

## Footscray Community Legal Centre Employment Law Project – employment terms

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# EMPLOYMENT LAW TERMS

<b>ABN (Australian Business Number)</b>	An identification number for businesses. Independent contractors need to get an ABN for their “business”.
<b>absenteeism</b>	When an employee does not attend work as scheduled.
<b>adverse action</b>	<p>When a worker is treated badly by their boss: for example, being dismissed, not offered a job or not offered a training opportunity.</p> <p>Your boss must not take adverse action against you because you are sick, joined a union, asked about your workplace rights or made a complaint. Your boss must not take adverse action against you for a discriminatory reason. You should seek advice quickly if this happens to you because a claim for adverse action must be made to the Fair Work Commission within 21 days.</p>
<b>allowances</b>	<p>Money paid to an employee in addition to their ordinary pay to compensate the employee for undertaking particular duties or increasing expenses in the course of their work. Examples of possible allowances include meal allowances, tool allowances, travelling, first aid allowances.</p> <p>The allowances to which an employee is entitled are contained in the applicable award or enterprise agreement.</p>
<b>annual leave</b>	<p>Authorised paid leave for holidays or vacation. Under the National Employment Standards, full-time employees are entitled to accrue and take at least 4 weeks annual leave each year. Part-time employees get a proportion of this, based on the number of hours they work. Casual employees are not entitled to receive annual leave.</p> <p>Annual leave accrues progressively from the time the employee starts work.</p>
<b>apprentice</b>	A worker who is learning their trade or profession and works some hours as part of this training and also does training off the job at a school or college. An apprentice works under a formal training arrangement in a skilled trade (e.g. plumbing, cabinet-making and mechanic). An apprentice should be paid, although maybe at a lower rate.
<b>award</b>	Legal document made by the Fair Work Commission that sets enforceable minimum pay and conditions. There are different awards for different industries or occupations.
<b>breaks</b>	A period of time that employees must be allowed to take for a rest during a shift pursuant to an applicable award or enterprise agreement. Some breaks are paid and some are unpaid. The breaks to which an employee is entitled will depend on the hours the employee works.
<b>bullying</b>	<p>Repeated unreasonable behaviour by a person or a group in a workplace that causes a risk to health and safety. Unreasonable behaviour includes victimising, humiliating, intimidating or threatening. Bullying can be emotional, physical, spoken or over the Internet. For example:</p> <ul style="list-style-type: none"><li>• behaving aggressively</li><li>• teasing or practical jokes</li><li>• pressuring someone to behave inappropriately</li><li>• excluding someone from work-related events or</li><li>• unreasonable work demands.</li></ul> <p>Bullying in the workplace is illegal.</p>

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<b>carer</b>	Someone who provides unpaid care to a family member or friend who needs help, for example because they have a disability, are sick or are old.
<b>carer's leave</b>	Time off work taken by an employee to look after a family member or someone the employee lives with who is sick or injured. Carer's leave entitlements are set out in the National Employment Standards.
<b>cash in hand</b>	Your employer may pay your wages to you (after deducting tax) in cash rather than to a bank account. This is ok, as long as you get a pay slip and can see that tax is taken out.  Some employers may offer some or all of your wages 'cash-in-hand', where no tax is taken out. This is illegal and creates risks for workers, for example, you may be paid below the minimum wage and may get tax and Centrelink debts.
<b>casual employee</b>	Employees who do not work on a regular and systematic basis or with a reasonable expectation of ongoing work. Casual workers don't usually have regular hours, and do not get paid sick leave or annual leave. They receive a higher hourly rate than permanent employees, which will be prescribed under an award, enterprise agreement or the national minimum wage.
<b>certificate of capacity</b>	A document prepared by a medical practitioner that says what an injured worker can or cannot do at work as a result of a workplace injury or illness. For an injured worker to receive loss of income compensation from WorkCover, they must have a certificate of capacity.
<b>compassionate leave</b>	Time off work which allows an employee to deal with a crisis in the family, normally the death of a family member. Compassionate leave may also cover a serious or incapacitating illness of a family member.  Under the National Employment Standards, all employees can take two days compassionate leave for each death, illness or injury. Full-time and part-time employees get paid for these two days. For casual employees, the leave is unpaid.
<b>community service leave</b>	Time off work that an employee may be allowed to do certain community service activities like jury service or voluntary emergency work like fire fighting.
<b>contract of employment</b>	See employment contract.
<b>deduction</b>	Money taken out of an employee's pay by his / her employer. The Fair Work Act 2009 limits the types of deductions that may be lawfully made from an employee's pay.
<b>disability</b>	An impairment that may be physical, cognitive, mental, psychological
<b>discrimination</b>	Treating people unfairly because they have an attribute/belong to a particular group e.g. race, ethnic group, gender.  Direct discrimination occurs when a person treats a person unfavourably because of their attribute/group.  Indirect discrimination occurs when a person imposes a requirement that disadvantages a person who has an attribute, and the requirement is not reasonable.
<b>dismissal</b>	Termination of an employee's employment by his / her employer. May also be referred to as "being fired", "being sacked", being "laid off" or "losing your job".

