

Important terms **you should know**

Australian Business Number (ABN)

A unique 11-digit number identifying the employer's business. Being asked to provide an ABN as part of a contract or agreement is a sign that it is not an employment relationship, but a contracting arrangement. Independent contractors generally are not covered by most workplace rights such as minimum wages and unfair dismissal.

Award (or "Industry Award" or "Modern Award")

An industry or occupation-specific legal document that sets minimum pay rates and conditions for that sector. For example, the Restaurant Industry Award covers restaurant and cafe workers with rules on wages, breaks, overtime, etc. An employment contract can't provide for less than the minimums set out in the relevant award (or agreement if one applies).

Casual

Employment with no guaranteed hours and usually no long-term commitment. Casuals are typically rostered as needed. They typically do not get most types of paid leave. To compensate, they receive a casual loading (generally 25%).

Enterprise Bargaining Agreement (EBA)

A negotiated agreement between an employer and employees (usually represented by a union) that sets out wages and conditions for those employees. It must be better overall than the NES and relevant award.

Full-time

A permanent position usually working an average of 38 hours per week.

National Employment Standards (NES)

A set of minimum entitlements that must be provided to all employees, regardless of whether they've signed a contract. An employment contract can't provide for less than their minimum legal entitlements under the NES.

Ongoing

A job without a specified end-date.

Ordinary Hours

The normal working hours (usually not attracting overtime rates). Often ordinary hours are up to 38 per week for full-time or agreed hours for part-time.

Part-time

A permanent position usually working an average of less than 38 hours per week. Part-timers generally work regular hours each week and get benefits like paid leave.

Penalty Rates

Higher pay rates for working at special times, like weekends, public holidays, late nights, etc.

Permanent

A permanent job can be full-time or part-time and generally has guaranteed and predictable hours and entitlements to paid leave.

Restrictive covenant

A clause that might restrict an employee's actions after they leave a job. For example, it could restrict the employee from working for competitors ("non-compete"), taking away clients or suppliers ("non-solicitation"), or disclosing certain information such as trade secrets ("non-disclosure").

Superannuation ("Super")

The system of retirement savings in Australia. Employers are required to make contributions to their employee's superannuation accounts. Employees generally can choose the fund that their superannuation is invested in.

Tax File Number (TFN)

A unique reference number issued by the Australian Taxation Office (ATO) for managing tax and superannuation. Employers must ask for a TFN when a person starts work as an employee. If a TFN is not provided, the employer is required to withhold tax at a higher rate.

Total Remuneration Package (TRP)

The complete package of compensation provided to an employee. This typically encompasses the base salary, superannuation, bonuses and allowances.

Overtime

Hours worked beyond ordinary hours. Often paid at a higher rate (e.g. "time and a half" = 1.5x base rate) depending on the award or agreement.

Some employees may be paid a lower wage in limited circumstances, such as some employees aged under 21 and some apprentices or trainees. Contact the Fair Work Ombudsman for more information.

If something looks wrong on your employment contract, get in touch with the **Migrant Workers Centre.**

BEFORE **YOU SIGN AN** **EMPLOYMENT** **CONTRACT**



Know your rights.
Spot the red flags.



Role and employment details

☐ Employment type and status

Full-time, part-time, or casual, and if it is ongoing or fixed term.

⚠ Red flags

- Type or status is different to what was discussed or was not clearly stated
- Reference to ABN or contracting arrangements (could indicate this is not an employment contract)

☐ Reference to Award or Agreement

The name of the Award or Enterprise Agreement (if any) that covers the job.

⚠ Red flags

- No Award or Agreement mentioned
- Award does not appear to relate to the role

☐ Position, role or job title

The name of the position.

⚠ Red flags

- Job title is missing or different to what was discussed or expected

☐ Duties

A description of the tasks or responsibilities expected in the role.

⚠ Red flags

- Duties are very different to what was discussed or advertised
- Duties are missing or overly vague

Hours, pay and entitlements

☐ Pay rate or salary

The hourly rate or salary amount. May include information about penalty rates, allowances, and other entitlements.

⚠ Red flags

- Missing rate
- Rate is below the National Minimum Wage
- Terms that exclude the worker from receiving certain entitlements (e.g. penalty rates don't apply)



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☐ Hours of work

The expected hours or shifts, including any reference to a minimum or maximum number of hours.

⚠ Red flags

- Hours are unclear, missing or different to what was discussed

Terms and conditions

☐ Trial or training periods

A probationary period at the beginning of a job to confirm the employee's skills and provide necessary training. It is common in some industries for employers to expect that new employees complete an unpaid trial or training period. These are often unlawful.

⚠ Red flags

- Any unpaid training
- Lengthy unpaid trial periods (longer than 1 day)

☐ Probation period

A period at the start of employment while employees can terminate the relationship with shorter notice.

⚠ Red flags

- Probation period is longer than 6 months

☐ Termination and notice period

How either party can end the employment and how much notice is required.

⚠ Red flags

- Unfair or unclear termination process

☐ Expenses and deductions

Requirements for the employee to pay for things like uniforms, equipment, accommodation or training.

⚠ Red flags

- Workers being made to pay for equipment or uniforms
- Training fees deducted from pay
- Vague wording about deductions without clear limits or purpose

Use this checklist as a guide to spot red flags on your employment contract

Contract overview

☐ Parties

The name of employer, ABN and the employee.

☐ Relationship between parties

The type of relationship that is established by the contract (e.g., employer and employee, principal and independent contractor).

☐ Commencement date

When the employment will start.

☐ End date (if applicable)

When the employment will end. May be expressed as a duration (e.g. "12-month fixed term").

⚠ Red flags

- Missing or incorrect information
- Incorrect or unexpected information



For more information:

If you find yourself exploited at work and you can't talk to your employer about it or don't feel confident to, get to a safe place outside your workplace (preferably your home, or a friend's home), contact:

Migrant Workers Centre

(03) 7009 6710 or migrantworkers.org.au

Fair Work Ombudsman

13 13 94, or fairwork.gov.au/about-us/contact-us

You have the option to speak to these services anonymously, or you can disclose your identity without the knowledge of your employer. Do this as soon as possible.



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