previously, court orders in small claims matters were only made against employers who abused the labour

rights of workers, but not their accessories.

This was due to company directors taking measures to protect themselves against asset liabilities. This includes deregistering the company or shifting assets from one company to another legal entity, which makes it harder for individuals to get the money that was ordered to be paid to them.

Employment Rights Legal Service coordinator Sharmilla Bargon said the court decision was a big win for underpaid workers, and make it easier for workers to get money that is owed to them.

“We hope that this decision will also provide workers [with] protection against ‘phoenixing’: where an employer closes a business, avoids paying employee wages, declares insolvency, and then sets up a new company under a new name and hires new workers,” she was quoted saying by the portal.

Bargon also believes that stronger measures need to be taken to protect workers’ right against labour exploitation where workers are underpaid, including using an “efficient, accessible and inexpensive” method for workers to seek justice for unpaid wages and entitlements.

Bargon also believes that the jurisdictional limit of the small claims process should be increased from A\$20,000 to A\$ 30,000, and that penalties should be ordered against employers.

## **Underpaid migrants not a new phenomenon**

A previous survey of over 8,000 international students between 2016 and 2019 found the majority were underpaid.



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Among those surveyed, one in four earned less than half the minimum casual hourly wages. Nine in 10 suffered wage theft in silence and nine out of 10 perceived that they felt many migrant workers were underpaid too.

This was allowed to continue because regulators do not routinely detect or punish labour law noncompliance. Previously, it was harder for workers to seek justice for unpaid wages and entitlements as the odds were **stacked against them** at every stage of the wage claim process, said researchers.

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