



Working with a Student Visa

If you were granted a student visa on or after 26 April 2008, your visa will allow you to work in Australia.

While your course is **in session**, you may work up to **40 hours per fortnight** (every 2 weeks or 14 days).

While your course is **out of session**, you may work an **unlimited number of hours**.

It is important you do not work more hours than your visa allows. **Breaching the working conditions in your visa could lead to your visa being cancelled.**

If you're not sure about the work conditions on your student visa then you should seek legal advice before starting the work.



How do I get paid?

Most people are paid through an electronic funds transfer (money paid directly into their bank account), by cheque or with cash.

Every time you are paid, you must receive a **payslip** from your employer. The payslip should contain details about the employer, their ABN, the pay period, your hourly rate, how many hours you worked during that pay period, any deductions (for tax) and superannuation benefits.

ABOUT US



Sort it! Deakin Legal Service for Students provides free and confidential legal advice and information for all current Deakin University students.

Even if you are not sure if your problem is a legal one please visit our website. If we are unable to help, we can refer you to someone who can. Book your appointment at:

eclc.org.au/deakin



Eastern Community Legal Centre
ph: (03) 9285 4822
Burwood Campus



Barwon Community Legal Service
ph: 1300 430 599
Waurin Ponds Waterfront & Warrnambool Campuses

MORE PLACES FOR HELP & INFORMATION

Fair Work Ombudsman
13 13 94
fairwork.gov.au

Jobwatch
(03) 9662 1933
jobwatch.org.au

WorkSafe Victoria
1800 136 089
worksafe.vic.gov.au

Sort it! Deakin Legal Service for Students is a partnership between Deakin University Student Association (DUSA), Eastern Community Legal Centre (ECLC) and Barwon Community Legal Service (BCLS).

DISCLAIMER: This information is intended as a guide only. It is not a substitute for legal advice.



SORT IT!
DEAKIN LEGAL SERVICE FOR STUDENTS

**EMPLOYMENT
WORKING
CONDITIONS
ENTITLEMENTS
MINIMUM
WAGES**

KNOW YOUR RIGHTS!

For free information, referrals and appointments visit:

eclc.org.au/deakin

WHAT KIND OF WORKER AM I?

Employee or Independent Contractor?

An **employee** is a person who works under the control of someone else for wages.

An **independent contractor** is a person who is self-employed and is hired by another person to complete a specific task.

The difference is important because different laws will apply. For example, independent contractors do not have a minimum wage.



CASUAL

A casual employee is not a permanent employee. Their working hours and days can change every week (but don't have to). They are not covered by the National Employment Standards and usually do not receive pay for annual leave, sick leave or public holidays. Their employment can also be ended without notice.

Casual employees are also paid more than permanent employees because they receive less entitlements. This extra payment is called a casual loading and usually ranges from 15% - 25% more per hour than a permanent employee.

Sometimes can be difficult to tell the difference between a casual employee and a part-time permanent employee. If you're not sure, you should seek legal advice.

OR

PERMANENT

A permanent employee can be full-time or part-time.

Full-time

A full-time employee usually works for 38 hours per week, and has regular working hours. They have rights under the National Employment Standards (NES), including:

- ◆ Maximum of 38 hours of work per week, plus reasonable hours
- ◆ Paid annual leave for 4 weeks per year
- ◆ Paid days off on public holidays
- ◆ Sick leave, compassionate leave and carer's leave
- ◆ Notice of termination, and redundancy pay

A full list of the NES can be found on the Fair Work Ombudsman's website at: www.fairwork.gov.au.

Part-time

A part-time employee works less than 38 hours per week, but will usually have regular working hours and days. They are also covered by the NES on a **pro-rata** basis which means their entitlements are calculated based on how many hours they work compared to a full-time worker.

How will I know?

Deciding if a worker is an employee or an independent contractor can be very difficult. Some questions a Court asks are:

- ◆ Does the business have a lot of control over the worker?
- ◆ Can the worker do jobs for other employers?
- ◆ Does the worker pay their own income tax?
- ◆ Does the worker provide their own equipment and tools?
- ◆ Has the worker registered their own business and Australian Business Number (ABN)?
- ◆ Does the contract call the worker an independent contractor?

If the answer to the questions are 'yes', you are more likely to be an independent contractor.

If you're not sure whether you're an employee or independent contractor, you should seek legal advice.

The rest of this publication gives legal information about employees.

WHAT ARE MY ENTITLEMENTS?

Employment law is complicated, and different laws and conditions apply to depending on the type of job, your employer and the industry you work for. If you don't know where or how to find your entitlements, you should contact the **Fair Work Ombudsman** on **13 13 94**.

Legislation are the laws made by the government, but because they apply to all employees they will only cover general rights and entitlements like the National Employment Standards (NES), anti-discrimination, and health and safety regulations.

Industry Awards are documents that cover the minimum standards for different industries or occupations. For example, cleaners are covered by the Cleaning Services Award while wait staff would be covered under the Hospitality Industry Award. If there is no industry award for your job, legislation will apply.

Enterprise Agreements are documents that cover the minimum standards for a single company or workplace. Many large franchises such as supermarkets, fast food chains, and department stores will have an enterprise agreement, however smaller businesses can have them too. If there is no enterprise agreement for your workplace, then an industry award will apply.

Contracts are legal documents signed between you and your employer about your employment conditions. However, the conditions in your contract cannot fall below your entitlements under legislation, industry award or enterprise agreement. For example, an employer cannot pay you below the minimum wage in your industry award, even if you sign a contract agreeing to it.