# Rights and responsibilities at work

It’s important to understand your rights and responsibilities at work in regards to terms and conditions, health and safety and workplace bullying.

## Employees

The main way students perform paid work is as an employee. Employees work in a business and are part of the business. [Check whether you’re an employee or a contractor](http://ato.gov.au/Business/Employee-or-contractor/How-to-work-it-out--employee-or-contractor/).

What is a Tax File Number (TFN)?
When you work as an employee, your employer will ask for your Tax File Number (TFN). Your TFN is your personal reference number in the tax and superannuation systems. Once you have one, you keep it for life even if you change jobs, or spend time overseas.

You don't have to have a TFN, but without one you’ll pay more tax. You also won't be able to apply for government benefits, lodge your tax return electronically or get an Australian business number (ABN) if you want to also work as an independent contractor.

## Applying for a TFN

Applying for a TFN is free. How you apply will depend on your circumstances:

* [Australian residents](http://ato.gov.au/individuals/tax-file-number/apply-for-a-tfn/australian-residents---tfn-application/)
* [Foreign passport holders](http://ato.gov.au/individuals/tax-file-number/apply-for-a-tfn/foreign-passport-holders%2C-permanent-migrants-and-temporary-visitors---tfn-application/)
* [People currently living outside Australia](http://ato.gov.au/individuals/tax-file-number/apply-for-a-tfn/people-living-outside-australia---tfn-application/)

**Have you had a TFN before?** If you’ve ever had a TFN before you shouldn’t apply for a new one, but [follow the instructions here to retrieve your lost TFN](http://ato.gov.au/Individuals/Tax-file-number/Lost-or-stolen-TFN/).

## Fair pay

The national minimum wage for workers aged 21 and over is currently $19.49 per hour (before tax). However, the minimum amount you need to be paid might be more than this, depending on the industry in which you’re working and the job you’re doing. Check the [Fair Work Pay Calculator](http://fairwork.gov.au/) to find out what you should be paid.

If you aren’t receiving fair wages, you have the right to make a complaint to the [Fair Work Ombudsman](http://www.fairwork.gov.au/). You can also [contact your union](http://www.australianunions.org.au/affiliates). The [SUPRA Legal Service](https://supra.net.au/contact) can also assist you if you think you might have been underpaid or unpaid at work.

Casual employees

A casual employee is one who doesn’t have a firm commitment in advance from an employer about how long they’ll be employed for, or how many days/hours they’ll work. If you’re a casual employee, you don’t have to accept all work your employer may offer you. You’re also entitled to a casual loading on top of your hourly pay rate. This loading is usually 25% and compensates you for not receiving some of the benefits of staff who aren’t casual (eg, sick or annual leave).

Casual conversion

If you’ve worked regular hours as a casual, for at least one year, your employer must now take seriously your request for a permanent position. Your employer can still refuse your request, but they need to have reasonable grounds. [Fair Work provides more information](http://fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/casual-employees) about this process.

Superannuation

Superannuation (or ‘super’) is a compulsory retirement saving scheme. Generally, if you earn $450 or more (before tax) in a calendar month, your employer is legally required to deposit superannuation contributions of 9.5% of your ordinary wages into a superannuation fund on your behalf. [More information about choosing a superannuation fund and entitlements](http://ato.gov.au/Super).

## International students and superannuation

International students on temporary visas may be able to withdraw their superannuation once they leave Australia permanently. If you’re working while studying in Australia, [check whether you’re eligible to claim your superannuation](http://www.ato.gov.au/Forms/Applying-for-a-Departing-Australia-super-payment/) after you leave the country.

If you are eligible, you should get all your original documentation copied and certified before you leave Australia. The [SUPRA Legal Service](https://supra.net.au/contact) can help you with this.

After you’ve permanently departed Australia and your visa is inactive, you may lodge an application for a [Departing Australia Superannuation Payment (DASP)](http://ato.gov.au/Forms/Applying-for-a-Departing-Australia-super-payment/).

