



Employer Toolkit

Types of employment

1. Employees can be taken on as **full-time**, **part-time** or **casual**.

- A **Full-time employee:**
 - works, on average, around 38 hours per week
 - usually works regular hours each week
 - has fully paid leave entitlements
 - is a permanent employee or on a fixed-term contract
- A **Part-time employee:**
 - works, on average, less than 38 hours per week
 - usually works regular hours each week
 - is entitled to the same benefits as a full-time employee, at a partial rate corresponding to the proportion of full-time hours they work
 - has paid leave entitlements
 - is a permanent employee or on a fixed-term contract.
- A **Casual employee:**
 - has no guaranteed hours of work
 - usually works irregular hours (but can work regular hours)
 - doesn't get paid sick or annual leave, but receives a higher hourly rate than full-time or part-time employees
 - can end employment without notice, unless notice is required by a registered agreement, award or employment contract.

2. **Fixed-term contract employees:**

- are employed for a specific period or task, on a full-time or part-time basis
- are entitled to the same wages, penalty rates and leave as permanent employees.

3. **Shift workers:**

- work outside normal working hours and receive extra payment for doing so.

4. **Daily and weekly hire employees:**

Employees can be hired as daily or weekly hire employees in the following industries:

- building and construction
- plumbing.



5. Probation:

An employer may put a new employee on probation to determine if he/she is suitable for the role of business. The employer decides how long the probation period will be. It can range from a few weeks to a few months from the start of employment.

Probation periods are not separate periods of employment and the new employee receives the same entitlements as he/she would receive if not on probation, including accrual of, and access to, paid leave.

If it is decided not to retain an employee after his/her probationary period, notice of termination is still required to be given, and payment made for any unused accumulated annual leave.

More information about the different types of employment can be found at:
www.fairwork.gov.au/employee-entitlements/types-of-employee

Employee Entitlements

An employee's minimum entitlements are set out in the National Employment Standards (NES) or awards. A registered agreement or employment contract can provide for other entitlements but they cannot be less than what's stipulated in the NES or the relevant award.

1. Awards

Awards are legal documents that outline the minimum pay rates and conditions of employment.

There are 122 industry or occupation awards that cover most people who work in Australia.

Assistance with finding the right award that covers your employees can be found at: Award usually provides pay rates for employees in the various occupations in a particular industry covered by that award. There may be many companies in that particular industry that will be covered by that award.

An employer can pay an employee above the wage rate specified in the award, but cannot pay below that rate.

Assistance with finding the right award that covers your employees can be found at:
www.fairwork.gov.au/awards-and-agreements/awards



2. Registered Agreements

Enterprise agreements and other registered agreements set out minimum employment conditions and can apply to one business or a group of businesses.

When a workplace has a registered agreement an award does not apply to that workplace. However the following points should be noted:

- The base pay in the registered agreement cannot be less than the applicable base award rate
- The pay and terms and conditions in the agreement cannot be less favourable than those contained in the National Employment Standards.

Registered agreements apply until they are terminated or replaced.

More information about Registered Agreements can be found at:

www.fairwork.gov.au/awards-and-agreements/agreements

3. Employment Contracts

An employment contract is an agreement between an employer and employee that sets out terms and conditions of employment. A contract can be in writing or verbal. It cannot provide for less than the legal minimum entitlements set out in the National Employment Standards, or awards, or enterprise agreements or other registered agreements that may apply.

More information about Employment Contracts can be found at:

www.fairwork.gov.au/awards-and-agreements/employment-contracts

4. National Employment Standards

The National Employment Standards (NES) are 10 minimum employment entitlements that have to be provided to all employees. An award, employment contract or registered agreement cannot contain provisions that are less than the national minimum wage or NES.

More information about the National Employment Standards can be found at:

www.fairwork.gov.au/employee-entitlements/national-employment-standards

5. Independent Contractors

Independent contractors run their own business. They usually negotiate their own fees and working arrangements and can work for more than one client at a time. Independent contractors have different obligations and rights to employees because they are running their own business.

6. Sham Contracting

Sham contracting is where a person who is working as an employee is regarded to be an independent contractor when he/she is not, even if they are treated as an independent contractor in some ways, such as asked to obtain their own Australian Business Number and to submit invoices.

Sham Contracting is illegal. It is illegal to:

- claim an employee is an independent contractor
- say something false to convince an employee to become an independent contractor
- dismiss or threaten to dismiss an employee if he/she doesn't become an independent contractor
- dismiss an employee and then hire him/her as an independent contractor to do the same work they were doing as an employee.

Is your worker an employee or an independent contractor? Find out more at:
www.fairwork.gov.au/find-help-for/independent-contractors

Pay and Leave

1. Pay

An employee's minimum pay rate can come from an award, enterprise agreement or other registered agreement or the national minimum wage.

Employees have to be paid the right pay for all time worked, including time spent:

- in training
- in team meetings
- opening and closing the business
- working unreasonable trial shifts.

A pay calculator to assist in finding the right pay for an employee is available at:
<https://calculate.fairwork.gov.au/FindYourAward>

2. Leave

Employees can take leave for many reasons, including: to go on a holiday, because they are sick or to take care of sick family members.

Minimum leave entitlements for employees come from the *National Employment Standards (NES)* ([link](#)). An award, *registered agreement* ([link](#)) or contract of employment can provide for other leave entitlements but they can't be less than what's in the NES.

Find out the right leave entitlements for your employees using the Fair Work Leave Calculator at: <https://calculate.fairwork.gov.au/leave>