

*Sydney University Law Society*

**EMPLOYMENT  
& WORKPLACE  
RIGHTS FAQ**

2019

# ACKNOWLEDGEMENTS

Many thanks to all those who made the production and publication of SULLS' inaugural Employment & Workplace Rights FAQ possible. We hope that this guide will foster greater vigilance against bullying, harassment and exploitation in the legal profession, and contribute to the adoption of better employment practices across the board. ————— *This FAQ is current as at 1 July 2019.*

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## *Acknowledgement of Country*

The Sydney University Law Society acknowledges and pays respect to the traditional custodians of the land on which the University of Sydney is built, the Gadigal people of the Eora Nation. We acknowledge that this land was stolen and never ceded, and affirm our commitment to the ongoing fight for First Nations justice, decolonisation and reconciliation.

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# A. YOUR RIGHTS AND ENTITLEMENTS AT WORK

## *What are the award rates and where can I find them?*

Under the Fair Work system, Australia's current industrial relations framework since 2009, awards are part of "a safety net of entitlements" and are legal documents that outline the minimum pay rates and conditions of employment. They provide for entitlements such as pay, hours of work, rosters, breaks, allowances, penalty rates and overtime.<sup>1</sup> There are over one-hundred awards and they apply to employers and employees depending on the industry and type of job they work in. You can find out which award applies to you through the "Find my award" service on the Fair Work Ombudsman's website.<sup>2</sup>

Note that awards do not always apply. Some businesses, particularly larger ones, may employ you under an enterprise agreement or other registered agreement that sets out conditions different to the relevant award.<sup>3</sup> In this case, the award won't apply unless the base rates of pay in the agreement are lower than the award.

## *What benefits am I entitled to as a casual employee?*

A casual employee is an employee who does not have a firm commitment from an employer about the length of their employment, or the hours they will work per week. As such, there is no guarantee that a casual job will be ongoing. Moreover, casual employees are not entitled to paid sick or annual leave<sup>4</sup> and can end their employment without notice, unless notice is required by a registered agreement, award or employment contract.

Casual employees may work a maximum of 38 hours per week, plus reasonable additional hours.<sup>5</sup> There are no mandated minimum hours per shift, but many award agreements have such rules for casual staff.

To compensate for the lack of sick and annual leave benefits however, casual employees are entitled to a higher rate of pay than equivalent full or part-time employees known as 'casual loading'. A typical casual loading rate is an additional 25% of the equivalent permanent hourly rate, but this will depend on the relevant award. Penalty rates on top of this may or may not be paid, also depending on the relevant award or contract.

Nevertheless, casual employees are still entitled to:

- 2 days unpaid carer's leave and 2 days unpaid compassionate leave per occasion
- 5 days unpaid family and domestic violence leave (in a 12-month period)
- unpaid community service leave.<sup>6</sup>

Long term casual employees, after at least twelve months of employment, can request flexible working arrangements and parental leave. However, they will not be entitled to paid leave or notice of termination even if they work regularly for a long time.

A casual employee can convert to full-time or part-time employment at any time if the employer and employee mutually agree to this.

## *What rights do I have if I work without contract?*

An employment contract is an agreement between an employer and employee which sets out the terms and conditions of employment. This contract can be oral or written. Even if you have never signed an employment contract you still have comprehensive rights and responsibilities as an employee. These are contained within:

- National Employment Standards<sup>7</sup>
- Applicable industry modern awards<sup>8</sup>
- Employer-specific enterprise bargaining agreements<sup>9</sup>

### National Employment Standards

The National Employment Standards are contained in Part 2-2 of the *Fair Work Act 2009* (Cth) and contain the minimum terms and conditions of employment that apply to all employees. The National Employment Standards govern your rights regarding:

- Maximum weekly hours<sup>8</sup>
- Requests for flexible working arrangements<sup>9</sup>
- Parental leave and related entitlements<sup>10</sup>
- Annual leave<sup>11</sup>
- Personal/carer's leave, compassionate leave and unpaid family and domestic violence leave<sup>12</sup>
- Community service leave<sup>13</sup>
- Long service leave<sup>14</sup>
- Public holidays<sup>15</sup>
- Notice of termination and redundancy pay<sup>16</sup>
- Fair Work Information Statement<sup>17</sup>

Note that if you are a casual employee you will only be entitled to the National Employment Standards relating to unpaid carer's leave, unpaid compassionate leave, unpaid family and domestic violence leave, and community service leave.