## Workplace health and safety

Under the Federal Work Health & Safety Act, you have a right to work in a safe environment. If you’re injured at work, you’re entitled to receive support from your employer, which may include Workers’ Compensation and arrangements to allow you to return to work. If you have concerns about your workplace safety you may contact [WorkCover NSW](http://www.workcover.nsw.gov.au/). You can also contact [SUPRA Legal Service](https://supra.net.au/contact) for advice.

## Your workplace responsibilities

As an employee, you must obey any lawful and reasonable instructions given by your employer and work with them to maintain a safe and healthy workplace.

[SafeWork NSW provides more information](http://safework.nsw.gov.au/legal-obligations/worker-obligations) about your responsibilities as an employee.

## Unions

Everyone has a legal right to join a union, including international students. Unions can help make sure that your rights at work are respected, and can give you advice and representation if you have issues with your employer.

For more information on what a union is and how to find your union, visit [Unions NSW](https://www.unionsnsw.org.au/).

## More information for employees

* [More information on your workplace rights](http://fairwork.gov.au/)
* [Additional information for international students](http://fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/international-students)

## Independent contractors

You can also perform work as an independent contractor. While an employee works in a business and is part of the business, a contractor runs their own business.

Whether you’re an employee or a contractor is not a matter of choice for you or the person or business hiring you. It depends entirely on the working arrangements you have and their specific terms and conditions. These details can be written or verbal.

More information on [the classification of employees and contractors](http://ato.gov.au/Business/Employee-or-contractor/).

## Australian Business Number (ABN)

If you intend to start or carry on a business as an independent contractor, you’ll need to apply for an Australian Business Number (ABN). The ABN is a unique 11-digit number that identifies your business or organisation to the government and community. Applying for an ABN is free and can be [completed online](http://abr.gov.au/).

[More information on ABN entitlement and how to apply](http://abr.gov.au/For-Business%2C-Super-funds---Charities/Applying-for-an-ABN/ABN-entitlement/).

## Sham contracting: are you an employee or a contractor?

Businesses sometimes request or pressure a worker who is an employee to obtain an ABN in the belief this will make the worker a contractor. They do this to try to disguise the employment arrangement so they can avoid their tax and superannuation obligations. You're not entitled to an ABN for work that you carry out as an employee - even if you or your employer call it contracting. This is called **sham contracting** and is against the law.

[More information on sham contracting](http://fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/independent-contractors-and-employees).

To find out if you should be an employee or contractor you can put the details of your proposed or current working arrangement into the [ATO’s decision tool](http://ato.gov.au/Business/Employee-or-contractor/How-to-work-it-out--employee-or-contractor/).

## What about if I work for a car share or delivery service?

If you work for services like Uber, Deliveroo, Uber Eats, or similar delivery services, you’re considered to be an independent contractor, and will need to apply for an ABN.

If you’re an Uber driver, you’ll also need to register for Goods and Services Tax (GST). If you only deliver food and earn less than $75,000 you don’t have to register for GST (but you must have an ABN). [More information on registering for GST](http://www.ato.gov.au/business/gst/registering-for-gst/).

## Tax Help

The Australian Taxation Office (ATO) runs a Tax Help program each year to help employees submit their tax returns. This service is run by volunteers from July to October each year. [Find out whether you’re eligible here](http://ato.gov.au/Individuals/Lodging-your-tax-return/Tax-Help-program/).

## International students and tax refunds

If you worked in Australia and had income tax deducted from your wages, make sure you apply for an income tax refund before you leave Australia by [lodging a tax return](https://www.ato.gov.au/individuals/international-tax-for-individuals/coming-to-australia/paying-tax-and-lodging-a-tax-return/). You can also apply for a refund if you’ve had tax withheld on bank account interest because you didn’t supply your bank with your Tax File Number.

## Further information

* [Australian Tax Office (ATO)](http://ato.gov.au/)
* Superannuation Infoline: 13 10 20 (within Australia)
* [The SUPRA Legal Service](https://supra.net.au/contact) can provide you with free legal advice and assistance with all work and employment-related matters

## Disclaimer

This information is current as at December 2019 and is intended as a guide to the law as it applies to people who live in or are affected by the law as it applies in NSW. It does not constitute legal advice.