



## 457 Visa Holders—Your Rights at Work

### You have rights when you work in Australia

The Fair Work Ombudsman and the Department of Immigration and Citizenship (DIAC) 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 Worker Protection Act 2008

You are entitled to receive pay and conditions at least as good as Australian workers who are doing the same work at the same workplace.

The *Worker Protection Act 2008* protects you from exploitation.

Under these laws, your sponsor must provide you with the same terms and conditions as Australian workers performing the same work in the same workplace. These laws also give DIAC stronger powers to make sure that sponsors are complying with their obligations.

Your sponsor must:

- show that they are providing you equal pay and conditions of employment to Australian workers performing equivalent work in the same location
- not make deductions from your pay (other than tax) without your permission
- only employ you in your approved skilled 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 DIAC on your behalf
- not ask you to pay back the cost of your recruitment, including migration agent costs or the costs associated with becoming or being an approved sponsor
- make sure that you do not work for other employers
- not pay you in cash.

### 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 NES. 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. Four weeks paid annual leave each year plus an additional week for certain shift workers (pro rata for part-time employees).
5. Ten days paid personal/carer's leave each year (pro rata for part-time employees), two days paid compassionate leave for each permissible occasion, and two days unpaid carer's leave for each permissible occasion.
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 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.

You can also visit [www.fairwork.gov.au](http://www.fairwork.gov.au) to access a range of pay tools and workplace resources or call the Fair Work Infoline on 13 13 94 for further assistance or information about your entitlements.

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

Your sponsoring employer cannot cancel your visa. Only DIAC 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 DIAC, visit [www.immi.gov.au](http://www.immi.gov.au) or phone 131 881.

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