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<b>employment contract</b>	Agreement between an employer and employee that sets out the terms and conditions of employment. All employees have employment contracts, even where nothing has been written down or signed. Employment contracts can be written, oral, or partly written and partly oral.
<b>enterprise agreement</b>	Legal document that sets out employment conditions between a group of employees and an employer and has been approved by the Fair Work Commission.
<b>Fair Work Commission</b>	A tribunal that resolves disputes about the workplace, deals with applications for unfair dismissal, makes modern awards and approves enterprise agreements
<b>Fair Work Ombudsman</b>	An organisation that provides free information about workplace laws and rights to employees and employers ( <a href="http://www.fairwork.gov.au">www.fairwork.gov.au</a> and via the Fair Work Infoline - 13 13 94). They can also assist employees who think they are not getting paid the right amount or given their workplace rights and conditions.
<b>fixed task employment</b>	Employment that finishes after a set task is completed e.g. the end of fruit picking season. A fixed task employee should be paid.
<b>fixed term employment</b>	Employment that finishes after a set time period. A fixed term employee should be paid.
<b>flexible working arrangements</b>	An agreement between an employee and employer to change the way you work, for example the times, days or location that you work.  Under the National Employment Standards, some employees (such as employees with children, carer responsibilities or a disability) have a right to request flexible working arrangements. If an eligible employee makes a written request for flexible working arrangements, their employer needs to respond within 21 days and can only refuse the request for certain reasons.
<b>full-time work</b>	Work of 38+ hours each week where an employee has ongoing employment.
<b>gross pay</b>	The amount of pay an employee earns before income tax is taken out of their pay.
<b>income tax</b>	A government tax charged on what you earn from work or business each year. The amount of income tax you pay depends on how much you earn and certain other entitlements and exemptions.
<b>independent contractor</b>	Independent contractors run their own business, hiring out their services to other organisations. An independent contractor is engaged under a contract for services, not a contract of employment.  Unlike employees, independent contractors can usually negotiate their own fees and working arrangements, and can work for a variety of clients at one time. Usually an independent contractor has an ABN, and provides an invoice to get paid for their work.  As an independent contractor, your entitlements and obligations differ from an employee in many ways – usually you must pay your own taxes and maybe superannuation and WorkCover insurance as well.
<b>industrial instrument</b>	Legal documents that set out the terms and conditions of employment, such as an award or enterprise agreement.
<b>junior employee</b>	Employees under 21. They have the same rights as adult workers except the minimum wage for a junior employee may be less than for an adult worker.

