

Factsheet

Migrant workers and their rights in Australia



All people, including migrant workers, have human rights. Human rights promote dignity and provide protection from mistreatment. Businesses and employers have a responsibility to respect the human rights of migrant workers. Australian laws exist to protect all workers from exploitation and harm. Some examples of these protections are below:

MINIMUM ENTITLEMENTS IN EMPLOYMENT

In most cases, employees in Australia are entitled to basic minimum employment standards. These include authorised leave, breaks during the workday, superannuation, and notice of termination. Workers also cannot be paid below the minimum wage, which is set by the Fair Work Commission.

DID YOU KNOW?

A worker must be paid at or above the minimum wage for all hours worked, including meetings and training time.



DISCRIMINATION AT WORK

It is generally against the law for an employer to treat one worker worse than others because of the worker's certain personal characteristics. Doing so is called *direct discrimination*.

Example: an employer directly discriminates against a worker if they terminate the worker's employment because of their race or ethnicity.

It is also generally against the law for an employer to put in place unreasonable rules which appear to treat everyone the same, but which actually disadvantage some people who share a certain personal characteristic. Doing so is called *indirect discrimination*.

Example: an employer indirectly discriminates against a worker when they state that in order to be eligible for a job, the candidate's first language must be English.

FREEDOM FROM FORCED LABOUR

Forced labour is when any reasonable person would not feel free to stop working, or leave their place of work, because of coercion, threats or deception. It is a crime in Australia to make a person undertake forced labour, to keep someone in forced labour or to conduct a business that involves forced labour.

Example: a worker may be in forced labour if their employer confiscates and refuses to return their passport to prevent them from leaving their job.

FREEDOM FROM REPRISALS

It is against the law for a worker to be punished or disadvantaged for exercising their workplace rights, including the right to make a complaint about discrimination at work.

Did you know? An employer cannot reduce a worker's hours because the worker chose to use their annual leave entitlement or joined their union.

MIGRATION STATUS

Migrant workers who are facing exploitation and are concerned about the status of their visa may be able to seek help without fear of visa cancellation under the Assurance Protocol.

Conditions apply, more information is available here: <https://immi.homeaffairs.gov.au/visas/working-in-australia/work-rights-and-exploitation>

Did you know? Visas can only be cancelled by the Department of Home Affairs. Your employer does not have this authority to cancel your visa.

Where to get help

If you require assistance with your rights at work, or if you would like to make a complaint, there are many organisations who can help you. The below services can provide free and confidential support and guidance.

Australian Human Rights Commission

National Information Service:
P: 1300 656 419 or
(02) 9284 9888
1800 620 241 (toll free)

E: infoservice@humanrights.gov.au

W: www.humanrights.gov.au

Fair Work Ombudsman

P: 13 13 94

W: www.fairwork.gov.au

Your State or Territory's legal aid commissions

To find your local service, go to: www.nationallegalaid.org/for-individuals/

Your local community legal centre

To find your local community legal centre, go to: www.fclc.org.au/find_a_community_legal_centre

Australian Federal Police

In an emergency, call 000
National Switchboard:
(02) 5126 0000

Unions

You can find your union through the Australian Council of Trade Unions national directory: www.actu.org.au/about-the-actu/directory