The National Employment Standards cannot be excluded by modern awards or enterprise agreements.<sup>18</sup>

## *What should I do if I'm not receiving the minimum wage or need to recover backpay?*

Your employer is responsible for calculating and rectifying any underpayment of their employees with backpay, and underpayment includes failing to pay employees at the appropriate award rate. The Fair Work Ombudsman suggests you attempt to fix the issue with your employer before commencing any action extraneous to your workplace, and states that in many cases underpayment may have taken place due to error.<sup>19</sup>

If your employer refuses to rectify the issue, however, you may seek assistance from the Ombudsman to resolve the issue.<sup>20</sup> The Ombudsman will help both parties understand the issue at hand with a view to resolution, but if this cannot be done at this stage it may proceed to voluntary mediation. This mediation will take the form of a confidential 1-2 hour telephone conference call led by a trained and neutral mediator.<sup>21</sup> This mediation may result in either an informal, usually verbal, agreement to resolve the issue, or a formal agreement recorded in a Terms of Settlement document drafted with the mediator's assistance.<sup>22</sup> This mediator cannot decide an outcome, however, and if no agreement is reached or you or your employer do not agree to attend mediation in the first place, you may be able to take legal action in the small claims court provided the backpay claimed is lower than \$20,000 and no longer than 6 years have passed since you became entitled to it.<sup>23</sup> Lawyers aren't normally needed in a small claims action, making it significantly cheaper, and the court is able to make a legally binding decision following proceedings that are faster and more informal than other kinds of court proceedings.

# B. INTERNSHIPS AND VOLUNTEERING

## *What are my rights as an intern?*

### Paid Internships

If you are a paid intern you will have an employment contract, written or verbal, under which you are entitled to:

- Minimum wages
- National Employment Standards
- Conditions of any awards or agreements covering the industry

### Unpaid work

Whether an unpaid work arrangement is lawful and will attract the rights provided for under the *Fair Work Act 2009* (Cth) depends on whether the arrangement involves a vocational placement, or whether an employment relationship exists.<sup>24</sup>

#### *Vocational Placements*

Vocational placements are formal work experience arrangements that form part of your education or training course. Vocational placements that meet the definition under the *Fair Work Act 2009* (Cth) are lawfully unpaid, regardless of whether an employment relationship exists. Vocational placements are defined as having the following characteristics:

- Undertaken with an employer for which a person is not entitled to be paid any remuneration; and
- Undertaken as a requirement of an education or training course; and
- Authorised under a law or an administrative arrangement of the Commonwealth, a State, or a Territory.<sup>25</sup>

If your placement does not meet the above criteria it will not be a vocational placement under the *Fair Work Act 2009* (Cth). However, this does not automatically mean that you are an employee and entitled to payment – ultimately, that depends on whether there is an employment relationship.

#### *Employment Relationship*

Where an unpaid work arrangement is not a vocational placement, it can only be lawful if no employment relationship exists. If there is an employment relationship, you will be an employee and thus entitled to the rights provided for under the *Fair Work Act 2009* (Cth) including minimum wage, National Employment Standards, and the terms of any applicable award or enterprise agreement. There is no definition of employment under the *Fair Work Act 2009* (Cth). Instead, it is a matter of working out whether the arrangement involves an employment contract, which could be in writing or purely verbal.

For an employment contract to exist it must be clear that:

- The parties intended to create a legally binding arrangement
- There is a commitment to perform work for the benefit of the business or organisation
- The person performing the work is to get something in return (which could simply be experience or training)
- The person must not be performing the work as part of a business of their own.

