

CASH-IN-HAND EMPLOYMENT

DISCLAIMER

This infosheet contains information of a general nature only and is not a substitute for professional legal advice. You should obtain legal advice from a lawyer about your particular situation before acting on any of the following information.

What does *cash-in-hand* mean?

In this information sheet, our focus is not on whether you are paid in cash. Rather, the focus is on the fact that “cash-in-hand” jobs usually mean there is no official record of the employment relationship.

For example, you may think you are an employee but you are not on the employer’s books. Sometimes people refer to this as being “*off the books*”.

You may be paid in cash or by bank transfer or by cheque, but the important thing to understand here is that when you have a cash-in-hand job your employer is **not** withholding tax from your pay. This is against the law.

Apart from the fact that your tax is not being sent to the Australian Taxation Office (ATO), you also need to understand that when you have a cash-in-hand job, you probably won’t get:

- Superannuation (extra money - 9.5% of your wages - that your employer may have to pay into a super fund for your retirement);
- Payslips (which set out important details about your pay, including a breakdown of how that pay is made up); or
- A payment summary at the end of the financial year.

I’ve got a TFN – why is my employer not sending my tax to the ATO?

Even if you have a Tax File Number (TFN) and you have lodged your TFN Declaration (available from the

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Australian Taxation Office's website at www.ato.gov.au), this does not guarantee that your employer will:

- Pay you the correct wages;
- Deduct the right amount of tax;
- Send that tax to the ATO; and
- Pay the required superannuation contributions for you.

Are cash-in-hand jobs ever good?

Cash-in-hand employment is not good for employees and it is not something that you should ask for. But we know that sometimes employees do not have a choice. You might have done all the right things but your employer is still treating you as a cash-in-hand employee.

This means that you are not paying tax, you are probably underpaid, you are not getting payslips or superannuation and - if anything goes wrong and you want to make a complaint about your employment - you may struggle to prove that you were employed there and that you worked all the hours you say you worked. Think about these issues before you accept a cash-in-hand job and try to keep as much evidence as possible about all the hours you work.

Do I have any rights at all if I have a cash-in-hand job?

Yes, if you are an employee then the law protects you in the same way that it protects all employees. For example:

- You are entitled to minimum wages;
- You must not be bullied;
- You must not be sexually harassed or discriminated against for an unlawful reason; and
- Your employer must provide a safe and healthy workplace.

The problem is that when you have a cash-in-hand job there is a high chance that your rights will not be respected by your employer. If you want to complain, you may find it difficult to prove that you were entitled to the things you say you didn't get. For example:

1. You might complain that you were entitled to paid sick leave or a higher pay on a public holiday, but you will first need to prove that you were an employee with those rights.
2. You might have been injured at work and you want to lodge a WorkCover insurance claim (to cover your out-of-pocket medical expenses and any time out of work). First you need to prove that you were a worker in your workplace and that your injury was work-related.

It is important that you keep as much evidence as possible about your employment. Think about how you might prove, if you ever have to, that you were employed by that business, that you worked all the hours you say you worked and that you did not get all the things you were entitled to get.

What can I do if I have a cash-in-hand job?

Here are a few tips:

1. Give every employer your TFN and make sure you lodge your TFN declaration with the ATO.
2. Keep records of all the hours you work (for example, you can download the Fair Work Ombudsman's free app called **Record My Hours**, which uses GPS technology to track how many hours you spend in a particular workplace. Or you can keep a diary listing every date you work and the number of hours worked each shift).
3. Keep all the correspondence you have with your employer about your employment (including all text messages, emails etc about your work hours and locations).
4. Keep any rosters, timesheets, payslips, photos of yourself in a uniform etc.
5. Lodge a tax return at the end of the financial year. The first \$18,200 you earn per year is tax free.
6. Understand that if you manage to get a back payment for wages and other entitlements, you may have a large tax bill because tax was not deducted from your pay. Visit the ATO's website for details: <https://www.ato.gov.au>.

Need legal advice?

If you would like to make an appointment for free and confidential legal advice about your work rights with the **International Students Work Rights Legal Service**, please contact the Study Melbourne Student Centre by:

- telephone on 1800 056 449 or
- email on info@studymelbourne.vic.gov.au