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Fair Work
OMBUDSMAN

Which Fair Work can help you?



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Fair Work
Commission




Which Fair Work can help you?

There are 2 different Fair Work agencies in Australia. They are called the **Fair Work Ombudsman** and the **Fair Work Commission**.

While they sound similar, they're 2 separate government bodies and help with different things.

This resource will help you to work out which Fair Work agency to go to for help and information.

I need help with...

 Use the quick navigation menu below to skip straight to the topic you are interested in.

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The Fair Work Ombudsman

Q: Who is the Fair Work Ombudsman?

A: The **Fair Work Ombudsman** is Australia's national workplace relations regulator.

The **Fair Work Ombudsman** provides information, education and advice to the workplace community.

They help everyone understand and comply with workplace laws and resolve workplace problems. Where required, they can take action to recover underpayments and enforce compliance.

Q: What can the Fair Work Ombudsman help with?

A: The **Fair Work Ombudsman** can help with:

- ⊕ pay and wages, including notice, redundancy and final pay
- ⊕ leave
- ⊕ hours of work and breaks
- ⊕ advice on entitlements under an award, minimum standards order or registered agreement
- ⊕ fixing workplace problems
- ⊕ starting and ending work
- ⊕ enforcing minimum pay and entitlements.



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Q: What can't the Fair Work Ombudsman help with?

A: The **Fair Work Ombudsman** can't help with:

- 🚫 unfair dismissal, unfair deactivation and unlawful termination claims
- 🚫 making changes to legislation or terms in an award, registered agreement, order or guideline
- 🚫 bullying and harassment claims
- 🚫 tax and super advice
- 🚫 workplace health and safety and workers compensation
- 🚫 separation certificates.

Learn more about the Fair Work Ombudsman's role and purpose at [fairwork.gov.au/our-role-and-purpose](https://www.fairwork.gov.au/our-role-and-purpose)

The Fair Work Commission

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Q: Who is the Fair Work Commission?

A: The **Fair Work Commission** is the national workplace relations tribunal and registered organisations regulator.

The **Fair Work Commission** sets minimum wages, conditions and standards, deals with agreements, and dismissal claims. They also hear disputes about issues like bullying, harassment and discrimination.

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Q: What can the Fair Work Commission help with?

A: The **Fair Work Commission** can help with:

- ⊕ setting and changing minimum standards for employees, regulated workers and others
- ⊕ unfair dismissal, unlawful termination, unfair deactivation and termination and general protections
- ⊕ supporting bargaining
- ⊕ approving or registering and terminating agreements
- ⊕ disputes about:
 - bullying and workplace sexual harassment
 - the right to disconnect
 - flexible working arrangements
 - extending unpaid parental leave
 - the terms in an award, agreement, order or guideline
 - employment status (casuals moving to permanent employment)
 - fixed term contracts
 - unfair contracts
 - delegates rights
 - pay rates for some labour hire employees (same job same pay)
- ⊕ good faith bargaining and industrial action orders
- ⊕ entry permits and rules for registered organisations.



Fair Work
Commission

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Q: What can't the Fair Work Commission help with?

A: The **Fair Work Commission** can't help with:

- 🚫 legal advice about your claim or application
- 🚫 advice on entitlements under an award, registered agreement or order or guideline
- 🚫 recovering underpayments and enforcing minimum pay and award or registered agreement entitlements
- 🚫 tax and super
- 🚫 workplace health and safety and workers compensation.

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Learn more about the Fair Work Commission at [fwc.gov.au/about-us](https://www.fwc.gov.au/about-us)



Q: Where can I get help with pay?

A: The **Fair Work Ombudsman** can help answer your questions about pay, including minimum wages, penalty rates, allowances, overtime pay, deductions, pay slips and record-keeping requirements.

Learn more about pay on the **Fair Work Ombudsman** Pay and wages page at fairwork.gov.au/pay-and-wages or use the links below:

- ▶ [Pay and Conditions Tool](#)
- ▶ [Pay guides](#)
- ▶ [Apprentice and trainee pay rates](#)
- ▶ [Annualised wages](#)
- ▶ [Penalty rates](#)
- ▶ [Overtime pay](#)
- ▶ [Allowances](#)
- ▶ [Paying wages](#)
- ▶ [Deductions](#)
- ▶ [Minimum wages fact sheet](#)
- ▶ [Record-keeping and pay slips fact sheet](#)
- ▶ [Pay slips and record-keeping templates](#)

Learn more about pay and wages at fairwork.gov.au/pay-and-wages



Did you know...