When looking at whether an employment relationship exists, the actual nature of the arrangement should be considered. Relevant factors to be considered include:

- The nature and purpose of the arrangement
  - Where the arrangement involves productive work rather than just meaningful learning, training and skills development, it is likely to be an employment relationship
  - The main benefit of the arrangement should be to the person doing the placement
- How long the arrangement is for
  - The longer the period of the arrangement, the more likely the person is to be an employee

- How significant the arrangement is to the business
  - Is the work normally performed by a paid employee?
  - Does the business or organisation need this work to be done?
  - The more integral the work is to the function of the business, the more likely it is that an employment relationship will be implied
- What the person's obligations are
  - In some cases, a person might undertake some productive work to aid their learning
  - An employment relationship is unlikely to be found in these circumstances if the role is primarily observational, or where performing such actions is incidental to the learning experience and not primarily for the operational benefit of the business or organisation.<sup>27</sup>

### *What are my rights as a volunteer?*

The Fair Work Ombudsman defines a volunteer as someone who does work for the main purpose of benefitting someone else.<sup>28</sup> As a volunteer you are not an employee and thus are not required to be paid. The above factors must be considered to determine whether you are a genuine volunteer or whether an employment relationship exists.

Key characteristics of a genuine volunteering arrangement may be as follows:

- That the parties did not intend to create a legally binding employment relationship
- The volunteer is under no obligation to attend the workplace or perform work
- The volunteer doesn't expect to be paid for their work.<sup>29</sup>

### Volunteer Rights

Volunteers are not covered by the *Fair Work Act 2009* (Cth), awards or workplace agreements. Volunteering Australia promotes the following as the basic rights of a volunteer, some of which are provided for in legislation:

- To work in a healthy and safe environment (where the *Work Health & Safety Act 2011* (NSW) applies)
- To be interviewed and engaged in accordance with equal opportunity and anti-discrimination legislation
- To be adequately covered by insurance
- To be reimbursed for out of pocket expenses
- To be given a copy of the organisation's volunteer policy and other policies that affect their work
- Not to fill a position previously held by a paid worker
- To have a job description and agreed working hours
- To have access to a grievance procedure
- To be provided with an orientation to the organisation
- To have confidential and personal information dealt with in accordance with the principles of the *Privacy Act 1988* (Cth)
- To be provided with sufficient training to do their job.<sup>30</sup>

It is prudent to note that intellectual property laws in some circumstances treat volunteers differently. Organisations do not automatically own any copyright created by a volunteer.<sup>31</sup>

No notice periods are required to terminate a volunteer relationship. Volunteers cannot make unfair or unlawful dismissal claims.

## B. WORKPLACE SAFETY AND WELLBEING

### *What is workplace bullying?*

Workplace bullying is defined under section 789FD of the *Fair Work Act 2009* (Cth) (FW Act) as being when an individual or group of individuals repeatedly behaves unreasonably towards a worker or group of workers at work *and* that behaviour creates a risk to health and safety.<sup>32</sup> Bullying does not include reasonable management action carried out in a reasonable manner.<sup>33</sup>

However, as always, this statutory definition is necessarily broad and somewhat vague. The Fair Work Commission helpfully sets out examples of what bullying, depending on the nature and circumstances of the conduct, can include.<sup>34</sup> These include:

- the making of vexatious allegations against a worker;<sup>35</sup>
- spreading rude, malicious and/or inaccurate rumours about someone;<sup>36</sup>
- conducting an investigation in a grossly unfair manner;<sup>37</sup>
- aggressive and intimidating conduct;<sup>38</sup>
- making belittling or humiliating comments;<sup>39</sup>
- victimisation;<sup>40</sup>
- subjecting a worker to practical jokes or initiation rituals;<sup>41</sup>
- exclusion from work-related events;<sup>42</sup> and
- unreasonable work expectations.<sup>43</sup>

Notably, any alleged bullying behaviour must occur while the worker is 'at work' for the FW Act to apply. However, 'at work' does not require the bullying to have occurred

within a physical workplace. Rather, a worker will be 'at work' at any time or location where the worker performs work or some other activity that is authorised by their employer (including meal breaks or accessing social media while working).

