

## **Employer Obligations: Employers need to pay wages according to relevant law**

[https://www.youtube.com/watch?v=Gn6E\\_DXr8dM](https://www.youtube.com/watch?v=Gn6E_DXr8dM)

### **Types of Employment**

Full-time

Fixed term and contract

Part-time

Apprentices and trainees

Casual

Commission and piece rate

Read the below description and make a decision based on what type of employment you think it describes:

Employed for an agreed length of time or to perform a specific task. For example to work on a particular project or to replace an employee on leave. Can work full or part-time and are entitled to the same leave entitlements as permanent staff but on a pro-rata basis, depending on the length of employment	
Entitled to the following leave: <ul style="list-style-type: none"><li>• annual, personal, sick, and carer's;</li><li>• bereavement or compassionate;</li><li>• parental; and</li><li>• long service</li><li>• public holiday pay if the holiday falls on a day they would usually work.</li></ul>	
Working towards a nationally recognised qualification and must be formally registered, usually through a contract between a registered training provider, the employee and employer. Employers are not required to pay payroll tax on the wages during their training contract.	
Work less than 38 hours per week and generally have regular hours. They receive the same wages and conditions as full-time employees on a proportionate or pro-rata basis, according to the hours they work.	
Are engaged on an irregular basis according to business demands and have: <ul style="list-style-type: none"><li>• no expectation of ongoing work;</li><li>• no obligation to accept offers of work;</li><li>• a loading paid on top of their hourly rate of pay;</li><li>• no sick or annual leave pay; and</li><li>• no obligation to provide notice of ending their employment, unless this is a requirement of an award, employment contract or registered agreement.</li></ul> May be eligible for long service leave and parental leave after being employed for 12 months	
Paid based on the results achieved instead an hourly or weekly pay rate. Only permissible if: <ul style="list-style-type: none"><li>• the award or agreement allows for it; or</li><li>• position is award and agreement free.</li></ul>	
Work on a regular basis for an average of 38 hours per week. An employee's actual hours of work are agreed between the employer and the employee, and/ or are set by an award or registered agreement.	

What is an employee? \_\_\_\_\_

Complete the following National Employment Law questions:

1. A standard week comprises of how many hours?
2. How many weeks paid annual leave is included in a full time wage?
3. What can you request after 12 months continuous work?
4. What is the law regarding public holidays?

Casual employee	Permanent employee
	Works regular hours each week/fortnight and generally the same number of hours
Works on an irregular basis as needed	
	Employment is ongoing
No consistency in start or finish times	
	Regular hours are required to be worked
No entitlement to annual and sick leave	

<https://www.youtube.com/watch?v=S3kRWfadwag>

A subcontractor is not an employee, but rather a worker running their own independent business. If a person is a subcontractor, employment laws (such as awards) do not apply to that person.

If a person is 'engaged' as a subcontractor but is legally considered an employee, the person could potentially be owed unpaid penalty rates and superannuation contributions.

Complete the following table:

Subcontractor	Employee
In control over the hours worked and when and how the work is performed	
	Works on a regular and ongoing basis
Provides employers a rate for a specific job and an invoice for work performed	
	Employers supply materials and equipment
Responsible for their own tax and superannuation arrangements	
	Represents employers business

**Employer Obligations: Employers need to pay wages according to relevant law**

<https://www.fairwork.gov.au/pay/minimum-wages>

What is minimum wage?

<https://www.fairwork.gov.au/awards-and-agreements>

What is an award?

<https://www.youtube.com/watch?v=-UL68IvKNUM>

What is the National Employment Standards – what do they outline?

<https://www.youtube.com/watch?v=Fr165P0-fak>

What employment standards did Baida violate?

What was the legal loophole as to why they were not prosecuted?

Are there any cultural issues at play?

