

What are my employment rights?

Am I being treated fairly at work?

Where do I go for help?

# MISLEADING EMPLOYMENT ADVERTISING

## DISCLAIMER

This infosheet contains information of a general nature only and is not a substitute for professional legal advice. You should obtain legal advice from a lawyer about your particular situation before acting on any of the following information. This infosheet is designed for Victorian and national system employees in Tasmania and Queensland only. If you are not a Victorian employee or a Queensland or Tasmanian national system employee, you should obtain specialist legal advice about your case as soon as possible.

## Introduction

Ads can be misleading because:

- they simply don't have enough information; or
- they are written to purposely mislead you, because they want to hide what the job really is or make you think there is a job when really there isn't.

Ads may mislead you about the availability, nature and terms or conditions of employment.

Misleading job and business opportunity ads are unlawful under the Australian Consumer Law. They should be reported to the relevant authorities:

- The Australian Competition and Consumer Commission (ACCC) which administers the Competition and Consumer Act; and
- Consumer Affairs Victoria; or
- Office of Fair Trading - Queensland; or
- Consumer Affairs and Fair Trading - Tasmania.

See 'Where to get help' below.

**Misleading ads should also be reported to newspaper classified advertising managers or job web sites where you saw the ad, so the ad can be pulled down or modified.**

There are advertising guidelines for newspapers and job web sites. They are provided in a manual titled "Misleading Job and Business Opportunity Ads: How to Handle Them". The manual is produced by the ACCC in conjunction with JobWatch and the Australian Publishers' Bureau and is aimed at stopping the publication of misleading ads. Electronic copies of the manual are available from JobWatch's website at: [www.jobwatch.org.au](http://www.jobwatch.org.au) or ACCC website at [www.accc.gov.au](http://www.accc.gov.au).

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**Employment Rights Information for Workers** – Job Watch Inc is an independent, not for profit, employment rights legal centre. It provides a free, confidential telephone information and referral service and other assistance to workers.

Hours:- Mon - Fri 9am-5pm (Wednesdays until 8:30pm).

Job Watch Inc | Metro (03) 9662 1933 | Regional Victoria, Queensland and Tasmania 1800 331 617 | [www.jobwatch.org.au](http://www.jobwatch.org.au)

## What you should do

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Ads usually invite you to ring a number for more information. That is exactly what you should do – **find out more information**. For example, you should find out about:

- the employment status (i.e. would you be a permanent/casual/fixed-term **employee**? Will your hours be full-time or part-time? Alternatively, will you be an **independent contractor**?)
- what type of work you would have to do (i.e. what would **your duties** be?)
- if you would be covered by a **modern award, enterprise agreement** or a common law **contract**?
- how much, when, and how you would be **paid**?
- whether the gross pay includes or excludes **superannuation**?
- **where** the employer operates from, etc.

## What you shouldn't do

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In some ads, only a Post Office Box or email address may be supplied. **Think very carefully before sending information about yourself to an unknown person** via a Post Office Box or email address.

If you do send information to a Post Office Box or email address, and they reply by asking for money, or your bank account details, be careful. It is illegal in some states to ask for money in this way. **It is never advisable to send your money or bank details in this way.**

Anyone who claims to be able to get you a job by charging you or asking for your bank account details is probably only after your money for themselves.

Also:

- If they claim to be selling a list of jobs, don't believe them!
- If they claim to be selling information to help you "*get rich quick*", don't believe them!
- If their response to your first letter or email still provides no names, phone numbers, or addresses, **stop all contact with them.**

However, be aware of 0055 or 1900 phone number scams. People have responded to an ad by calling that type of number and have found after a few minutes there is no job involved – at a cost of \$4.95 per minute or higher.

## Things to watch out for

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### 1. Jobs that aren't real jobs

Some ads appear to offer jobs. But when you go for an "interview", you are pushed hard to buy something - e.g., health products, kitchen utensils or cosmetics kits. They might say "buy this and we guarantee you work". But the aim of most of this is just to sell products to you.

