

What are my employment rights?

Am I being treated fairly at work?

Where do I go for help?

GETTING PAID AND PAY SLIPS

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.

All employees are entitled to a minimum rate of pay.

Most employees will now have their minimum wages and casual loadings set and adjusted by the Fair Work Commission (FWC). FWC has the power to set and adjust:

- The Federal Minimum Wage (for employees not covered by a modern award or enterprise agreement).
- Rates of pay for employees covered by modern awards.
- Special federal minimum wages for junior employees, apprentices and trainees and employees with disabilities.

You may be paid a higher rate of pay under your common law employment contract but it is unlawful to be paid at a rate **below** the applicable minimum rate for your work.

For more information about minimum wages and casual loadings applicable to your work, contact the Fair Work Infoline on 13 13 94.

Your minimum wage could also be set by an enterprise agreement which is a collective agreement made between an employer and a number of its employees.

Who can use this infosheet?

This infosheet is designed for **Victorian** and national system employees in **Tasmania** and **Queensland** only.

If you are a **Victorian** employee, you can use this infosheet unless you were employed in a sector that provides essential services of core government functions, including state infrastructure services such as electricity and gas, and your employer is not covered by a nationally registered collective agreement.

If you are a **Tasmanian** employee, you can use this infosheet unless you were a State public sector employee not covered by a nationally registered collective agreement.

If you are a **Queensland** employee, you can use this infosheet unless you were a State public sector or local government employee not covered by a nationally registered collective agreement.

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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 (Wednesday until 8:30pm)

Things that can affect your rate of pay

If you are covered by a modern award, your minimum rate of pay will depend on your ‘classification’ within the modern award.

Below is a list of some of the factors that may affect your classification. This is the kind of information to give the Fair Work Infoline when you contact them to find out your minimum wage rate.

Factors that can affect pay rates:

- whether your employment is full time or part time;
- whether you are a permanent or casual employee;
- the kind of job being performed;
- your seniority;
- whether you supervise or train other workers;
- whether you open and close the business;
- what kind of qualifications are required;
- if long shifts are required;
- if overtime is worked;
- if you are a trainee or apprentice;
- what industry you work in;
- your age; and/or
- whether you have a disability and are employed under a Disability Support Wage.

You can also contact your union to find out about correct pay rates.

When should the rate of pay go up?

Your minimum pay rates may go up:

- when you get a promotion;
- If you are a junior (15 to 17 years old) and turn a year older or you become an adult (usually 18 or 21 years of age);
- if you are an apprentice, when you shift from one year to the next;
- when an enterprise agreement says so; and
- if and when a pay increase is awarded by FWC.

If you have not received a pay increase to which you are entitled under a modern award or enterprise agreement, you have been underpaid. Contact your union or the Fair Work Infoline for assistance.

Some jobs in professional or semi-professional areas (especially when people are being paid more than the minimum rate) have salary or performance reviews where pay increases may be awarded. These types of increases are often a percentage of the employee’s annual wage and may occur annually.

Superannuation (Super)

Superannuation is calculated on your gross rate of ordinary pay, therefore when your pay goes up so should your employer’s contribution to your superannuation fund.

If your super is not being paid at the correct rate, or is not being paid at all, contact your super fund or the Superannuation Infoline on 131 020.

Unauthorised deductions

Generally, an employer should not deduct amounts from your wages without your prior written consent. A tax declaration gives your employer permission to take income tax from your wages and pay it to the Australian Taxation Office. Paying tax in this way is not an unauthorised deduction.

For more information about unauthorised deductions, contact JobWatch, your union or a lawyer.

When should I be paid?

Most employees are paid monthly, fortnightly or weekly. Check the applicable modern award, enterprise agreement or your common law employment contract to see whether it stipulates how frequently you should be paid.

Before you start a job, always check what the pay rate is and how often you will be paid.

How should I be paid?

Employees are usually paid by electronic funds transfer (cash deposited electronically into your bank account), in cash or by cheque. Check the applicable modern award, enterprise agreement or your common law employment contract to see whether it says how you should be paid.

Pay slips

Every time you are paid, **you should also receive a pay slip**. Information that must be on every pay slip includes:

- the name of the employer and employee;
- the employer's ABN (if any);
- the date of payment;
- the employee's ordinary hourly rate;
- the number of hours the employee worked;
- the gross and net amounts paid;
- amounts deducted from the employees gross pay; and
- the amount of any superannuation contributions made on the employee's behalf.

If you do not receive pay slips or if they are incorrect or insufficient, you may contact JobWatch, your union or the Fair Work Infoline.

If you are covered by an enterprise agreement, more information than the above may be required.

Underpayment

When you are paid less than the minimum rate, this is called an underpayment. If you are being underpaid, or not paid at all, you can take steps to recover the money that is owed to you.

If you have not succeeded in having your employer pay the correct entitlements, the most cost-effective and straightforward way to recover those entitlements is by lodging a Request for Assistance with the Fair Work Ombudsman (FWO) – see 'where to get help' on page 4.

Victimisation and time limits

If you are **dismissed** because you lodged a Request for Assistance with the FWO about pay slips or an underpayment, you may have grounds to lodge an **Unfair Dismissal claim** or a **General Protections Dispute** - termination claim. You have **21 days** from the date of dismissal to file one of these claims at the Fair Work Commission – see JobWatch's 'Unfair Dismissal' and 'General Protections Dispute - Termination Claim' infosheets for more information.

In addition, if your **terms and conditions of employment are altered to your detriment** as a result of having raised these issues with your employer you may have grounds to make a **General Protections Dispute non-termination** claim. Call JobWatch for more information about this.

Recovery of wages and time limits

Time limits apply to anyone seeking to recover underpaid or unpaid wages. You (or the FWO) have **6 years**, from when the payment became due, to sue for the amount owed to you. You should make your FWO complaint well before the 6 year time limit so that the FWO has time to process and investigate your complaint. You can obtain the FWO ‘Request for Assistance’ form from www.fairwork.gov.au

Where to get help

ORGANISATION	PHONE	WEBSITE
Australian Human Rights Commission	Complaints Infoline: 1300 656 419 General enquiries: 1300 369 711	https://www.humanrights.gov.au
Fair Work Commission Helpline	1300 799 675	https://www.fwc.gov.au/
Fair Work Infoline (Office of the Fair Work Ombudsman)	13 13 94	http://www.fairwork.gov.au/
Job Watch Inc	Metro:(03)9662 1933 Rural: 1800 331 617	www.jobwatch.org.au
Victorian Civil and Administrative Tribunal	(03) 9628 9900	http://www.vcat.vic.gov.au
Victorian Equal Opportunity and Human Rights Commission	1300 292 153	http://www.humanrightscommission.vic.gov.au
Anti-discrimination Commission Queensland	1300 130 670	https://www.adcq.qld.gov.au/
Equal Opportunity Tasmania	1300 305 062	www.equalopportunity.tas.gov.au/
WorkSafe Victoria	Metro: (03) 9641 1444 Rural: 1800 136 089	http://www.vwa.vic.gov.au/home
WorkSafe Tasmania	1300 366 322	www.worksafe.tas.gov.au
WorkSafe Queensland	1300 362 128	www.worksafe.qld.gov.au
ACTU Worker Information line (for referral to a union):	1300 362 223	www.actu.org.au

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Fair Work
OMBUDSMAN



Victoria Legal Aid

JobWatch acknowledges the Aboriginal and Torres Strait Islander peoples of this nation. We acknowledge the traditional custodians of the lands on which we are located and where we conduct our business. We pay our respects to ancestors, and Elders, past, present and emerging.