### *What is workplace sexual harassment?*

Sexual harassment is unlawful. It is defined in s 28A of the *Sex Discrimination Act 1984* (Cth) as when a person makes an unwanted sexual advance, an unwanted request for sexual favours, or engages in other unwelcome conduct of a sexual nature in relation to a person.<sup>46</sup>

Such conduct must occur in circumstances where a reasonable person – having regard to all circumstances *including* age, sexual orientation, gender identity, relationship status, religious belief and race etc – would have expected the possibility that the person harassed would be offended, humiliated or intimidated.<sup>47</sup>

The *Sex Discrimination Act 1984* also makes it unlawful for employers as well as *prospective* employers to sexually harass you, irrespective of whether you are a conventional employee or even just a contractor.<sup>48</sup>

Sexual harassment can include:

- deliberate physical contact or unnecessary familiarity (e.g. touching, patting, pinching or brushing);
- making suggestive comments about a person's appearance or body;
- unwanted invitations to go out on dates;
- the sending of explicit or sexually suggestive emails or text messages;
- making remarks or asking intrusive questions about someone's sex life;
- displaying sexual or pornographic posters or screen savers.<sup>49</sup>

### What can I do if I think I've been sexually harassed?

If you are or have been the target of *any* conduct that is of a sexual nature in your workplace, and such conduct has made you feel uncomfortable or unsafe, it is worth inquiring into whether you would like to take further action against the perpetrator.

If you would like to access support services or take formal action, multiple avenues are open to you.

*Support services:*

- 1800Respect (specialist service) 1800 737 732
- Lifeline 13 11 14
- Beyond Blue 1300 22 4636

*Legal services:*

- Law Access 1300 888 529
- NSW Legal Aid 1300 888 529
- Salvos Legal Humanitarian (02) 8202 1500
- Law Society of NSW Pro Bono Scheme (02) 9926 0364

*Tribunals:*

- Australian Human Rights Commission 1300 656 419 | [http://www.humanrights.gov.au/complaints/make-complaint?\\_ga=2.239509059.1772763448.1564322011-1884755237.1564322011](http://www.humanrights.gov.au/complaints/make-complaint?_ga=2.239509059.1772763448.1564322011-1884755237.1564322011)
  - You have the right to make a complaint to the AHRC, which is a statutory tribunal set up by the Commonwealth government.

*Online guides:*

- Justice Connect <https://justiceconnect.org.au/resources/what-to-do-if-youve-been-sexually-harassed/>
- Youth Law Australia <https://yla.org.au/nsw/topics/health-love-and-sex/sexual-harassment/>

### *What is workplace discrimination?*

Discrimination in the workplace occurs when you are treated less favourably than others because of a particular personal characteristic and not because of your ability to perform the job. Under the *Anti-Discrimination Act 1977* (NSW), it is unlawful for a current or prospective employer to discriminate against you on the basis of any of the following attributes:

- Race
- Sex
- Gender identity
- Marital or domestic status
- Disability
- Any responsibilities you may have as a carer
- Sexual orientation
- Age
- HIV/AIDS positivity

S 351(1) of the *Fair Work Act 2009* (Cth) provides that an employer cannot take adverse action against an employee or prospective employee on the basis of many of the same above attributes. However, it also gives protection to the following attributes in addition to the ones already listed above:

- Pregnancy
- Religion
- Political opinion
- National extraction
- Social origin

As always, there are exceptions and qualifications in various statutes which you should be mindful of.

If you believe you have been the victim of discrimination in the workplace, you may be able to make a complaint to the Anti-Discrimination Board of NSW at [https://www.antidiscrimination.justice.nsw.gov.au/Pages/adb1\\_makingacomplaint/adb1\\_makingacomplaint.aspx](https://www.antidiscrimination.justice.nsw.gov.au/Pages/adb1_makingacomplaint/adb1_makingacomplaint.aspx), or the Australian Human Rights Commission at [http://www.humanrights.gov.au/complaints/make-complaint?\\_ga=2.239509059.1772763448.1564322011-1884755237.1564322011](http://www.humanrights.gov.au/complaints/make-complaint?_ga=2.239509059.1772763448.1564322011-1884755237.1564322011). You may also take legal action.

### *When can I make a complaint against a legal practitioner in an employment setting?*

All legal practitioners operating as employers in NSW are subject to the same Commonwealth and State industrial relations and anti-discrimination regime that all other employers are. This means that if you have been the victim of bullying, sexual harassment or discrimination by your boss, and your boss is a practicing solicitor or barrister, they are still legally liable under all of the legislation referred to above.

