

## 482 and 457 visa holders – workplace rights and entitlements

### You have rights when you work in Australia

The Fair Work Ombudsman (FWO) 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 (the Fair Work Act) and immigration laws (the Migration Act).

### Your rights under the Migration Act

Under the Migration Act, you continue to have the same entitlements and protections under the Fair Work Act (FW Act) as other employees, regardless of your migration status. 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 (for example, electronic funds transfer or cheque).

### Your rights under the Fair Work Act

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

The FWO is responsible for ensuring employers are meeting the legal requirements of Australian workplace laws, specifically the FW Act, including the National Employment Standards (NES). Your rights can't be taken away by employment contracts or agreements.

#### 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 minimum workplace entitlements under the NES:

- a maximum standard working week of 38 hours for full-time employees, plus 'reasonable' additional hours
- a right for certain employees to request flexible working arrangements (such as changes in hours of work) from their employer
- parental and adoption leave of 12 months (unpaid), with a right to request an additional 12 months
- 4 weeks of paid annual leave each year plus an additional week for certain shiftworkers (pro rata for part-time employees)
- 10 days of paid sick and carer's leave each year (pro rata for part-time employees), 2 days of paid compassionate leave for each permissible occasion and 2 days of unpaid carer's leave for each permissible occasion
- 10 days of paid family and domestic violence leave each year

- 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
- long service leave
- a paid day off for public holidays, except where reasonably required to work
- notice of termination and redundancy pay
- Superannuation (super)– employers must make contributions to eligible employees' super funds under super guarantee laws. Super is also a NES entitlement. For more information see our Tax and superannuation page at [fairwork.gov.au/super](https://fairwork.gov.au/super).
- the right for new employees to receive the Fair Work Information Statement before, or as soon as possible after they start a new job
- the right for casual employees to receive the Casual Employment Information Statement at the start of employment, and at set times throughout their employment
- employee choice about casual employment – pathways for a casual employee to become a full-time or part-time employee in some circumstances.

Some conditions or limitations may apply to your entitlement to the NES. For instance, there are some exclusions for certain casual employees. Find out more about the NES at [fairwork.gov.au/nas](https://fairwork.gov.au/nas).

### 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 FWO about their employment arrangements.

Workplace rights also include the right for employees to talk about (or not talk about) their current or past pay, and the terms and conditions of employment that would be needed to work out their pay (such as hours of work). They can also ask other employees the same thing (about their pay and terms and conditions of employment) but employees can't be forced to share this information if they don't want to.

For more information about these rights, including when these rights started applying and who they apply to, see our Prohibiting pay secrecy page at [fairwork.gov.au/pay-secrecy](https://fairwork.gov.au/pay-secrecy).

### Pay slips

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

### Regulated workers

Some independent contractors have special laws that apply to them. These contractors are called regulated workers. A regulated worker is an employee-like worker doing digital platform work (for example, work in the gig economy) or a regulated road transport contractor. For example, drivers for a rideshare or food delivery app may be regulated workers. While these workers may have some similar characteristics to an employee, they are still independent contractors.

The Fair Work Commission can set rules about pay and conditions for these workers. For more information on regulated workers, visit [fairwork.gov.au/regulated-workers](https://fairwork.gov.au/regulated-workers).

## 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 FWO. The services of the FWO are free to all workers in Australia. We are an Australian Government agency who helps regulate Australian workplaces. You can't get into trouble or have your visa cancelled for contacting us to ask for information about your pay or other workplace rights. There are protections for eligible visa holders experiencing workplace exploitation.

For more information, see our Visa protections – pilot programs page at [fairwork.gov.au/visa-protections](https://fairwork.gov.au/visa-protections).

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 [immi.homeaffairs.gov.au](https://immi.homeaffairs.gov.au) or phone 131 881.

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

## CONTACT US

Fair Work online: [fairwork.gov.au](https://fairwork.gov.au)

Fair Work Infoline: **13 13 94**

### Need language help?

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

### Help for people who are deaf or have hearing or speech difficulties

You can contact us through the National Relay Service (NRS).

Select your [preferred access option](#) and give our phone number: **13 13 94**

The Fair Work Ombudsman is committed to providing you with advice that you can rely on. The information contained in this fact sheet is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or a workplace relations professional.

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