

Visa holders and migrant workers – workplace rights and entitlements

Workplace laws in Australia generally apply equally to all workers employed in Australia. Visa holders and migrant workers have the same workplace entitlements and protections as all other employees in Australia, regardless of their migration status. Employers engaging foreign workers must ensure that they comply with both Australian workplace laws and immigration laws.

Australian immigration laws — including applying for and understanding the rules of valid work visas, as well as the obligation to pay market salary rates for migrant workers — are enforced by the Department of Home Affairs. Your employer can't cancel your visa, even if you've breached your visa conditions. Only Home Affairs can grant, refuse or cancel visas.

There are protections for eligible visa holders experiencing workplace exploitation. For more information, see our [Visa protections — pilot programs](https://fairwork.gov.au/visa-protections) page at fairwork.gov.au/visa-protections

For information on all visa requirements, visit the Department of Home Affairs website at homeaffairs.gov.au or phone 13 18 81.

The Fair Work system, including minimum rates of pay and conditions under awards and enterprise agreements, is enforced by the Fair Work Ombudsman (us).

What are my minimum rights and conditions at work?

All employees in the national workplace relations system receive 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
- sick (personal)/carer's leave, compassionate leave and family and domestic violence leave
- community service leave
- long service leave
- public holidays

- notice of termination and redundancy pay
- superannuation (super)
- the Fair Work Information Statement and Casual Employment Information Statement
- the right for casual employees to become permanent employees in some circumstances.

Please note, only certain NES entitlements apply to casual employees. Find more information about the NES at fairwork.gov.au/nas

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

Fixed term employees

Some employees may also be hired on a fixed term contract. A fixed term contract is a contract of employment that has a set end date (for example, the contract ends after a set period of time or a season). Employees on fixed term contracts who are engaged on a full-time or part-time basis have similar conditions and entitlements as permanent (ongoing) employees. Find more information about fixed term contracts at fairwork.gov.au/fixed-term-employees

Award or agreement free employees

If an award or enterprise agreement doesn't apply, all employees in the national workplace relations system are entitled to minimum pay, conditions and protections under Commonwealth workplace laws.

The Migration Act

There may be consequences under the Migration Act for migrant workers who don't comply with their visa conditions or the Migration Act. A breach of the Migration Act also doesn't affect the validity of an employment contract or a contract for services under the Fair Work Act (FW Act).

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. Your rights can't be taken away by employment contracts or agreements. Keep a copy for your records. You should not feel undue pressure to sign any agreement with your employer. If you do, contact our Fair Work Infoline on 13 13 94.

Minimum rates of pay

All employees working in Australia are entitled to a minimum wage. This is the minimum amount you can be paid for the work that you're doing. For most employees, the minimum wage is set by the award that covers their industry or occupation. Employees covered by an award or enterprise agreement are entitled to the minimum pay rates, including penalty rates and allowances, in their award or enterprise agreement.

Find more information about awards and agreements at fairwork.gov.au/employment-conditions

The National Minimum Wage (NMW) applies to employees not covered by an award or enterprise agreement. As of 1 July 2024, the NMW is \$24.10 per hour or \$915.90 per 38 hour week. Employees who are award or agreement-free will receive at least the NMW for all hours worked. If an employee is covered by an award or enterprise agreement, the NMW doesn't apply. Find more information about minimum wages at fairwork.gov.au/minimum-wages

Employers must pay the correct rate of pay for all hours that the employee is required to attend work, including for work meetings and training.

Subclass 482 or 457 visa holders

If you are a primary Subclass 482 or 457 visa holder, your sponsor must ensure that the terms and conditions of employment provided to you are no less favourable than those they provide to Australian citizens or permanent residents performing equivalent work in your workplace. This means that all primary Subclass 482 and 457 visa holders should be paid market salary rates by their sponsors.

For more information about market salary rates, visit the Department of Home Affairs website at homeaffairs.gov.au or phone 13 18 81.

Disclosing pay and workplace conditions

You have the right to talk about, or not talk about, your current or past pay. This includes the terms and conditions that would be needed to work out your pay, such as hours of work. You can also ask other employees about their pay but they don't have 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 fairwork.gov.au/pay-secrecy

Can my employer deduct money from my wages?

Your employer can only deduct money from your wages if the deduction is reasonable, and:

- you agree in writing and it's mainly for your benefit
- it's allowed by a law, a court order, or by the Fair Work Commission (the Commission)
- it's allowed under your award, or
- it's allowed under your enterprise agreement and you agree to it.

This means that your employer generally can't take money from your wages unless you agree and the deduction benefits you, or unless your award or enterprise agreement permits it. For example, if you accidentally break something, your employer can't deduct money from your wages. An employer can't force you to agree to a deduction.