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<b>leave</b>	<p>Time off work that may be paid or unpaid depending on the type of leave. Types of leave include:</p> <ul style="list-style-type: none"> <li>• annual leave – holiday away from work – (usually four weeks per year for full-time employees)</li> <li>• personal leave which includes: <ul style="list-style-type: none"> <li>○ carer’s leave – time taken off work to care for a family member</li> <li>○ sick leave – time taken off work when you are sick</li> </ul> </li> <li>• compassionate leave – time taken off work when a family member dies, suffers a life-threatening illness or has an unexpected emergency.</li> <li>• parental leave – time taken off work when a baby is born</li> <li>• long service leave – time taken off work once you have been working for the same employer for many years.</li> </ul> <p>Your employer may provide other types of leave in addition to these entitlements, such as study leave. You should check your contract, award or enterprise agreement to see what leave you are entitled to.</p>
<b>leave loading</b>	Extra money that may be paid to an employee when they are on annual leave pursuant to an applicable award or enterprise agreement.
<b>long service leave</b>	A type of leave to which an employee becomes entitled after a long period of service for the same company or organisation provided under State legislation.
<b>maximum hours of work</b>	Under the National Employment Standards, the maximum number of hours an employer can make an employee work is 38 hours per week plus reasonable additional hours.
<b>medical certificate</b>	<p>A certificate signed by a doctor or health professional which states that an employee is unwell and unable to perform their job for a certain period of time.</p> <p>Your employer may ask you to provide a medical certificate if you take sick leave.</p>
<b>minimum working conditions</b>	The lowest level of pay, working hours, leave etc. that is set by employment law
<b>minimum wage</b>	The lowest level of pay payable to an employee for his or her ordinary hours of work. It is illegal to pay an employee less than the minimum wage, even if the employee agrees. This may be set under an award, enterprise agreement or under the national minimum wage.
<b>modern awards</b>	See award.
<b>National Employment Standards</b>	<p>Ten minimum conditions that apply to all full-time and part-time employees:</p> <ol style="list-style-type: none"> <li>1. Maximum weekly hours of work = 38 hours + reasonable additional hours</li> <li>2. Annual leave = 4 weeks (pro rata for part time)</li> <li>3. Public holidays (provided you normally work on that day)</li> <li>4. Notice of termination / redundancy pay</li> <li>5. Right to request flexible working arrangements</li> <li>6. Long Service Leave</li> <li>7. Parental Leave</li> <li>8. Personal (sick) / Carers / Compassionate Leave</li> <li>9. Community Service Leave</li> <li>10. Supply of Fair Work Information Statement</li> </ol>
<b>net pay</b>	The amount of pay an employee earns once income tax has been taken out of their pay.

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<p><b>notice of termination</b></p>	<p>Notice of termination is notification that your job will end. An employment contract, award or enterprise agreement will set the minimum period of notice to which you are entitled. Permanent employees are entitled to a minimum amount of notice under the National Employment Standards, depending on how long they have worked for their employer, even where notice of termination is given during the probation period.</p> <p>If no notice is provided, the employer must pay the employee instead of notice (known as pay or payment in lieu).</p> <p>If an employee wants to end their job, they are usually required to give notice to the employer that they want to end employment. If you do not give the right amount of notice, an employer may have the right to deduct money from your final pay.</p>
<p><b>occupational health and safety</b></p>	<p>The rights and responsibilities of workers and employers to create a healthy and safe workplace.</p>
<p><b>overtime</b></p>	<p>The time worked in excess of ordinary hours of work.</p> <p>Overtime is often defined in an industrial instrument (e.g. a modern award or enterprise agreement) as time worked in excess of 38 hours or outside of ordinary hours.</p> <p>Industrial instruments will often provide that overtime work may be paid at a higher rate of pay.</p>
<p><b>parental leave</b></p>	<p>Parental leave is leave taken by an employee to care for a child.</p> <p>Under the National Employment Standards, parents can take up to 12 months unpaid leave. They also have a right to ask for an extra 12 months unpaid leave. There are also other types of maternity, paternity and adoption leave available.</p> <p>Some employees are also eligible for paid parental leave under the Australian Government Paid Parental Leave scheme. For details visit <a href="http://www.humanservices.gov.au">www.humanservices.gov.au</a>.</p>
<p><b>part-time work</b></p>	<p>Work of less than 38 hours each week that is regular and systematic and where the employee has a reasonable expectation of ongoing work.</p>
<p><b>pay in lieu</b></p>	<p>Pay given to workers who lose their job instead of notice of termination.</p>
<p><b>payment summary</b></p>	<p>A form which shows your gross pay, net earnings, tax and other deductions which is given to workers by employers at the end of the financial year for income tax purposes.</p>
<p><b>pay slip</b></p>	<p>A record of pay that employers must provide to employees within one working day of paying them for the work they perform for the employer.</p>
<p><b>penalty rates</b></p>	<p>A higher rate of pay set out in an award or enterprise agreement for working at particular times, for example, for work performed on a night shift, or work on Saturday or Sunday.</p>
<p><b>permanent employment</b></p>	<p>An employee who has continued employment with no stated end point, and full working conditions, including paid annual leave and sick leave. May be part-time or full-time.</p>
<p><b>personal leave</b></p>	<p>The term used to refer to sick and carer's leave.</p> <p>Under the National Employment Standards, full-time and part-time employees get 10 days paid personal leave per year.</p> <p>Casual employees are not entitled to paid personal/carer's leave although they are entitled to unpaid carer's leave.</p>

