

Cash-in-hand employment

What does cash-in-hand mean?

While it is not unlawful to be paid in cash, a 'cash-in-hand' job usually means that there is no official record of the employment relationship.

You may be paid in cash or by bank transfer or by cheque, but 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 (super)**, extra money that your employer may have to pay into a super fund for your retirement. Check your superannuation fund for regular and correct contributions; or
- **Payslips**, which set out important details about your pay, including a breakdown of how that pay is made up.

Should you accept cash-in-hand jobs?

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.

Usually cash-in-hand means that you are not paying tax, you are being 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.

When you have a cash-in-hand job, there is a 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.

For example, you may be working as an employee, but you are not on the employer's books. Sometimes people refer to this as being 'off the books' or 'under the table'.

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. This infosheet is designed for employees and prospective employees in Victoria, Tasmania and Queensland only. If you are not from these states, you should obtain advice about your specific case as soon as possible.

Do I have any rights at all if I have a cash-in-hand job? (cont.)

It is important that you keep as much evidence as possible about your employment. Think about how you might prove that you were employed by that business, your hours worked and that you did not receive your entitlements.

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

Here are a few tips:

1. Give every employer your Tax File Number (TFN) and make sure you lodge your TFN declaration with the ATO.
2. Keep records of all the hours you work. 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.
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.

Please note that there is an income tax-free threshold. Please check the ATO's website for details: ato.gov.au

Where to get help

JobWatch's free and confidential Telephone Information Service

P: (03) 9662 1933 (Melb Metro), 1800 331 617 (Regional Vic, Qld, Tas)

W: jobwatch.org.au

International Students Employment and Accommodation Legal Service (ISEALS)

P: 1800 056 449

E: info@studymelbourne.com.au

Fair Work Infoline (Office of the Fair Work Ombudsman)	13 13 94
Fair Work Commission	1300 799 675
Australian Tax Office	13 28 61
Community Legal Centres Australia	02 9264 9595
ACTU Worker Information line (for referral to a union)	1300 362 223
Law Institute of Victoria's Legal Referral Service	03 9607 9311
Queensland Law Society (for referral to a lawyer)	1300 367 757
Law Society of Tasmania (for referral to a lawyer)	03 6234 4133

Note!

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

Acknowledgements

JobWatch acknowledges and is grateful for the financial and other support it has received from the Victoria Law Foundation, the Commonwealth of Australia Attorney-General's Department, the Victorian State Government and Victoria Legal Aid.

JobWatch acknowledges the Aboriginal and Torres Strait Islander peoples of this nation. We acknowledge the traditional custodians of the lands on which we are located and where we conduct our business. We pay our respects to ancestors, and Elders, past, present and emerging.