Additionally, because legal practitioners are required to comply with strict ethical and professional standards, any such conduct by your legal practitioner employer will allow you to make a complaint against them to the Office of the Legal Services Commissioner (OLSC). Any such conduct by a solicitor or barrister may amount to professional misconduct, the relevant part of which is defined as "conduct of a lawyer ... that would, if established, justify a finding that the lawyer is not a fit and proper person to engage in legal practice."<sup>50</sup>

Before making a complaint, you should contact the OLSC's Inquiry Line at 1800 242 958 or (02) 9377 1800. They can assist you with any questions you may have about your complaint or in resolving the matter. See the OLSC's Complaints page for more detailed information about the complaints process: [http://www.olsc.nsw.gov.au/Pages/lsc\\_complaint/olsc\\_making\\_complaint.aspx](http://www.olsc.nsw.gov.au/Pages/lsc_complaint/olsc_making_complaint.aspx).

### *Should I be concerned about any wider consequences or ramifications if I make a formal complaint against a legal practitioner?*

It is often said that the legal profession is notoriously insular. As such, it is completely understandable to be concerned about any potentially negative ramifications to your reputation or career in making a complaint against an offending lawyer.

While there is no easy or convenient answer to this question, it is worth considering a few things. First, it is unlawful for anyone to victimise you or subject you to any detriment at work because you have made a complaint about or brought proceedings against them, whether they be your employer or another employee.<sup>51</sup>

Second, there are compelling moral reasons to report the offender and ensure that they are appropriately disciplined, or at the least, that the professional regulatory bodies are put on notice about their offending conduct. Reporting the offender may, for example, protect others who might otherwise find themselves in the same situation, victimised by a pest who has been allowed to offend without facing consequences or coming under scrutiny. However, there is always an inherent power imbalance between you and your employer, so it is entirely fine to have reservations about taking action against them. Other circumstances may also complicate or make it particularly difficult to do so. It is important to know that whatever you do or don't do, there is no burden on you to take action.

Third, those working in the legal services sector, stakeholders and the community at large are rapidly waking up to the grim reality that bullying and sexual harassment are rife within the legal profession.<sup>52</sup> While progress has crept along at a glacial pace indeed, institutions and professional cultures are finally reforming to root these behaviours out once and for all. In the era of #MeToo and amid a growing climate of awareness about sexual violence and abuses of power, there has never been a more receptive and opportune time to hold offenders to account. Though the job of cleaning up a profession infamous for its dogged conservatism and patriarchal rigidity is a daunting one, vigilance from across the board will ensure its success.

With all of that said, the decision of whether to make a complaint against a legal practitioner in an employment setting is fundamentally a personal one that should be made with regard to all of your personal circumstances. While we would strongly advise you to consult the OLSC's Inquiry Line at 1800 242 958 or (02) 9377 1800 before coming to a decision, the final decision must ultimately be yours and yours alone.

# D. INTERNATIONAL STUDENTS

## *Can I work in Australia if I am an international student?*

As an international student, your working rights will be determined by the conditions of your visa. If you hold a student visa (e.g. Subclass 500), you are restricted to working up to 40 hours per fortnight during semester or while enrolled in Summer or Winter school, and unlimited hours during university break.<sup>53</sup> As a student visa holder, you can be considered to have engaged in 'work' if you have:

- Attended a place of work for a period by a roster or timesheet
- Been 'clocked on' to an electronic system that records a work activity
- Received remuneration for work, as indicated in a payslip you have received

Activities such as volunteering,<sup>54</sup> observing how people work within an industry, or undertaking remote online work for your job in your home country are not considered 'work'.<sup>55</sup>

If you wish to work while studying, ensure that you have carefully checked the conditions of your visa so that you do not unwittingly breach them: <https://immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions/see-your-visa-conditions#>. The University also provides resources which can assist you in matters such as obtaining a Tax File Number and finding work: <https://sydney.edu.au/students/working-on-a-student-visa.html>.

## *What rights am I entitled to in the workplace?*

Everyone working in Australia is entitled to the same basic rights and protections at work, including around minimum wages, workplace health and safety, and discrimination.

Depending on your employment status (e.g. casual, part-time etc.), you will receive all or some of the minimum entitlements provided for in the National Employment Standards. Alternatively, your minimum rights and conditions at work may be governed by a legal document like an award, an enterprise agreement or an employment contract.<sup>56</sup> However, if no award or agreement applies, you will receive basic minimum pay, conditions and protections under Commonwealth workplace laws, such as per the National Employment Standards contained in the *Fair Work Act 2009* (Cth).

