

# Fair Work Australia

## The Fair Work Act 2009

The Fair Work Australia Act 2009 requires that students are paid at least the minimum wage and have standard entitlements for work experience undertaken within organisations unless the work is undertaken as a 'vocational placement' or is classified as 'voluntary work'.

If students do not receive minimum wage and benefits, then conditions for a 'vocational placement', 'unpaid work experience' or 'volunteering' must be met.

### Vocational placement

Vocational placements must be a course requirement (electives are acceptable) and students must be under no entitlement to be paid. Students can be paid but there must be no expectation that they will be (for example, reimbursing costs is okay, but a set gratuity that is under the minimum wage is not).

### Unpaid work experience

In a for-profit enterprise, students undertaking 'unpaid work experience' must not be paid a wage, no employment relationship can exist, and the focus of student activity must be on learning (not productive work for the host). Under these conditions the student and not the host is the key beneficiary of the arrangement.

### Volunteering

This term covers unpaid work experience in a volunteer role with a registered not-for-profit organisation or community organisation that has insurance coverage for volunteers. Again, there must be no employment relationship, nor intention to create one. There must be no expectation of payment, or that the student will attend the workplace (such being on as a roster), nor do any particular productive tasks.

If activities fall outside of the above exemptions, the student may be deemed to be an employee and will become legally entitled to the minimum wage and entitlements.

If a legitimate vocational placement was followed by unpaid work experience or volunteering at the same organisation (and a student was engaged in similar activities), then it would be very likely that an 'employment relationship' would be found to exist.

### International students

With regard to International Students (onshore), The Fair Work Act applies and so do visa conditions that limit paid working hours to 40 hours a fortnight during term, for undergraduates, but unlimited hours when their course is not in session (between formal semester or equivalent teaching periods, not mid-teaching period breaks). Vocational placements as defined above are not included in the hours limit. No visa restrictions apply to the paid work hours of postgraduate research students.

### Further information

For further information, visit <https://www.fairwork.gov.au/pay/unpaid-work/work-experience-and-internships>.