## **Domino's drivers are calling for better pay conditions. By Frank Chung**

DOMINO'S is once again in hot water over its treatment of young employees after a delivery driver was forced to resign for sharing a link on Facebook. The 18-year-old driver, who did not wish to use his name, signed and shared a Change.org petition calling for better pay for Domino's drivers. His regional manager, alerted to the post by a mutual friend, then shared the link to her own Facebook page, tagging the young driver. "What's the go, mate?" she wrote, going on to single out another employee who had also signed the petition. "Nah I'm not too fussed," the second driver replied. "I knew it wasn't gonna do anything anyways." The 18-year-old wrote: "Wait, this is a joke right?" He deleted the post, but fearing he would be sacked, emailed the regional manager to offer his resignation. He also complained about being singled out and publicly shamed. "In regards to your concern, I hope you can use the way you feel to empathise with me," the manager wrote in reply, adding his post was "in breach of the Domino's Social Media Policy which is grounds for termination". "[The] way you claim to be treated is exactly how I feel when not one but a group of my staff members do not show me the respect and appreciation I deserve when I go above and beyond to ensure I create a fun and professional workplace which follows the laws and policies outlined by Domino's and Fair Work. "Your Facebook post was shared as a public post and sent to me by a mutual friend, if you prefer people not to see it then maybe you shouldn't post to the public." Maurice Blackburn principal Josh Bornstein, a leading employment and workplace relations lawyer, said the driver could take action under the Fair Work Act on the basis he had been subject to "unlawful discrimination based on expression of political opinion".

Domino's chief executive Don Meij. Source: News Corp Australia Mr Bornstein, who is representing former SBS soccer presenter Scott McIntyre in his unfair dismissal case over controversial Anzac Day tweets, said the driver had a number of protections under the Fair Work Act. "An employee has a right to make a complaint about their pay to their employer and under the Fair Work Act is protected from retaliation in the form of a demotion, a pay cut or losing their job," he said. "Secondly, employees have a right to participate in political debate and democracy, and Change.org petitions are a very common method by which people participate in political issues and seek political change." The petition, which calls on Workplace Relations Minister Michaelia Cash to "stop Domino's paying delivery drivers below the minimum wage", was created by Thorneside father Keith Wade. "My 19-year-old son is paid \$14.51 per hour for two hours per day, plus \$2.27 per delivery," he wrote. "He has to pay the cost of running his vehicle out of this \$2.27. So per shift he is paid after expenses about \$30. "If he was paid the minimum wage he would work three hours at a payrate of \$18.98 plus 41 cents per km for vehicle use. So he would earn after car running costs about \$60." Mr Bornstein said while a breach of an employer's social media policy could be grounds for termination, if a policy was "too extreme or is applied capriciously or unfairly, then a person may have ground to sue for unfair dismissal".

"These issues can be very contentious. Scott McIntyre expressed strong and controversial views about Anzac Day on Twitter and was sacked by SBS the following day. We will be arguing he was sacked for expressing his political opinion, in breach of the Fair Work Act." Maurice Blackburn principal Josh Bornstein. Source: Supplied The extent to which employers can control employees after-hours or online conduct is an "ongoing contentious issue in workplaces and in the law", he said. "In my view the pendulum has swung too far and employers are seeking to control employees in ways that are undesirable and unfair." Asked whether simply sharing a petition on Facebook would constitute a breach of Domino's social media policy, a company spokeswoman said: "No, that wouldn't be considered a breach of the policy." She said the company was

"working through the allegations". "[Domino's] is investigating this matter to ascertain exactly what transpired," she said. "We have also made an attempt to reach the staff member in question and will speak with them today.

Our records indicate the employee tendered their resignation citing that they were moving out of the area as the reason for leaving. "If we feel confident the manager didn't take the appropriate action we will work with the franchisee of that store to offer the employee their job back and take the relevant action with the store manager." In 2013, Domino's was ordered to return almost \$590,000 in back pay after the Fair Work Ombudsman found the pizza chain had underpaid delivery drivers. The audit found between January 2010 and December 2011, 1628 drivers had been underpaid a total of \$588,160. Last year, news.com.au revealed Domino's had potentially broken child employment laws in a bid to strongarm underage employees into accepting a pay cut under new contracts or face losing work.

What is the employee have a grievance about?

What does the manager at Domino's believe?

Who do you think is right?

### **Employer Obligations: Employers need to ensure adequate induction of their staff**

Think about the last time you went camping, stayed in a hotel, went on a cruise or a plane. What happened during checkin is similar to an induction.

List the things you are informed about when you go camping, stay in a hotel, are on a cruise or a plane:

### **The absolute minimum induction required at a new employer is:**

- Where to find drinking water , the toilets and first aid kit
- Important paperwork collected such as proof of ID, tax file number, super choice & bank

- Introduction to relevant managers and colleagues

<https://www.youtube.com/watch?v=sllteZbRT4I>

Why is it important for new hires to have an induction?

Why does the induction training need to be effective?

How does a checklist help?

### **Employer Obligations: Employers need to provide sufficient training to all employees**

<http://www.skills.sa.gov.au/for-employers-business/training-your-staff/benefits-of-training-your-staff>

<http://study.com/academy/lesson/employee-and-workplace-grievances-definition-types-quiz.html>