

Working in NSW

Your basic workplace rights and responsibilities



Know your legal rights

A guide from the NSW Office of Industrial Relations (OIR)

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 (maximum three months) 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, full-time or part-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 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. The time allowed may differ depending on the type of agreement .

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 OIR's Advisory Service on 131 628.

Award or agreement?

The type of arrangement you work under will depend on whether your employer is incorporated (a company) or not incorporated (a sole trader or a partnership).

The employer is incorporated if 'Pty Ltd' or 'Ltd' is part of their company name. If they are incorporated then you may be working under the conditions of a federal award or agreement. For more information contact the federal government's Workplace Ombudsman.

If the employer is not incorporated then, in most cases, you will be working under the conditions of a NSW State award or enterprise agreement. Contact OIR for more information.

Individual Transitional Employment Agreements (information for employees in the federal industrial relations system only)

An Individual Transitional Employment Agreement (ITEA) is a new type of workplace agreement for some employees currently working for an incorporated employer.

They are available for limited use and an ITEA can only be made until 31 December 2009.

All ITEAs are assessed against a special test to ensure that an employee in the federal system on this type of individual agreement receives fair pay and entitlements.

For more information contact the federal Workplace Infoline on 1300 363 264



Any agreement is **voluntary**. Don't sign it if you don't want to! Make sure you are not agreeing to unfair working conditions and pay. If you are unsure call the OIR.

Your pay

Your employer must pay you at least the minimum rate set out in your award or agreement. 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.

Under NSW State awards, 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.

Other agreements may not include these allowances or extra pay.

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 payslip when you receive your pay which explains what you are being paid.

NSW State awards

If you are employed under a NSW State award, it will set out your minimum entitlements. These will usually include:

- sick leave
- the minimum wage
- an average 38 hour week
- meal and rest breaks
- overtime rates
- weekend, shift, and other penalty rates
- public holidays
- uniform, vehicle, travel and other allowances
- bonuses
- four weeks paid annual leave and annual leave loading (full-time and part-time employees only)
- pay increases.

Part-time workers receive these conditions on a proportional or pro-rata basis. Other entitlements include:

- twelve months of unpaid parental leave, with the right to request up to two years, if you have a baby or adopt a child

- two months of long service leave after 10 years of service.

Your award must be displayed in your workplace so you can check your pay rate and conditions.

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. Some casual employees are entitled to an additional one twelfth of their hourly rate for holiday pay in addition to their wages.

Eligible casual workers employed under many NSW State awards have the right to seek permanent employment with their employer after six months of continuous service.

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
- for 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 the relevant award for any additional payments that may apply.

Useful contacts

NSW Office of Industrial Relations
State award wages and work conditions
Phone: 131 628
www.industrialrelations.nsw.gov.au

Workplace Authority
Federal wages and work conditions
Phone: 1300 363 264
www.workplaceauthority.gov.au