The **Fair Work Ombudsman** has a pay and conditions calculator that you can use to find pay rates at fairwork.gov.au/pact





Leave

Q: Where can I get help with leave?

A: The **Fair Work Ombudsman** can help answer your questions about leave, including annual leave, public holidays, sick and carer's leave, compassionate leave, parental leave and family and domestic violence leave.

Annual leave

Visit [fairwork.gov.au/annualleave](https://www.fairwork.gov.au/annualleave) for more information on:

- ▶ Annual leave
- ▶ Payment for annual leave
- ▶ Taking annual leave
- ▶ Directing an employee to take annual leave

Sick and carer's leave

Visit [fairwork.gov.au/sickandcarersleave](https://www.fairwork.gov.au/sickandcarersleave) for more information on:

- ▶ Paid sick and carer's leave
- ▶ Unpaid carer's leave
- ▶ Long periods of sick leave

Parental leave

Visit [fairwork.gov.au/parentalleave](https://www.fairwork.gov.au/parentalleave) for more information on:

- ▶ Before parental leave
- ▶ During parental leave
- ▶ After parental leave

Family and domestic violence leave

Visit [fairwork.gov.au/fdvleave](https://www.fairwork.gov.au/fdvleave) for more information on:

- ▶ Family and domestic violence leave
- ▶ Taking family and domestic violence leave
- ▶ Notice and evidence for family and domestic violence leave

Learn more about leave at [fairwork.gov.au/leave](https://www.fairwork.gov.au/leave)



Example: getting help with leave issues

Rahul works Monday to Friday as a full-time forklift driver for a warehouse. He applies to take a week's holiday using 4 days of annual leave as the Friday is the ANZAC day public holiday. His leave is approved.

When Rahul gets his pay slip, he sees that 5 days of annual leave have been deducted. Rahul goes to the **Fair Work Ombudsman's** Public holidays page at [fairwork.gov.au/publicolidays](https://www.fairwork.gov.au/publicolidays) and confirms that the public holiday should not be deducted as annual leave. He learns that he should be paid at the base rate for the ordinary hours he would have worked on the public holiday if he had not been away.

Rahul shows his boss the information about public holidays. His boss says he didn't realise and fixes Rahul's annual leave balance and pay and leave records.

Tools and resources

- ▶ [Annual leave fact sheet](#)
- ▶ [Annual leave templates](#)
- ▶ [Sick and carer's leave and compassionate leave fact sheet](#)
- ▶ [Parental leave fact sheet](#)
- ▶ [Parental leave checklists and templates](#)
- ▶ [Family and domestic violence leave fact sheet](#)
- ▶ [Employer guide to family and domestic violence](#)



Hours of work and breaks

Q: Where can I get help with hours of work and breaks?

A: The **Fair Work Ombudsman** can provide information about hours of work including ordinary hours and breaks.

Visit fairwork.gov.au/hoursofwork for more information on:

- ▶ Right to disconnect
- ▶ Breaks
- ▶ Rosters
- ▶ Rostered days off

Tools and resources

- ▶ [Maximum weekly hours fact sheet](#)
- ▶ [Record-keeping templates](#)

Learn more about hours of work, breaks and rosters at fairwork.gov.au/hoursofwork

Right to disconnect

Q: Where can I get help with a dispute about contacting employees outside work hours?

A: The right to disconnect protects employees who refuse to monitor, read or respond to work-related contact outside their working hours, unless their refusal is unreasonable.

The **Fair Work Ombudsman** can provide advice and information about the right to disconnect.

Employees and employers can apply to the **Fair Work Commission** for help to resolve disputes about the right to disconnect.

Learn more about the right to disconnect at fairwork.gov.au/right-to-disconnect





Ending employment

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Q: Where can I get help with notice periods and final pay?

A: The **Fair Work Ombudsman** can provide information about ending employment, including how much notice needs to be given and calculating final pay.

