

## Work experience & internships

### Internships



Internships – paid or unpaid?

Employers can't avoid paying lawful entitlements to employees by labelling them as 'interns'. If they are performing productive work for the business, they are legally entitled to be paid minimum award rates.

Unpaid placements are lawful when they're part of a vocational placement for a course of study. But the law prohibits the exploitation of workers when they are fulfilling the role of an actual employee.

Learn more about the rules for work experience and internships below.

Unpaid work experience, job placements and internships ([www.fairwork.gov.au/Dictionary.aspx?TermID=2059](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2059)) that are not vocational placements will be unlawful if the person is in an employment relationship with the business or organisation they are doing the work for. People in employment relationships are employees of a business and entitled to:

- a minimum wage ([www.fairwork.gov.au/Dictionary.aspx?TermID=2017](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2017))
- the National Employment Standards ([www.fairwork.gov.au/Dictionary.aspx?TermID=2027](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2027))
- the terms of any applicable award or registered agreement ([www.fairwork.gov.au/Dictionary.aspx?TermID=2034](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2034)).

To work out whether or not a person is an employee each case must be considered on its own facts. It is a matter of working out whether the arrangement involves the creation of an employment contract. That contract does not have to be in writing; it can be a purely verbal agreement.

An employment contract can arise even where the parties call the arrangement something else, say it is not employment, or if a person agrees not to be paid wages for work they do.

There are a range of indicators that an employment relationship exists, and it needs to be assessed on a case by case basis. Key indicators are:

- an intention to enter into an agreed arrangement to do work for the employer
- a commitment by the person to perform work for the benefit of the business or organisation and not as part of a running a business of their own, and
- an expectation that the person receive payment for their work.

It is not intended that people are employees while receiving benefits from the government and undertaking work placements/internships as part of Commonwealth employment programs.

The indicators below will help you work out whether an employment relationship exists and an unpaid work experience, job placement or internship is likely to be unlawful:

#### Reason for the arrangement

If the purpose of the work experience, placement or internship to give the person work experience it is less likely to be an employment relationship. But if the person is doing work to help with the ordinary operation of the business or organisation it may be an employment relationship arises. The more productive work that's involved (rather than just observation, learning, training or skill development), the more likely it is that the person's an employee.

#### Length of time

Generally, the longer the period of the arrangement, the more likely the person is an employee.

#### Significance to the business

Is the work normally done by paid employees? Does the business or organisation need this work to be done? If the person is doing

work that would otherwise be done by an employee, or it's work that the business or organisation has to do, it's more likely the person is an employee.

What the person is doing

Although the person may do some productive activities as part of a learning experience, training or skill development, they're less likely to be an employee if they aren't expected or required by the business or organisation to come to work or do productive activities.

Who's getting the benefit?

The person who's doing the work should get the main benefit from the arrangement. If a business or organisation is getting the main benefit from engaging the person and their work, it's more likely the person is an employee.

#### Example: Unpaid internship

A local council has advertised an internship program for high school or university students interested in government processes. The internships have been advertised as unpaid positions and students are allowed to select the hours they spend at the council office over a 2 week period.

The council is careful to make sure that the role is mainly observational. The students are getting the main benefit from the arrangement.

In this example there's no employment relationship and the interns don't have to be paid.

#### Example: Paid internship

Jonathon is a final year accounting student. He agreed to do an unpaid internship with an accountancy firm and was promised a job once he graduates.

Jonathon attended the firm for 3 days a week. He prepared customer tax returns and company financials. The firm charged clients for the work he did.

Although Jonathon had agreed not to be paid, he did work that would have otherwise been done by a paid employee. This indicates an employment relationship existed. As such he should be paid for all the hours he worked.

#### Youth Jobs PaTH internship

If you're aged 17 to 24, on income support and have been registered with jobactive, Transition to Work or Disability Employment Services for at least six months, you may be eligible to take part in a [Youth Jobs PaTH internship \(https://jobactive.gov.au/path#section-jobseekers\)](https://jobactive.gov.au/path#section-jobseekers). This allows you to gain work experience and show an employer what you can do.

#### You might also be interested in

- [Unpaid work fact sheet \(www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/unpaid-work/unpaid-work\)](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/unpaid-work/unpaid-work)
- [The Research Report \(www.fairwork.gov.au/about-us/access-accountability-and-reporting/research-reports\)](http://www.fairwork.gov.au/about-us/access-accountability-and-reporting/research-reports) on unpaid work
- [Minimum wages \(www.fairwork.gov.au/pay/minimum-wages/default\)](http://www.fairwork.gov.au/pay/minimum-wages/default)

Page reference No: 1777

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