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

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

Employee authorised deductions

Your employer can only make employee authorised deductions where the deductions are mainly for your benefit. You can make a one-off written authorisation that gives your employer permission to deduct money from your pay, even where the amount can change from year to year.

An employee's written agreement to a deduction must be genuine and can be withdrawn in writing at any time. You can't be forced to agree to a deduction. Find more information about deductions at fairwork.gov.au/deductions

If you are concerned about deductions from your wages, contact our 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 super. 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.

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 an 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 can't force you to enter into an IFA. If you feel that you are being pressured to do so, you should contact us.

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 enterprise 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.

What is unlawful workplace discrimination?

The FW Act protects employees against unlawful workplace discrimination. Unlawful workplace discrimination occurs when an employer takes adverse action against a person who is an employee or prospective employee because of the following attributes of the person:

- race
- colour
- sex
- sexual orientation
- breastfeeding
- gender identity
- intersex status
- age
- physical or mental disability
- marital status
- family or carer's responsibilities
- pregnancy
- religion
- political opinion
- national extraction
- social origin
- experiencing (or having experienced) family and domestic violence.

Where an investigation finds that the employer has (or had) discriminatory practices that are linked to adverse actions for employees or prospective employees, we may take enforcement action.

Adverse action taken by an employer includes doing, threatening or organising any of the following:

- dismissing an employee
- injuring an employee in their employment
- altering an employee's position to their detriment
- discriminating between one employee and other employees
- refusing to employ a prospective employee
- discriminating against a prospective employee on the terms and conditions in the offer of employment.

For more information on unlawful workplace discrimination, see fairwork.gov.au/protections

What about bullying?

Everyone has the right to a workplace free from bullying. Bullying at work happens when:

- a person or group of people repeatedly behave unreasonably towards another worker or group of workers
- the behaviour creates a risk to health and safety.

The Fair Work Commission deals with applications to stop bullying at work under the FW Act. For more information visit the Commission website at fwc.gov.au

Bullying can also be unlawful under work health and safety laws. People experiencing bullying can seek advice and help from their local work health and safety body. You can find contact details for these organisations at fairwork.gov.au/links

What about sexual harassment?

Everyone has the right to a workplace that is safe and free from sexual harassment.

Sexual harassment is:

- an unwelcome sexual advance or request for sexual favours to the person being harassed
- other unwelcome sexual conduct towards the person being harassed.

The FW Act prohibits sexual harassment connected to work, including in the workplace. This means workers, future workers and other people conducting a business or undertaking (such as self-employed people or sole traders) are protected from sexual harassment in connection to work.

Under the Sex Discrimination Act, organisations have a positive duty to eliminate, as far as possible, sexual harassment and other relevant unlawful conduct from occurring in the workplace or in connection with work.

Find more information on our Sexual harassment in the workplace page at fairwork.gov.au/sexual-harassment

For a range of practical information and resources to help organisations meet their positive duty obligations, visit the Australian Human Rights Commission website at humanrights.gov.au

The Fair Work Commission can deal with disputes about workplace sexual harassment under the FW Act. Visit the Commission's website at fwc.gov.au/sexual-harassment

We can help with some issues around sexual harassment. For more information visit fairwork.gov.au/sexual-harassment

What are industrial activities?

Under Commonwealth workplace laws, all employers, workers and independent contractors are free to take part in certain industrial activities. This includes the right to become, or not to become, members of an industrial association (such as a union), or the right to participate in lawful activities organised by a union.

It is unlawful for an employer to take adverse action against an employee because they are engaging in lawful industrial activities. For example, an employer can't alter an employee's position because they are not a member of a union.

For more information on adverse action and other rights protected from certain unlawful action, see our Protections at work page at fairwork.gov.au/protections

Am I an employee or an independent contractor?

Employees work for another person or business under a contract of employment in return for payment. They can be hired on a full-time, part-time, casual or fixed-term basis. Their pay and conditions are usually set by an award or enterprise agreement.

Independent contractors work for themselves by providing services to another person or business. Generally, independent contractors set their own fees, will use their own equipment, choose the hours they work, decide how the work is done, and can work for more than one client at a time. Contractors don't have the same rights and obligations as employees.

Whether you're a contractor or an employee depends on several factors, including:

- the amount of control the business has over how work is performed
- who bears financial responsibility and risk
- who supplies the tools and equipment
- the worker's ability to delegate or subcontract work
- how hours of work are set
- expectation of work continuing indefinitely.

These factors are assessed looking at the terms of your contract and, in most cases, the practical reality of the relationship. For more information, visit fairwork.gov.au/contractors

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, such as 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 Commission can set rules about pay and conditions for these workers. For more information on regulated workers, visit fairwork.gov.au/regulated-workers

Further information

For more information on all visa requirements or market salary rates, visit the Department of Home Affairs website at homeaffairs.gov.au or phone 13 18 81.

Contact us

Fair Work online: 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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