Visit fairwork.gov.au/ending-employment for more information on:

- ▶ Notice and final pay
- ▶ Notice and redundancy calculator
- ▶ Dismissal and notice
- ▶ Who doesn't get notice?
- ▶ Final pay

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Q: Where can I get help with redundancy?

A: The **Fair Work Ombudsman** can provide information about redundancy, including what redundancy is, redundancy notice periods and redundancy pay.

Visit fairwork.gov.au/redundancy for more information on:

- ▶ Redundancy
- ▶ Who doesn't get redundancy pay

Tools and resources

- ▶ [Notice and redundancy calculator](#)
- ▶ [Notice of termination and redundancy pay fact sheet](#)
- ▶ [Letter of resignation and termination templates](#)
- ▶ [Interactive letter of resignation template](#)



Example: getting help with ending employment

Hao is a small business owner who runs a local hardware store. He has a full-time employee who has continued to perform poorly, even though Hao has given them a number of warnings and many opportunities to improve.

Hao wants to find out the rules for ending an employee's employment. He visits the **Fair Work Ombudsman** website at fairwork.gov.au/unfairdismissal to check the Small Business Fair Dismissal Code. He uses the Notice and redundancy calculator at fairwork.gov.au/pact to work out notice and final pay requirements. Hao also finds a template at fairwork.gov.au/templates to help him write a letter of termination.



Did you know...

You can test your knowledge about ending employment in the termination section of the **Fair Work Ombudsman's** Workplace basics quiz at fairwork.gov.au/basicsquiz

For more information on ending employment visit fairwork.gov.au/ending-employment



Unfair dismissal

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Q: What is unfair dismissal?

A: Unfair dismissal is when an employee is dismissed from their job in a harsh, unjust or unreasonable manner.

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Q: What should I do if I think I've been unfairly dismissed?

A: Employees who think they've been unfairly dismissed can make an unfair dismissal claim to the **Fair Work Commission**.

Employees must apply within 21 days of the dismissal taking effect. The 21 day period starts the day after the dismissal and includes weekends and public holidays. You need to pay a fee when you apply.

You can apply online with **Fair Work Commission** at fwc.gov.au/dismissal

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Q: Who can make an unfair dismissal claim?

A: Employees must be employed for at least 6 months (12 months for those working for a small business) before they can apply for unfair dismissal.

Use the **Fair Work Commission's** checklist to see if you can apply at fwc.gov.au/job-loss-checklist

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Q: How do I respond to an unfair dismissal claim?

A: When you're the employer in a claim for unfair dismissal, you must respond with 7 days of receiving a copy of the application from the **Fair Work Commission**. If you don't respond, the **Fair Work Commission** may decide the claim, without your input.

Learn more about responding to an unfair dismissal claim at fwc.gov.au/unfair-dismissal-respond



Did you know...

The **Fair Work Commission's** Workplace Advice Service connects eligible employees and employers with free legal advice. For more information and to check your eligibility visit fwc.gov.au/legal-advice



Example: unfair dismissal

Paulo has been working as an insurance officer with his employer for 18 months.

One Friday, his senior manager asks to speak to him. Paulo is told to pack up his things and leave immediately. Paulo is shocked because he's not given a reason and has always received positive feedback from his direct manager.

Paulo liked his job and doesn't think this is right. He checks out the unfair dismissal information on the **Fair Work Commission** website at fwc.gov.au/dismissal. He learns that he may be eligible to make an unfair dismissal claim and that he must apply to the **Fair Work Commission** within 21 days of his dismissal.

Learn more about unfair dismissal at fwc.gov.au/dismissal



Regulated workers

Q: What is a regulated worker?

A: Some independent contractors have special laws that apply to them. These contractors are called regulated workers.

There are 2 types of regulated workers:

- ▶ employee-like workers doing digital platform work (sometimes called 'gig' work)
- ▶ regulated road transport contractors who work in the road transport industry.



Did you know...

Before setting minimum standards for regulated workers the **Fair Work Commission** must consult with workers, businesses and others that might be impacted by the proposed order.

Stay up to date or get involved with the consultations by subscribing for regulated worker updates at subscription.fwc.gov.au

Learn more about regulated workers at fairwork.gov.au/regulated-workers

Q: Which Fair Work can help regulated workers?

