

482 and 457 visa holders – workplace rights & entitlements

You have rights when you work in Australia

The Fair Work Ombudsman and the Department of Home Affairs (Home Affairs) work together to help you understand your legal rights when working in Australia.

Your employer must comply with both Australian workplace laws and immigration laws.

Your rights under the Migration Act 1958

Under the Migration Act, your sponsor is required to meet a number of obligations which ensure that you are provided with appropriate terms and conditions of employment.

These obligations require your employer to:

- provide you with equivalent pay to that of any Australian employee who has the same occupation as you in your workplace
- only require you to perform duties that relate to your approved occupation
- pay reasonable and necessary travel costs to allow you and your family members to leave Australia, if requested in writing by you, your family or Home Affairs on your behalf
- not make you pay for any costs relating to your recruitment, or the costs associated with the business becoming or being an approved sponsor, including migration agent costs
- make sure that you do not work for any other employers without authorisation
- pay you in a manner that is capable of being verified by an independent person (e.g. electronic funds transfer or cheque)

Your rights under the Fair Work Act 2009

Everyone working in Australia is entitled to basic rights and protections in the workplace.

The Fair Work Ombudsman is responsible for ensuring employers are meeting the legal requirements of Australian workplace laws, specifically the Fair Work Act 2009, including the National Employment Standards (NES).

National Employment Standards

Most people working in Australia are covered by the National Employment Standards.

The NES apply to all employees covered by the national workplace relations system regardless of the award, agreement or contract of employment that applies to an employee.

The NES ensure that you have certain minimum conditions of employment. These minimum conditions cannot be reduced.

There are 10 minimum workplace entitlements under the NES:

1. A maximum standard working week of 38 hours for full-time employees, plus 'reasonable' additional hours
2. A right to request flexible working arrangements to care for a child under school age, or a child under the age of 18 with a disability
3. Parental and adoption leave of 12 months (unpaid), with a right to request an additional 12 months
4. 4 weeks paid annual leave each year plus an additional week for certain shift workers (pro rata for part-time employees)
5. 10 days paid personal / carer's leave each year (pro rata for part-time employees), 2 days paid compassionate leave for each permissible occasion, and 2 days unpaid carer's leave for each permissible occasion and 5 days unpaid family and domestic violence leave (in a 12 month period)
6. Community service leave for jury service or activities dealing with certain emergencies or natural disasters. This leave is unpaid, except for jury service which is paid for up to 10 days
7. Long service leave
8. A paid day off for public holidays, except where reasonably required to work
9. Notice of termination and redundancy pay
10. The right for new employees to receive the Fair Work Information Statement.

Some conditions or limitations may apply to your entitlement to the NES. For instance, there are some exclusions for certain casual employees.

Modern awards

In addition to the NES your employment may be covered by a modern award. Modern awards provide minimum wages and conditions for an industry or occupation. These conditions apply on top of the NES and include entitlements such as breaks, allowances and rates of pay for working at different times.

General protections

Employees have the right to be free from unlawful discrimination, the right to engage in industrial activities (including the right to become or not become a member of a union) and the right to be free from undue influence or pressure when negotiating individual arrangements.

Employees are also entitled to protection from having or exercising a workplace right which includes being entitled to a benefit under a workplace law or making a complaint to the Fair Work Ombudsman about their employment arrangements.

Pay slips

Employers must issue pay slips to you within one (1) working day of your pay day. It is best practice for these to be written in plain and simple English.

Who should I contact if my workplace rights are not being met?

If you believe your employer is not paying you the correct entitlements and/or you believe your workplace rights are not being met, you can make a complaint to the Fair Work Ombudsman. The services of the Fair Work Ombudsman are free to all workers in Australia.

If you are concerned that your sponsoring employer is not meeting their obligations in line with the terms of your visa you should contact Home Affairs.

Your sponsoring employer cannot cancel your visa. Only Home Affairs can grant, refuse or cancel visas. The department can provide information on visa choices, rights and obligations, including how to change your sponsor or apply for permanent residence.

If you require further information or assistance from Home Affairs, visit <https://immi.homeaffairs.gov.au/> or phone 131 881.

If you need an interpreter when contacting Home Affairs or the Fair Work Ombudsman, phone the Translating and Interpreting Service (TIS) on 131 450.

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**