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<b>policies and procedures</b>	Rules for a workplace. A written explanation of the way employees should act in the workplace e.g. policies about bullying, safety etc. Different workplaces have different policies and procedures.
<b>position description</b>	A document which describes the purpose, expected activities and responsibilities of a particular job. Also known as a PD or job description.
<b>probation</b>	A short period after an employee begins work, usually 6 months, during which time the employer can see whether the employee is a good fit for the job. Probation periods are set by your employer and do not affect your minimum rights and entitlements. An employee on probation must still be paid. Full time and part time employees who do not pass their probation period are still entitled to notice of termination.
<b>pro rata</b>	A portion of, or proportionate to. For example, if you work part time, 3 days per week (0.6, or 60% of full-time), you will be entitled to a portion of the entitlements that full-time employees receive (i.e. 60% of the wages, annual leave and other entitlements).
<b>public holiday</b>	An official holiday for the state or country. In most cases employees are not required to work on a public holiday. If you are required to work on a public holiday you may be entitled to more pay for that day or another day off in lieu.
<b>redundancy</b>	When an employer no longer needs your job to be done by anyone as a consequence of organisational or technological changes, and through no fault of the employee. Most employees should receive some payment if they are made redundant, depending on the number of years they have worked for the employer.  This payment is referred to as redundancy pay or severance pay.
<b>resign</b>	Where an employee gives notice to their employer that they want to end employment.
<b>separation certificate</b>	A document that an employer gives an employee when they lose their job for the purposes of receiving benefits from Centrelink– it explains how long the employee was employed and when and why they lost their job. This document may be required by Centrelink.
<b>serious misconduct</b>	Behaviour or conduct of an employee at work that is so bad that it justifies immediate dismissal without notice of termination (see "summary dismissal").
<b>severance</b>	See "redundancy".
<b>sexual harassment</b>	Unwanted or unwelcome sexual behaviour which makes a person feel offended, humiliated or intimidated.
<b>sexual orientation</b>	A person's sexual preference for men, women, both or neither gender.  A person may not be adversely treated because of their sexual orientation.
<b>sham contracting</b>	When your boss tells you to work as an independent contractor with an ABN, usually to avoid paying minimum employment entitlements, even though you should be employed as an employee. This is against the law.
<b>shift work</b>	A period of work which is performed outside the normal spread of

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	hours, particularly when a factory or business operates on a 24 hour basis.
<b>sick leave</b>	Time off work taken by an employee when they can't go to work because they are sick or injured.
<b>summary dismissal</b>	Where an employee is dismissed immediately, without notice of termination, because of serious misconduct.
<b>superannuation</b>	Money paid by an employer into an employee's superannuation account. The employee can use this money when they retire. Employers are required by law to pay superannuation for their employees and the amount of superannuation paid should be included on your pay slip.
<b>tax file number</b>	A number issued to people in Australia to help the Australian Government administer the income tax system. You will need to give your employer your tax file number or TFN when you start work so that they can deduct income tax from your pay.
<b>trainee</b>	An employee who is employed under a formal registered training arrangement.  An award or enterprise agreement may set out special terms and conditions for trainees. The minimum wage for a trainee may be lower than for other employees.
<b>trial work</b>	A period of work in which an employer can see if someone can do the job. Trial work must be paid.
<b>unfair dismissal</b>	When an employee's dismissal (termination of employment) is harsh, unjust or unreasonable, and not a genuine redundancy. If you lose your job, it may be possible to get your job back, or receive compensation, if the dismissal is unfair. A claim for unfair dismissal must be made to the Fair Work Commission within 21 days of the employee's dismissal.
<b>unions</b>	Unions are organisations run by workers to help employees at work. Unions negotiate for better wages and conditions and help members who have problems at work.
<b>victimisation</b>	Treating people unfairly because they have made complaint e.g. excluding them from workplace activities, gossiping about them, refusing to give them a promotion.
<b>volunteer</b>	Someone who does unpaid work for an organisation.
<b>work experience</b>	Short-term experience of employment, typically for students. Usually work experience is not paid, but if you are undertaking work experience for a long time, or have pressure to complete tasks, you should seek advice.
<b>WorkCover benefits</b>	Workers may be entitled to benefits if they are injured at work, including income maintenance, medical, surgical and hospital expenses and rehabilitation costs (also known as worker's compensation).