A: Both agencies have a role.

The **Fair Work Commission:**

- ▶ sets and varies minimum standards for regulated workers, businesses and others
- ▶ registers collective agreements made between regulated workers and regulated businesses
- ▶ deals with disputes about unfair deactivation or unfair termination of regulated workers
- ▶ deals with disputes about unfair terms in services contracts.

The **Fair Work Ombudsman:**

- ▶ provides education, assistance and advice on the minimum standards that apply to regulated workers, businesses and others
- ▶ investigates and may take action to enforce:
 - minimum standards orders
 - road transport contractual chain orders.



Learn more about setting minimum standards for regulated workers at fwc.gov.au/regulated-workers



Agreements

Q: Who can help with making an agreement?

A: The **Fair Work Commission** supports bargaining, reviews and approves enterprise agreements and registers collective agreements.

Learn more about enterprise agreements at fwc.gov.au/agreements including:

- ▶ Finding an enterprise agreement
- ▶ Making an enterprise agreement
- ▶ Terminating an enterprise agreement

Learn more about collective agreements at fwc.gov.au/collective-agreements

Q: Who can help if I'm not getting my entitlements under an agreement?

A: The **Fair Work Ombudsman** can:

- ▶ provide advice on pay and entitlements under enterprise agreements and collective agreements
- ▶ monitor compliance with agreements, inquire into, and investigate and take appropriate action to enforce entitlements in an agreement.

The **Fair Work Commission** can also assist in resolving certain disputes about the meaning of terms in an agreement, if the agreement contains a dispute resolution clause that allows this.



Did you know...

The **Fair Work Commission** has a free Collaborative Approaches Program that can help employers and employees with enterprise bargaining.

Find out more about the program at fwc.gov.au/collaborative-approaches-program

Learn more about registered agreements at fwc.gov.au/agreements

Industrial action

Q: Who can help with industrial action?

A: The **Fair Work Commission** and the **Fair Work Ombudsman** can both provide information about industrial action.

The **Fair Work Commission** is the agency that deals with requests to take protected industrial action.

Industrial action may happen when different sides in a dispute about a proposed agreement can't resolve the issue. The employer, employees or unions may take action. For employees, this is usually a strike or a work ban. An employer may take response industrial action by locking out their employees.

When taking industrial action, you must follow the right process. The **Fair Work Commission** can provide information about these processes at fwc.gov.au/industrial-action

For general information on industrial action and protests, visit fairwork.gov.au/industrial-action

Entry permits

Q: Who can issue entry permits?

A: The **Fair Work Commission** issues entry permits. An entry permit gives a union official the right to enter a workplace. There are 2 types of permits:

- ▶ Fair Work entry permit
- ▶ Work Health and Safety (WHS) permit.

The **Fair Work Commission** and the **Fair Work Ombudsman** can provide information about right of entry.

For more information about entry permits, including when an official can enter a workplace, visit fwc.gov.au/entry-permits

For general information on right of entry visit fairwork.gov.au/rightofentry

Tools and resources

- ▶ [Industrial action fact sheet](#)
- ▶ [Right of entry fact sheet](#)



Bullying

Q: What should I do if I'm being bullied at work?

A: The **Fair Work Commission** has information on bullying.

Visit [fwc.gov.au/bullying](https://www.fwc.gov.au/bullying) for more information on:

- ▶ What is bullying at work
- ▶ What to do if you're bullied at work

Q: How can I apply for an order to stop bullying at work?

A: The **Fair Work Commission** can issue orders to stop bullying at work. You can check your eligibility and apply online with the **Fair Work Commission** at [fwc.gov.au/stop-bullying](https://www.fwc.gov.au/stop-bullying). You need to pay a fee when you apply. This is the start of a legal process.

Q: How do I respond to a stop bullying application?

A: Employers and people named in an application to stop workplace bullying can respond. You need to respond within 7 days after you receive a copy of the application from the **Fair Work Commission**.

Q: What can I do if someone doesn't comply with a stop bullying order?