In general, there are basic rights you are entitled to, including the right to be free from discrimination, the right to receive payslips and the right to be paid for meetings, training or any time you spend opening or closing a business.<sup>57</sup>

When you leave Australia, you can claim your superannuation as a departing Australian superannuation payment (DASP) if you meet all the requirements published by the ATO: <https://www.ato.gov.au/forms/applying-for-a-departing-australia-super-payment/>.

It is important to note that the Fair Work Ombudsman is committed as its first priority to protecting your rights as an employee. If you think that your employer has failed to properly accord you your minimum rights, you can lodge a complaint to the Fair Work Ombudsman and rest assured that your employer's unlawful violations will be the main object of inquiry.<sup>58</sup>

## *What can I do if employers refuse to employ me because of my student visa status?*

International students are entitled to the same workplace rights as all other workers in Australia.<sup>59</sup> Additionally, under the *Racial Discrimination Act 1975* (Cth), it is unlawful for employers to discriminate in hiring (as well as other areas) on the basis of race, national or ethnic origin, or immigrant status.<sup>60</sup> It is not unlawful, however, to discriminate on the basis of nationality or citizenship as distinct from 'national origin', as 'national origin' is interpreted to be limited to characteristics determined at the time of birth.<sup>61</sup> Nonetheless, it may still be unlawful to not employ or offer employment opportunities to someone who has a visa which validly entitles them to work.

If you believe that in seeking employment, you have been discriminated against on the basis of your status as an international student or student visa holder, you can make a complaint to the Australian Human Rights Commission.<sup>62</sup> Complaints can be made in writing online at <http://www.humanrights.gov.au/complaints/make-complaint>. You will be contacted to talk about your complaint, and the person or organisation you are complaining about will be contacted and asked for information – you will be informed of their response to the complaint. The Commission will try to facilitate conciliation between you and the respondent in the form of a face-to-face meeting or telephone conference call and the dispute may be resolved in different ways including an apology, a change of policy, or compensation. The Commission cannot decide if the subject of the complaint constitutes unlawful discrimination, however, nor can it ensure that conciliation actually does resolve the complaint.

If no result follows from the conciliation, you may apply to have the Federal Court of Australia or Federal Circuit Court decide if the complaint constitutes unlawful discrimination within 60 days of the complaint being finalised by the Commission. However, the Commission cannot take the matter to court for you or provide legal representation, so the typical costs of obtaining legal representation and going to court would apply.<sup>63</sup>

## *Can my employer pay me by 'cash in hand' at a lower rate?*

You should be wary of employers who wish to pay you by "cash in hand" without deducting tax from your pay, allocating funds for your superannuation or issuing payslips. These kinds of pay arrangements are unlawful and may leave you vulnerable, as the lack of records can make it difficult to exercise workplace rights that you have.

If you do receive cash for the work you do, you need to:

- Be paid at the correct minimum wage (at least)
- Ensure you are receiving payslips that detail your earnings for the period, any tax withheld and any superannuation contributions made
- Ensure you don't incur any tax liability because your employer has not deducted tax from your pay



- Ensure you are obtaining the benefit of any superannuation contributions made
- Check if you are covered by your employer's worker's compensation insurance.

If you are uneasy about being paid in cash, ask your employer to pay you via another method such as electronic bank transfer, and ensure that you are receiving payslips. If you are being underpaid so your employer can avoid their tax obligations, you can report your employer to the Australian Taxation Office. In such situations, it is good practice to get into the habit of collating any evidence and records related to your employment such as screenshots or text messages.

## Will underloading affect my working rights?

International students on a student visa are required to undertake a full-time study load of 24 credit points per semester, and to complete their course in the time specified in their Confirmation of Enrolment.<sup>64</sup> In certain circumstances you may be able to apply to reduce your study load through the 'My Studies' section of Sydney Student, however this must be on the basis of "compassionate or compelling reasons" such as serious illness or injury, death of a close family member, if your faculty or school is unable to offer any other units of study because of the structure of your program, etc.<sup>65</sup>

In the event that you successfully apply to reduce your study load and extend the completion date listed on your Confirmation of Enrolment, your working rights would remain unchanged as you would remain entitled to the same minimum conditions under the National Employment Standards and relevant award. The same restriction on your working hours per fortnight while your course is in session would also remain.

