



International students – Study your workplace rights!

Australia's new workplace relations system

From 1 July 2009, most Australian workplaces are governed by a new system created by the *Fair Work Act 2009*.

The Fair Work Ombudsman helps employees, employers, contractors and the community to understand and comply with the new system. We provide education, information and advice, help to resolve workplace complaints, conduct investigations, and enforce relevant Commonwealth workplace laws.

Like many international students, you may get a part-time or casual job to help pay your living expenses while you study in Australia. It is important that you know your rights in the workplace.

All people working in Australia have basic rights and protections in the workplace, including minimum pay and conditions. The Fair Work Ombudsman makes sure that these rights are protected and enforced fairly under Australia's workplace laws.

This fact sheet will help you understand your basic workplace rights, where to obtain further information, and how to seek assistance from the Fair Work Ombudsman. For more information, contact the Fair Work Infoline on **13 13 94** or visit www.fairwork.gov.au.

All references to an award or agreement in this fact sheet include modern awards, enterprise agreements, and award or agreement-based transitional instruments.

What is the difference between full-time, part-time and casual work?

Full-time employees generally work 38 hours per week, and receive pay for a full week's work as well as conditions like paid annual leave and sick leave. A full-time worker is also entitled to notice of termination of their employment. This means that if your employer no longer wants to employ you, they have to provide a period of notice (or payment instead of the notice period) depending on how long you have worked there.

Part-time employees work regular hours each week, but less than the 38 hours of full-time employees. You generally receive the same benefits as full-time workers, but they are calculated on the basis of the hours you work.

Casual employees work on an hourly or daily basis and are less likely to have regular or guaranteed hours of work. Casual employees do not get paid sick leave or annual leave, but the rates of pay are usually higher to make up for this. A casual employee is usually not entitled to notice of termination. This means a casual employee can be terminated at any time.

Regardless of your type of employment, you must have permission to work in Australia and hold a valid work visa. It is important you understand the rules of your work visa before starting a job, including the number of hours you are allowed to work each week. For information on visa requirements, contact the Department of Immigration and Border Protection (DIBP) on **13 18 81** or visit www.immi.gov.au.

What are my minimum rights and conditions at work?

From 1 January 2010, all employees in the national workplace relations system receive 10 basic minimum entitlements known as the National Employment Standards (NES).

The NES include:

- Maximum weekly hours of work
- Requests for flexible working arrangements
- Parental leave and related entitlements
- Annual leave
- Personal/carer's leave and compassionate leave
- Community service leave
- Long service leave
- Public holidays
- Notice of termination and redundancy pay

- Provision of a Fair Work Information Statement

Please note, only certain NES entitlements apply to casual employees. For more information on the NES, please see the *Fair Work Ombudsman Fact Sheet – Introduction to the NES*.

Your minimum rights and conditions at work may be set by a legal document like an award, an agreement, or a contract of employment. Ask your employer which one applies to you to find out how you are affected.

If an award or agreement does not apply, all employees in the national workplace relations system will receive basic minimum pay, conditions and protections under Commonwealth workplace laws.

If you are asked to sign any type of document agreeing to specific work conditions, make sure you read it very carefully and understand it before signing. Keep a copy for your records. You should not feel undue pressure to sign any agreement with your employer. If you do, contact the Fair Work Infoline on **13 13 94**.

Your award or agreement should tell you things like:

- your minimum rate of pay – your employer can pay you more than the minimum if they want to, but they cannot pay you less
- when you will be paid – you should be paid at least once a month
- if you are entitled to more money (such as penalty rates) for working nights, weekends or public holidays, or overtime pay for working outside your regular hours
- if you should be paid an allowance for doing certain tasks
- the minimum number of hours per shift you can be rostered and paid for
- when you should be taking breaks during your shift
- how much notice you need to give your employer if you want to resign from your job.

For more information about awards and agreements, go to www.fairwork.gov.au.

What is not okay at work?