A: You can ask the **Fair Work Ombudsman** for help if someone doesn't comply with a stop bullying order issued by the **Fair Work Commission**. For more information visit [fairwork.gov.au/bullying-in-the-workplace](https://www.fairwork.gov.au/bullying-in-the-workplace).

Learn more about bullying at [fwc.gov.au/bullying](https://www.fwc.gov.au/bullying)



Example: getting help to stop bullying in the workplace

Aaliyah is a receptionist and is being bullied at work. She has tried following internal HR processes but the bullying is still happening.

Aaliyah contacts the **Fair Work Commission** Workplace Advice Service at [fwc.gov.au/legal-help](https://www.fwc.gov.au/legal-help) to be connected to free legal advice on her situation. They advise her that she is eligible to apply for a stop bullying order with the **Fair Work Commission** based on the steps she's taken.

Aaliyah reads the **Fair Work Commission's** How we help stop workplace bullying page at [fwc.gov.au/bullying](https://www.fwc.gov.au/bullying) and submits an application for a stop bullying order.





Sexual harassment

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Q: Where can I get help if I'm being sexually harassed at work?

A: The **Fair Work Commission** has information on sexual harassment including where you can get help if you're being sexually harassed at work.

Visit fwc.gov.au/sexual-harassment for more information on:

- ▶ What is workplace sexual harassment
- ▶ What you can do if you've been sexually harassed

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Q: How can I make a sexual harassment application?

A: The **Fair Work Commission** can deal with sexual harassment disputes and can issue orders to stop sexual harassment at work. You can check your eligibility and apply online at fwc.gov.au/sexual-harassment. You will need to pay a fee when you apply.

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Q: How do I respond to a Fair Work Commission application about sexual harassment?

A: Employers and people named in an application about sexual harassment must respond within 7 days of receiving a copy of the application from the **Fair Work Commission**.

Learn more about responding to an application about sexual harassment at fwc.gov.au/sexual-harassment

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Q: What can I do if someone doesn't comply with a stop sexual harassment order?

A: You can ask the **Fair Work Ombudsman** for help if someone doesn't comply with a stop sexual harassment order issued by the **Fair Work Commission**.

Learn more about how we can assist in these circumstances at fairwork.gov.au/sexual-harassment-complaint

Learn more about sexual harassment at fwc.gov.au/sexual-harassment



Did you know...

The **Fair Work Commission** has a free online course on workplace sexual harassment.

The short course aims to reduce the risk of workplace sexual harassment occurring, and to help people respond if they experience or witness it.

You can access the course on the Commission's Online Learning Portal at learn.fwc.gov.au



Discrimination and adverse action

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Q: What is discrimination at work?

A: The Fair Work Act does not allow an employer to take adverse action against an employee or a prospective employee for discriminatory reasons. This includes because of their:

- ▶ sex
- ▶ race
- ▶ religion
- ▶ age
- ▶ gender identity

For a full list of protected attributes visit the **Fair Work Commission** Discrimination page at fwc.gov.au/issues-we-help/discrimination

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Q: What is adverse action?

A: Adverse action includes doing, threatening or organising any of the following:

- ▶ firing an employee
- ▶ injuring an employee in their employment (for example, not giving an employee their legal entitlements, such as pay or leave)
- ▶ changing an employee's job to their disadvantage
- ▶ discriminating between one employee and other employees (for example, treating someone differently based on their sex or gender identity)
- ▶ not hiring someone
- ▶ offering a potential employee less favourable and unfair terms and conditions for the job compared to other employees.

For more information about adverse action visit the **Fair Work Commission** Discrimination page at fwc.gov.au/issues-we-help/discrimination



Did you know...

The **Fair Work Ombudsman** has a free online course on Diversity and discrimination to help you learn how to promote diversity, prevent discrimination and handle complaints in your workplace. You can access the course at fairwork.gov.au/learning

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Q: What can I do if I've lost my job due to discrimination at work?

A: If you've lost your job, and you think it's because of discrimination you may be able to make a general protections application with **Fair Work Commission**. You have 21 days to submit an application at fwc.gov.au/general-protections-dismissal. You will need to pay a fee when you apply.

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Q: What can I do if I'm being discriminated against at work?

