

ACTUS WORKPLACE LAWYERS

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Large increase in penalties for underpayments from 1 January 2023

Operative from 1 January 2023, the value of a Commonwealth penalty unit increased from \$222 to \$275. This has resulted in a substantial increase in the penalties for breaching the *Fair Work Act* and industrial instruments. The maximum civil penalty for underpayments is now \$825,000 per contravention.

In addition, under the accessorial liability provisions in section 550 of the *Fair Work Act*, directors and managers can be held liable for the actions of a corporation if they have been in any way, by act or omission, directly or indirectly, knowingly concerned in the contravention.

The increases in civil penalties for breaching particular employee entitlement provisions are set out in the following table.

Section of Act	Previous maximum penalty	New maximum penalty
<ul style="list-style-type: none">• Section 44 – Contravening the National Employment Standards• Section 45 – Contravening an award• Section 50 – Contravening an enterprise agreement• Sections 535 and 536 – Employer obligations in relation to employee records and pay slips	Body corporate: \$66,000 (\$666,000 for a ‘serious contravention’) Individual: \$1,320 (\$132,000 for a serious contravention)	Body corporate: \$82,500 (\$825,000 for a ‘serious contravention’) Individual: \$16,500 (\$165,000 for a ‘serious contravention’)

Actus Workplace Lawyers can assist employers with confidential and privileged legal advice on compliance matters including award coverage, award classifications, award entitlements, the National Employment Standards, long service leave laws, record-keeping obligations and common law set-off clauses in employment contracts. Other relevant services include reviewing payroll rules, conducting payroll audits, liaising with the Fair Work Ombudsman and other regulators and representing employers in court proceedings. Please contact **Stephen Smith**, Principal of Actus Workplace Lawyers on 0418 461 183 or Email: stephen.smith@actuslawyers.com.au.