## ENDNOTES

<sup>1</sup> Modern awards, *Fair Work Ombudsman* (Web Page) <<https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/minimum-workplace-entitlements/modern-awards>>.

<sup>2</sup> Find my award, *Fair Work Ombudsman* (Web Page) <<https://www.fairwork.gov.au/awards-and-agreements/awards/find-my-award/>>.

<sup>3</sup> Agreements, *Fair Work Ombudsman* (Web Page) <<https://www.fairwork.gov.au/awards-and-agreements/agreements>>.

<sup>4</sup> *Fair Work Act 2009* (Cth) s 86.

<sup>5</sup> *Fair Work Act 2009* (Cth) s 62(1).

<sup>6</sup> Casual employees, *Fair Work Ombudsman* (Web Page) <<https://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/casual-employees>>.

<sup>7</sup> *Fair Work Act 2009* (Cth) pt 2-2.

<sup>8</sup> *Ibid* div 3.

<sup>9</sup> *Ibid* div 4.

<sup>10</sup> *Ibid* div 5.

<sup>11</sup> *Ibid* div 6.

<sup>12</sup> *Ibid* div 7.

<sup>13</sup> *Ibid* div 8.

<sup>14</sup> *Ibid* div 9.

<sup>15</sup> *Ibid* div 10.

<sup>16</sup> *Ibid* div 11.

<sup>17</sup> *Ibid* div 12.

<sup>18</sup> *Ibid* s 55(1).

<sup>19</sup> How to fix an underpayment, *Fair Work Ombudsman* (Web Page) <<https://www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/how-to-fix-an-underpayment#Step%206>>.

<sup>20</sup> Step 4: Ask for our help, *Fair Work Ombudsman* (Web Page) <<https://www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/step-4-ask-for-our-help>>.

<sup>21</sup> Working with you to resolve workplace issues, *Fair Work Ombudsman* (Web Page) <<https://www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/working-with-you-to-resolve-workplace-issues#What%20is%20mediation?>>.

<sup>22</sup> *Ibid*.

<sup>23</sup> Taking legal action in the small claims court, *Fair Work Ombudsman* (Web Page) <<https://www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/taking-legal-action-in-the-small-claims-court>>.

<sup>24</sup> Unpaid work, *Fair Work Ombudsman* (Web Page) <<https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/unpaid-work/unpaid-work>>.

<sup>25</sup> *Fair Work Act 2009* (Cth) s 12.

<sup>26</sup> *Fair Work Ombudsman* (n 24).

<sup>27</sup> *Ibid*.

<sup>28</sup> *Ibid*.

<sup>29</sup> *Ibid*.

<sup>30</sup> Volunteer Rights & Volunteer Checklist, *Volunteering Australia* (Document) <[https://www.volunteeringaustralia.org/wp-content/files\\_mf/137697192VAVolunteerRightsandchecklist.pdf](https://www.volunteeringaustralia.org/wp-content/files_mf/137697192VAVolunteerRightsandchecklist.pdf)>.

<sup>31</sup> National Volunteer Guide, *JusticeConnect* (Document) <[https://www.nfplaw.org.au/sites/default/files/media/NFP\\_Law\\_-\\_National\\_Volunteer\\_Guide.pdf](https://www.nfplaw.org.au/sites/default/files/media/NFP_Law_-_National_Volunteer_Guide.pdf)>.

<sup>32</sup> *Fair Work Act 2009* (Cth) s 789FD(1).

<sup>33</sup> *Fair Work Amendment Act 2013* (Cth) sch 3 s 789FD(2).

<sup>34</sup> What is workplace bullying? *Fair Work Commission* (Web Page) <<https://www.fwc.gov.au/anti-bullying-benchbook/what-is-workplace-bullying>>.

<sup>35</sup> *Re Ms SB* [2014] FWC 2104, [105].

<sup>36</sup> *Ibid*.

<sup>37</sup> *Ibid*.