A: Depending on the type of discrimination, for help and information you can contact:

- ▶ the **Fair Work Ombudsman** at fairwork.gov.au/discrimination
- ▶ your state or territory anti-discrimination body at fairwork.gov.au/related-sites
- ▶ the Australian Human Rights Commission at humanrights.gov.au

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Learn more about discrimination at fwc.gov.au/issues-we-help/discrimination



Workplace disputes

Q: What can I do if I have a workplace dispute?

A: Many workplace disputes can be resolved quickly and easily between parties without outside help. If extra help is needed, there are a range of government agencies that can assist.

Q: What types of workplace disputes can the Fair Work Ombudsman help with?

A: The **Fair Work Ombudsman** can help with a range of workplace disputes. These are usually related to pay and other conditions such as leave, notice and hours of work, and include:

- ▶ underpayment of minimum entitlements under the Fair Work Act, a modern award, enterprise agreement, minimum standards order or guideline, or collective agreement. For example:
 - pay rates
 - notice of termination
 - redundancy
 - general employment conditions
- ▶ breaches of the [National Employment Standards \(NES\)](#)

We encourage employers and employees to work together to find a resolution. If you're unable to resolve the dispute, we can assist via education or dispute assistance. Alternatively, we may connect you with other services such as those provided by unions, employer organisations and community legal centres so that disputes can be resolved.

You can contact the **Fair Work Ombudsman** for help with your workplace dispute by:

- ▶ calling the Fair Work Infoline on 13 13 94
- ▶ making an anonymous report at fairwork.gov.au/anonymous-report

Q: Will the Fair Work Ombudsman represent me?

A: The **Fair Work Ombudsman** is impartial, which means they don't represent either side.

Organisations including employer associations, unions and legal centres can offer representation for employers and employees. For more information visit fairwork.gov.au/legal-help



Did you know...

The **Fair Work Ombudsman** has step by step guides to help with preventing and fixing workplace disputes at fairwork.gov.au/workplace-problems and free online courses on having difficult conversations in the workplace at fairwork.gov.au/learning

Q: What types of workplace problems can the Fair Work Commission help with?

A: The **Fair Work Commission** has information about how to resolve common issues in the workplace at fwc.gov.au/issues-we-help

Workplace problems that the **Fair Work Commission** can deal with through conciliation, mediation or, if agreed by the parties, arbitration include:

- ▶ Bullying
- ▶ Sexual harassment
- ▶ Discrimination
- ▶ Casual to permanent status
- ▶ Disputes about an award or agreement
- ▶ Disputes about fixed term contracts
- ▶ Flexible work and unpaid parental leave requests
- ▶ Disputes about general protections
- ▶ Right to disconnect disputes
- ▶ Labour hire arrangement order disputes
- ▶ Independent contract disputes about unfair contract terms
- ▶ Industrial action

Visit the **Fair Work Commission** website to

- ▶ apply online at fwc.gov.au/apply-or-lodge
- ▶ make an online enquiry at fwc.gov.au/contact-us
- ▶ check if you're eligible for free legal advice through the Workplace Advice Service at fwc.gov.au/legal-help



Other government agencies that can help

Q: Who can help with tax and super?

A: The **Australian Taxation Office** has information on tax and super. Visit the Australian Taxation Office website at ato.gov.au

Q: Who can help with workplace health and safety?

A: Find your local state and territory workplace health and safety body at fairwork.gov.au/related-sites

Q: Who can help with Employment Separation Certificates?

A: **Services Australia** has information for employers about Employment Separation Certificates at servicesaustralia.gov.au/employment-separation-certificates-for-employers

Q: Who can help with workers compensation?

A: Workers compensation is governed by individual Australian states and territories.

You can find the contact details for your local workers compensation regulator at fairwork.gov.au/employment-conditions/workers-compensation

Q: Who can help with visa requirements?

A: For information on all visa requirements, visit the Department of Home Affairs website at homeaffairs.gov.au or phone 13 18 81.



Contact us

Fair Work online: fairwork.gov.au

Fair Work Infoline: **13 13 94**

Need language help?

Contact the Translating and Interpreting Service (TIS) on **13 14 50**

Help for people who are deaf or have hearing or speech difficulties

You can contact us through the National Relay Service (NRS).

Select your [preferred access option](#) and give our phone number: **13 13 94**



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