- Unpaid work trials for any period beyond what's reasonably required for you to demonstrate the skills required for the job. What's reasonable will vary depending on the nature and complexity of the job, but could range from an hour to one shift.
- You should be paid for meetings or training and the time you spend opening and closing the business.
- Not being given a pay slip – you should receive a pay slip within one day of being paid.
- Being sent home from work early – you should start and finish your shift at the rostered time no matter

how busy or quiet it is, unless you and your employer agree otherwise.

- Receiving goods or services instead of pay.
- Being pressured, forced or threatened to sign a workplace agreement.
- Being sacked because you were sick or injured.
- Not being hired, or being sacked, because of your race, colour, sex, sexual preference, marital status, pregnancy or religion.

There are a number of other general workplace protections that all employees have. For more information please see the *Fair Work Ombudsman Fact Sheet – General Protections*.

If you feel like any of these things are happening to you, you should contact the Fair Work Infoline on **13 13 94** for assistance.

Can my employer deduct money from my wages?

Generally, an employer cannot deduct any money from your wages unless the deduction is:

- for your benefit, and you agree to it in writing or
- authorised under a term of an award, agreement or the Fair Work Commission order or
- authorised under Commonwealth, State or Territory law, or by an order of a court.

This means that an employer generally cannot take money from your wages unless you agree and the deduction benefits you, or unless your industrial instrument permits it. For example, if you accidentally break something, the employer cannot deduct money from your wages. Further, an employer cannot force you to agree to a deduction.

Even if the deduction is authorised under a term in an award or agreement, the term has no effect if the deduction is directly, or indirectly, for the employer's benefit, or if the deduction is unreasonable.

All deductions, regardless of the circumstances, from the wages of an employee under the age of 18 must be authorised in writing by the employee's parent or guardian.

If you are concerned about deductions from your wages, contact the Fair Work Infoline on **13 13 94**.

Can my employer pay me in cash?

Your employer may choose to pay you using cash, cheque, money or postal order, or through electronic funds transfer into your bank account.

It is acceptable for your employer to pay you in cash as long as tax has been taken from your earnings and sent

to the Australian Taxation Office (ATO). Generally, you should also be receiving superannuation. You should check your pay slip each time you are paid to make sure this is being done.

'Cash in hand' is a term used to describe cash payments where tax has not been taken out – this is against the law.

Contact the Fair Work Infoline on **13 13 94** if you are unsure about your pay arrangements.

My employer wants me to sign an individual flexibility arrangement, what do I do?

Employers and employees can enter into individual flexibility arrangements (IFAs) which alter the way a modern award or enterprise agreement applies to an employee. This can change the way some entitlements, such as penalty rates or allowances, apply in your employment.

An employer cannot force you to enter into an IFA. If you feel that you are being pressured to do so, you should contact the Fair Work Ombudsman.

In order to create an IFA, the employer is required to ensure that you are better off overall than you would be normally under the award or agreement. This may mean that you receive additional benefits in one area, to compensate for those changed in another area. If you believe that you are not better off overall, you should not enter into the IFA. If you wish to seek further information, contact the Fair Work Infoline on **13 13 94**.

Am I an employee or independent contractor?

Employees work for another person under a contract of employment in return for regular pay. They will usually also be subject to an award or agreement.

Independent contracting is where one business works for another business. Generally, independent contractors will use their own equipment, choose the hours they work, and decide how the work is done.

Some employers disguise employment relationships as an independent contracting arrangement to avoid paying legal minimum rates of pay, tax, and entitlements like annual leave and sick leave. This is called 'sham contracting' and it is against the law.

For more information on independent contractors, please see the *Fair Work Ombudsman Fact Sheet – Independent Contractors*.

When should I contact the Fair Work Ombudsman?

If you believe you are not receiving your minimum rights and conditions at work, contact the Fair Work Ombudsman for FREE information and advice.

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: **13 13 94**

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

- For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94
- Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94