### 2. Misleading job descriptions

Beware of the ad that says: "trainee manager", "promotions work" or "career in marketing". All of these can mean door-to-door selling. Try to get as much information as possible about the actual duties of the position.

### 3. Misleading income claims

When an ad says something like “\$1000 per week for the right person”, be very careful. For most people, these ads can mean low pay, or no pay, and long hours.

### 4. Training courses disguised as employment

The ad may look like it is calling for job applicants – e.g., “beauty advisers wanted” or “graduates in demand”. **Really, they just want you to pay for a course.** Remember that no course can guarantee a job, and in some areas you don’t need to do a course to get a job. If in doubt, always seek advice. (See the JobWatch infosheet on “Private Training Courses” for further information).

### 5. Contracting jobs disguised as employment

Contracting is not employment. If you become an independent contractor, it means you become self-employed. Always get advice from JobWatch, a union or a lawyer before signing anything or saying “yes” to something that sounds like contracting. See the JobWatch infosheet on “Independent Contracting Traps” for further information about contracting.

### 6. “Commission only” jobs

Beware of jobs that pay only by commission. When companies claim they pay a retainer, check that it is not taken out of commissions earned later.

### 7. Ads you see all the time

Ads that have headings like “AVAILABLE”, “YES, YES, YES”, “START A NEW CAREER”, “OPPORTUNITIES PLUS”, etc., are often repeated (especially mid week). There is a danger that these mean: **“Bad conditions! We advertise often because no one will stay.”**

### 8. An instant interview

If you are granted an interview over the phone, be suspicious. Again, this might mean: “Bad conditions! We don’t need to short-list applicants because you probably won’t stay long once you find out what the job really is.”

## Where to get help

For further information regarding misleading employment advertising you may wish to contact the relevant organisations below:

ORGANISATION	PHONE	WEBSITE
<b>JobWatch</b> <i>(Telephone interpreters available for non-English speakers.)</i>	Metro: 9662 1933  Queensland, Tasmania & Regional Victoria: 1800 331 617	<a href="http://www.jobwatch.org.au">www.jobwatch.org.au</a>
<b>Fair Work Infoline (Office of the Fair Work Ombudsman)</b>	13 13 94	<a href="http://www.fairwork.gov.au">www.fairwork.gov.au</a>
<b>Australian Competition and Consumer Commission</b>	1300 302 502	<a href="http://www.accc.gov.au">www.accc.gov.au</a>
<b>Consumer Affairs Victoria</b>	1300 558 181	<a href="http://www.consumer.vic.gov.au">www.consumer.vic.gov.au</a>
<b>Office of Fair Trading Queensland</b>	13 74 68	<a href="http://www.qld.gov.au/law/your-rights/consumer-rights-complaints-and-scams">www.qld.gov.au/law/your-rights/consumer-rights-complaints-and-scams</a>
<b>Consumer Affairs and Fair Trading – Tasmania</b>	1300 65 44 99	<a href="http://www.consumer.tas.gov.au">www.consumer.tas.gov.au</a>
<b>ACTU Worker Information line (for referral to a union):</b>	1300 362 223	<a href="http://www.actu.org.au">www.actu.org.au</a>
<b>National Association of Community Legal Centres</b>	(02) 9264 9595	<a href="http://www.naclc.org.au">www.naclc.org.au</a>
<b>Legal Referral Service (Law Institute of Victoria)</b>	(03) 9607 9311	<a href="http://www.liv.asn.au">www.liv.asn.au</a>
<b>Queensland Law Society (for referral to a lawyer)</b>	1300 367 757	<a href="http://www.qls.com.au/Home">www.qls.com.au/Home</a>
<b>Law Society of Tasmania (for referral to a lawyer)</b>	(03) 6234 4133	<a href="http://lst.org.au">http://lst.org.au</a>

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