

# Flexible work payroll software failures risk huge fines

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Payroll software systems that fail to keep up with more flexible work conditions are exposing Australian companies to risks of huge fines that will only get bigger when new right to disconnect laws and other regulatory changes come into effect, a workplace management expert has warned.

Michael Clark, a former Fair Work Ombudsman executive who now operates the workforce management specialist CXTT Consulting, said many payroll software systems fail to keep track of simple things like when remote workers log into and out of their workplace apps, and that companies could be facing a huge bill from the ombudsman when its fines increase next year.



"Australia has the most complex wage award rules in the world," says Grant Custance, founder of Melbourne-based Nimbus, which makes workforce management software.

"In at least 60 per cent of my clients I've seen examples of where there's that disconnect between the actual time and attendance records and the payroll records, and inadvertent underpayment of employee conditions," Mr Clark said.

As early as January 1, 2025, the Fair Work Ombudsman will be able to fine non-small-business employers up to triple the value of wage underpayments, under certain circumstances.

Had that penalty increase applied to the \$16 million in underpayments the Commonwealth Bank of Australia and its subsidiary CommSec systematically made to their staff, their record \$10.34 million fine in February [<https://www.afr.com/work-and-careers/workplace/court-whacks-cba-with-record-10m-fine-for-wage-theft-20240215-p5f589>] could have been as high as \$48 million.

Inadvertent underpayments, created by the payroll system failing to properly keep track of remote workers' actual login hours, can become systemic problems that potentially attract bigger fines when supervisors force workers to log in outside of their shifts, Mr Clark warned.

“[Employers asking workers] to fire up their computer and log in and catch up on their emails and read the latest information is actually paid work, but they're not getting paid for that period because their roster starts them at a point 15 minutes, 20 minutes, half an hour after that, and the payroll software is only looking at the roster,” he said.

“If you have, say, 500 remote employees in a call centre, and you've got 15 minutes of underpayment a day for all 500 of them, that adds up pretty quickly when the regulator comes knocking on the door, and they start doing a reconciliation and they find you've been doing it for three years.”

The [right to disconnect laws](https://www.afr.com/politics/disconnect-laws-will-harm-flexibility-productivity-afr-readers-20240218-p5f5tj) [<https://www.afr.com/politics/disconnect-laws-will-harm-flexibility-productivity-afr-readers-20240218-p5f5tj>], which come into effect on August 26, are going to make that situation even more risky for employers. Business IT solutions often won't be capable of managing contact with workers without falling foul of the new law, when workers have asked not to be contacted out of hours.

“Australia already has the most complex wage award rules in the world,” said Grant Custance, founder and CEO of Melbourne-based software company Nimbus, which makes workforce management software.

“We have clients in the UK, Europe, Middle East, US, South-East Asia, Canada, so we're fairly well briefed on employers' obligations worldwide, and I can tell you Australia is right out there from the complexity point of view,” he said.

In February, Nimbus was awarded an Australian patent for software that helps reduce the risk of inadvertent underpayment of wages to call centre workers, by linking the payroll platform to the phone platform the workers use to do their jobs.

Under that patent, remote workers simply won't be able to work longer hours than they're getting paid for, and things like mandatory shift breaks can all get enforced through the phone platform, Mr Custance said.

But the patent, which Nimbus was awarded in the USA in 2018, only applies to systems for call centre workers. Nimbus was looking to expand it to other workers, too, he said.