

Where to go for more information

To discuss or report a suspected case of exploitation or people trafficking, contact the **Australian Federal Police** on 131 AFP (131 237).

In an emergency, always call 000 for police assistance.

If you believe your employer is not paying you the correct entitlements and/or you believe your workplace rights are not being met, you can make a complaint to the **Fair Work Ombudsman** on 13 13 94.

For information about work rights, contact **Unions Australia** on 1300 846 466
www.unionsaustralia.com.au

For confidential legal and migration advice, contact **Anti-Slavery Australia** on 02 9514 9660
www.antislavery.org.au

For consular support, contact your country's **Embassy** or **Consulate**.

For information about the Support for Trafficked People Program contact **Australian Red Cross**
national_stpp@redcross.org.au

For an interpreter to help you call any of these services contact the free **Telephone and Interpreting Service** on 131 450.



Migrant workers' rights in Australia



An Australian Government Initiative

Disclaimer: This brochure has been prepared by Australian Red Cross for general information purposes only. It summarises complex legislation. Detailed information on workplace rights can be found at Fair Work Ombudsman www.fairwork.gov.au. Information about visas can be found at Department of Immigration and Citizenship www.immi.gov.au.

Front cover photo: ©iStockphoto.com/powerofforever
Back cover photo: ©123rf.com/masuti
Inner photo: ©iStockphoto.com/juanmonino
Date published: September 2012
Printed on 100% recycled paper

01-1009167-001/2012

People travel to Australia every year to work. Most have a positive experience; however some can experience unfair treatment in the form of poor working conditions, low wages or more serious forms of exploitation. Migrant workers, including seasonal workers and international students, can hold a range of temporary visas with work rights.

CRISIS CARE COMMITMENT

Everyone in Australia has the right to minimum employment conditions



Under Australian law all workers, including migrant workers, have rights and protections from mistreatment or exploitation at work. All employers must comply with Australian workplace and immigration laws. All workers have the right to seek advice about their rights in the workplace.

Your rights at work

Everyone in Australia has the right to minimum employment conditions. These include maximum working hours, payment for overtime, and rest breaks. Full and part time employees are also entitled to sick leave and holidays.

An employer of migrant workers must comply with both Australian workplace and immigration laws. There may be additional obligations for employers and migrant workers depending on the visa a migrant worker holds.

For more information about visas contact the **Department of Immigration and Citizenship** on 131 881 or visit www.immi.gov.au.

Employers are required to provide migrant workers with the same basic entitlements as Australian workers. For instance, employers:

- must not pay a worker below the minimum wage.
- generally cannot take money from a worker's wages (except for tax and other legal requirements) unless the worker agrees.
- must not pay a worker 'cash in hand' (cash payments where tax has not been taken out).
- must not force a worker to agree to alter their legal entitlements.

In addition, all workers are entitled to:

- protection from negative action by their employer for asking about their rights in the workplace.
- protection from unlawful workplace discrimination (including on the basis of race, colour and religion).
- become, or not become, members of an industrial association such as a union.

For more information about your rights in the workplace contact the **Fair Work Ombudsman** on 13 13 94 or visit www.fairwork.gov.au.

Case study

After arriving in Australia, four men on temporary visas spent two weeks living and sleeping at the office where they worked. There was no shower; they had to wash at a hand basin. Formal accommodation was later arranged in a rented house owned by the employer; it was within 300 metres of the workplace. The men felt they were constantly 'on call' for duties.

Working conditions for the men were very different to those of other workers. They worked longer hours and had money for medical expenses, rent, and immigration costs deducted from their wages without their consent.

After legal proceedings, over \$90,000 in unpaid wages was provided to the four men.

Exploitation

Some migrant workers may experience unfair treatment in the workplace in the form of poor working conditions, low wages or more serious forms of exploitation. It is important to distinguish between unfair treatment, substandard working conditions and more extreme forms of exploitation such as people trafficking, slavery and forced labour.

People trafficking is the physical movement of people across or within borders by coercing, threatening or deceiving them for the purpose of exploiting them. Slavery is the exercise of powers of ownership over a person. People trafficking and slavery are crimes in Australia, and carry significant penalties. Servitude, forced labour and debt bondage are other examples of criminal exploitation.

There are a number of signs which could indicate a person is being exploited or in more serious cases, has been trafficked.

These include situations where a migrant worker:

- is subject to different or less favourable working conditions than other employees who are permanent residents or citizens of Australia.
- is deceived about working conditions in Australia.
- is forced to work in dangerous working conditions with little or no control over their working conditions.
- has no control over their place of work or hours of work.
- is not being paid or has a large debt to their employer.
- is threatened with deportation or violence.
- is not allowed to access personal documents, such as passports.

If you are aware of, or suspect someone is being exploited or has been trafficked, report it to the **Australian Federal Police** on 131 AFP (131 237).