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LawTalk Blog



Can my employer deduct money from my wages?

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The *Fair Work Act* (2009) governs the employment of the great majority of employees in Australia.

Section 324 of the *Fair Work Act* (the Act) outlines the circumstances in which an employer can deduct money from an employee's wages.

The Act provides that an employer must pay an employee wages for the performance of work at least monthly, if not more frequently, and must pay in full.

There are only certain limited circumstances in which an employer is permitted to deduct money from an employee's pay.

Section 324 provides that an employer can only deduct money from an employee's wages if the deduction is authorised by an Enterprise Agreement, modern award or an Order of the Fair Work Commission, a law of the Commonwealth, state or territory, or an Order of the Court.

Otherwise, a deduction from wages can only take place if it is **authorised in writing by the employee and is principally for the employee's benefit**. Any written authorisation by an employee must specify the amount of the deduction and can be withdrawn or varied in writing at any time.

Furthermore, the Act provides that any provision in a modern award, Enterprise Agreement or contract of employment which purports to allow an employer to deduct money from an employee's wages will, if the deduction is directly or indirectly for the benefit of the employer or a related party and is unreasonable in the circumstances, be invalid and have no effect.

The Regulations outline what deductions are considered "reasonable" and include deductions made in relation to the provision of goods or services which are in the course of the business of the employer, where the fee is the same, or more favourable, than the general public would pay.

For example, it would be reasonable for an employer who is a health fund to deduct money from an employee's pay to pay health insurance premiums or an employer that is a bank to deduct money from an employee's pay to pay mortgage payments, as long as the terms are no worse than available to the general public.

"In a recent decision of the Fair Work Commission, the Victorian Department of Education was ordered to repay deductions made from the wages of around 46,000 teachers"

In addition, the Regulations provide that a deduction will be reasonable if it is for the purpose of recovering costs which were incurred by the employer as a result of the employee's use of the employer's property. For example, recovering money for items purchased on the employer's credit card or for personal calls on the employer's mobile phone or for petrol for private use in a company vehicle.

In cases where a deduction is made as payment for the provision of goods and services provided by the employer in the course of its business, or to recover costs incurred by the employee, written authorisation by the employee is still required.

In a recent decision of the Fair Work Commission, the Victorian Department of Education was ordered to repay deductions made from the wages of around 46,000 teachers, for payment of laptops after the Fair Work Commission found that the deductions breached Section 324 of the Act.

If your employer has or intends to deduct money from your pay without your written consent, you should consider whether the circumstances fall within any of the exceptions detailed above and if not, you should refer your employer to Section 324 of the *Fair Work Act 2009*.

Andersons' [workplace law](#) team, led by [Margaret Kaukas](#), Special Counsel, is available to provide advice and assistance in relation to any work place issue.

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