

## Working in NSW

### Your basic workplace rights and responsibilities



#### Know your legal workplace rights

A guide from NSW Industrial Relations.

#### Starting work on trial

Most job offers are made after an interview.

When offered a job, you may be asked to work for a trial or probation period to see if you can do the job. Your employer must tell you how long the probation or trial period will be and **you must be paid for any work you do.**

If you are asked to do work experience for no pay it must be through a registered educational training organisation like a school, TAFE or university.

#### Get the job offer in writing

When you are offered a job, it is a good idea to ask your employer to explain in writing the conditions you will be working under and what you will be expected to do.

The letter should include:

- the name of your employer
- what the job involves and a list of your duties
- how much you will be paid each hour, week or fortnight
- your hours of work
- whether you are casual, part-time or full-time
- your employment conditions
- the employment arrangements you will be working under, such as an award or agreement.

#### Before you agree to the job offer

You may be employed under an award or an agreement. If you are asked to sign a document agreeing to certain working conditions, you should first read it very carefully. Don't feel pressured to sign it straight away, especially if it doesn't suit you.

Ask your employer for time to consider the document.

Feel free to take the agreement home and get other people you trust to read it over with you. You may want to seek legal advice before you make your decision.

If you are unsure about the conditions of the agreement you have been asked to sign, contact the Fair Work Infoline on 13 13 94.

#### Award or agreement?

The type of arrangement you work under could be either an award or an agreement.

Find out which award or agreement covers the job you are doing, as it covers such things as the minimum wage you must be paid, any penalty rates you must also be paid and outlines what your employer can expect you to do and what they can't expect you to do.

Ring the Fair Work Infoline on 13 13 94 to find out what award you are covered by or if your workplace is covered by an agreement.

#### Your pay

Your employer must pay you at least the minimum rate set out in your award or agreement or the national minimum wage for 'award free' employees. This rate will depend on the type of work you do and the times you work. You may be paid more than the minimum rate.

You may also be paid allowances for doing certain tasks, overtime pay for working outside your regular hours or penalty rates for working nights, weekends or public holidays.

Your employer must pay you regularly and, if you demand, pay you at least once a fortnight.

Your employer can't deduct any money from your pay unless you have agreed to it in writing or it is required under the law. No deductions can be made from your annual holiday pay.

You must be paid in cash, by cheque or have the money deposited into your bank account.

Your employer must give you a pay slip when you receive your pay which explains exactly what you are being paid.

## National Employment Standards

The ten National Employment Standards (NES) apply to all workers who work for a private sector employer.

Under the NES, employees have certain minimum work conditions that they are legally entitled to.

Combined with the pay rates set out in their award or agreement or the national minimum wage, the NES make up the safety net that can't be altered by an employer to disadvantage a worker.

## What do the National Employment Standards provide to every worker?

The ten NES provide to every private sector employee:

- 1. Maximum weekly hours of work** – 38 hours per week, plus reasonable additional hours.
- 2. Request for flexible working arrangements** – allows parents or carers of a child under school age or of a child under 18 with a disability to request a change in working arrangements to assist with the child's care.
- 3. Parental leave and related entitlements** – up to 12 months unpaid leave for every employee, plus a right to request an additional 12 months unpaid leave plus other forms of maternity, paternity and adoption related leave.
- 4. Annual leave** – 4 weeks of paid leave per year, plus an additional week for certain shift workers.
- 5. Personal/carer's leave and compassionate leave** – 10 days of paid personal/carer's leave, two days unpaid carer's leave as required and two days compassionate leave (unpaid for casuals) are required.
- 6. Community service leave** – unpaid leave for voluntary emergency activities and leave for jury service with an entitlement to be paid for up to 10 days for jury service.
- 7. Long service leave** – an entitlement to accrue long service leave.
- 8. Public holidays** – a paid day off on the 8 national public holidays plus any state or local public holidays.
- 9. Notice of termination and redundancy pay** – up to 4 weeks notice of termination (5

weeks if the employee is over 45 and has at least 2 years of continuous service) and up to 16 weeks redundancy pay, both based on length of service.

**10. Provision of a Fair Work Information Statement** – employers must provide this statement to all new employees.

## Casual workers

Casual workers receive an additional payment, called a loading, to compensate for not receiving paid leave such as sick leave and other leave, no notice period for termination and no guarantee of employment.

## Your workplace responsibilities

As an employee, you must obey any lawful and reasonable instructions given by your employer and work with them to maintain a safe and healthy workplace.

## Ending your employment

Your employment can be terminated by either you or your employer giving the appropriate notice, preferably in writing. Check your award or agreement for notice periods.

An employer may dismiss you:

- if your fixed-term employment contract has reached its set termination date
- for poor or unsatisfactory work performance
- on medical grounds, if you can no longer perform your duties (but not within six months of a workplace injury occurring)
- for gross or wilful misconduct, which can result in being dismissed without notice.

You can also be dismissed if there is a downturn in the business or the business has restructured and your job no longer exists. This is referred to as a redundancy.

Check your award or agreement and the NES for any additional payments that may apply.

## Useful websites and contacts

NSW Industrial Relations  
[www.industrialrelations.nsw.gov.au](http://www.industrialrelations.nsw.gov.au)

Fair Work Online  
[www.fairwork.gov.au](http://www.fairwork.gov.au)

Fair Work Infoline  
☎ 13 13 94