<sup>38</sup> *Naidu v Group 4 Securitas Pty Ltd* (2005) NSWSC 618.

<sup>39</sup> *Naidu v Group 4 Securitas Pty Ltd* (2005) NSWSC 618; *Styles v Murray meats Pty Ltd* (Anti Discrimination) [2005] VCAT 914.

<sup>40</sup> *Naidu v Group 4 Securitas Pty Ltd* (n 38).

<sup>41</sup> *WorkCover Authority (NSW) (Inspector Maddaford) v Coleman* (2004) 138 IR 21.

<sup>42</sup> *Willett v State of Victoria* [2013] VSCA 76.

<sup>43</sup> *Naidu v Group 4 Securitas Pty Ltd* (n 38).

<sup>44</sup> *Bowker and Ors v DP World Melbourne Limited T/A DP World and Ors* [2014] FWCFB 9227, [48].

<sup>45</sup> *Ibid* [49]-[51].

<sup>46</sup> *Sex Discrimination Act 1984* (Cth) s 28A(1).

<sup>47</sup> *Ibid* ss 28A(1)-(1A).

<sup>48</sup> *Ibid* ss 28B(1), 28B(3).

<sup>49</sup> Bullying and harassment in the workplace, *Law Council of Australia* (Web Page) <<https://www.lawcouncil.asn.au/policy-agenda/advancing-the-profession/equal-opportunities-in-the-law/bullying-and-harassment-in-the-workplace>>; What is sexual harassment? *Justice Connect* (Web Page) <<https://justiceconnect.org.au/resources/what-is-sexual-harassment/>>; Sexual Harassment in the Workplace - The Legal Definition of Sexual Harassment, *Australian Human Rights Commission* (Web Page) <<https://www.humanrights.gov.au/our-work/sexual-harassment-workplace-legal-definition-sexual-harassment>>.

<sup>50</sup> *Legal Profession Uniform Law* (NSW) s 297(1)(b).

<sup>51</sup> *Anti-Discrimination Act 1977* (NSW) s 50.

<sup>52</sup> International Bar Association, *Us Too? Bullying and Sexual Harassment in the Legal Profession* (Report, 2019) <<https://www.ibanet.org/Document/Default.aspx?DocumentUid=B29F6FEA-889F-49CF-8217-F8F7D78C2479>>.

<sup>53</sup> Check visa details and conditions, *Department of Home Affairs* (Web Page) <<https://immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions/see-your-visa-conditions#>>.

<sup>54</sup> Glossary, *Department of Home Affairs* (Web Page) <<https://immi.homeaffairs.gov.au/help-support/glossary#volunteer-work>>.

<sup>55</sup> Glossary, *Department of Home Affairs* (Web Page) <<https://immi.homeaffairs.gov.au/help-support/glossary#work>>.

<sup>56</sup> International students, *Fair Work Ombudsman* (Web Page) <<https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/international-students>>.

<sup>57</sup> Visa holders and migrant workers - workplace rights and entitlements, *Fair Work Ombudsman* (Web Page) <<https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/visa-holders-and-migrant-workers-workplace-rights-and-entitlements>>.

<sup>58</sup> Jessica's Story, *Fair Work Ombudsman* (Document) <<https://www.fairwork.gov.au/ArticleDocuments/725/jessicas-story-international-students.pdf.aspx>>.

<sup>59</sup> *Fair Work Ombudsman* (n 58).

<sup>60</sup> Racial Discrimination, *Australian Human Rights Commission* (Web Page) <<https://www.humanrights.gov.au/our-work/employers/racial-discrimination>>.

<sup>61</sup> *Ibid*.

<sup>62</sup> Complaints, *Australian Human Rights Commission* (Web Page) <<https://www.humanrights.gov.au/complaints>>.

<sup>63</sup> The complaint process for complaints about sex, race, disability and age discrimination, *Australian Human Rights Commission* (Web Page) <<https://www.humanrights.gov.au/our-work/complaint-information-service/complaint-process-complaints-about-sex-race-disability-and-age>>.

<sup>64</sup> Reduced study load (student visa holders), *University of Sydney* (Web Page) <<https://sydney.edu.au/students/reduced-study-load.html>>.

<sup>65</sup> *Ibid*.



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