



EMPLOYMENT IN AUSTRALIA



Australia, officially known as the Commonwealth of Australia, is located in Oceania. It is the sixth largest nation in the world and one of the wealthiest countries. Services such as tourism, education, and financial services are the primary contributors to GDP. The terms and conditions which govern the relationship between an employee and employer are regulated by various statutes in Australia, with the primary regulatory bodies in the national system being the Fair Work Commission and the Fair Work Ombudsman. Below is some key information regarding employment in Australia, intended to provide a brief overview of employment law in Australia. It is not intended as substitute for professional legal advice and counsel.



WORKING TIME AND OVERTIME

The standard working week in Australia is 38 hours per week (7.6 hours per day), usually worked Monday to Friday. All time worked beyond 38 hours per week is classed as overtime and, in most cases, attracts a premium of 1.5x the ordinary rate of pay for the first 3 hours and double time thereafter.

ANNUAL LEAVE

All full-time workers are guaranteed a minimum of 4 weeks paid annual leave. Shift workers in some industries may be entitled to 5 weeks.

TRIAL PERIOD

Probation periods in Australia typically last 3-6 months.

RESIGNATION AND DISMISSAL

When an employer dismisses an employee, they must give them notice. The notice period starts from the day after the employer notifies the employee of the termination. Notice must be given in accordance with the following schedule at a minimum:

- Up to 1 year's employment: 1 week
- 1-3 years' employment: 2 weeks
- 3-5 years' employment: 3 weeks
- 5+ years' employment: 4 weeks

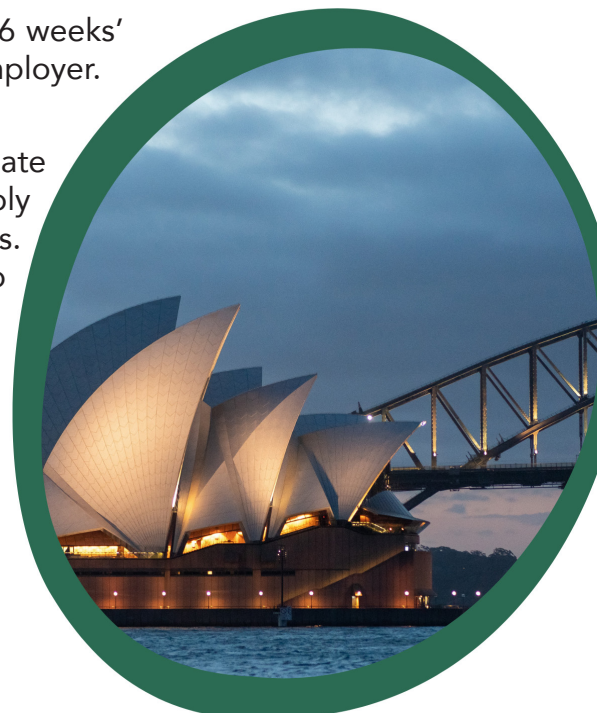
If an employee is made redundant, they are entitled to a payment based on years of continuous service, in accordance with the following schedule:

- 1-2 years: 4 weeks
- 2-3 years: 6 weeks
- 3-4 years: 7 weeks
- 4-5 years: 8 weeks
- 5-6 years: 10 weeks
- 6-7 years: 11 weeks
- 7-8 years: 13 weeks
- 8-9 years: 14 weeks
- 9-10 years: 16 weeks
- 10+ years: 12 weeks

Therefore, the maximum statutory redundancy pay is 16 weeks' pay for someone with 9-10 years' service with one employer.

RESTRICTIVE COVENANTS

Restrictive covenants that protect the employer's legitimate business interests may be enforced to the extent reasonably necessary to protect those interests in all circumstances. Non-compete clauses are typically enforceable for no longer than 12 months, with some exceptions. Employee and customer non-solicitation clauses are also permissible.





CONTRACT OF EMPLOYMENT

Australian workers can be covered by a contract, an agreement, or an award. This draws from the National Employment Standards and state and federal laws.

- Becoming less popular, awards generally include the minimum employment standards, and set conditions for all employees in the same occupation. The award standards may vary between the state, employer, and industry.
- An Enterprise Agreement sets out the work conditions for a group of employees at one or more places of work, and usually of one organisation. An enterprise agreement will supersede an award that would otherwise cover employees in a workplace but only where it, at least matches the pay set out in the award. Enterprise Agreements are the most common way of defining wages and workplace conditions in Australia and generally cover more issues than do awards.
- Written employment contracts, which include wages and conditions, are used for employees who are not covered by an award or an enterprise agreement.

MATERNITY AND PATERNITY LEAVE

Employees are entitled to 52 weeks of unpaid parental leave and may also request an additional 52 weeks of leave. Pregnant employees can begin leave up to six weeks before their due date (from week 34 of the pregnancy).

This leave is available to either parent, provided that both are working and are eligible (although only 8 weeks can be taken at the same time).

SICKNESS LEAVE

Full-time employees are entitled to 10 days of sick or carer's leave each year. The balance of leave you accrue each year can be carried over into the next year. Part-time employees receive a pro rata entitlement.

SOCIAL SECURITY

No Social Security is payable in Australia.

HEALTHCARE AND INSURANCE

Medicare Levy: Whilst Australia does not have a social security system, a Medicare Levy of 2% of taxable income is payable by resident individuals for health services (provided that they qualify for Medicare services). An exemption from the Medicare Levy may apply if the individual is from a country that has not entered into a Reciprocal Health Care Agreement with Australia. High income resident taxpayers who do not have adequate private health insurance may be subject to an additional 1-1.5% Medicare Levy surcharge. High-income taxpayers whose private hospital insurance carries an excess payment (amount for which the insured is responsible before the insurance begins to pay) of more than AUD 500 for single individuals or AUD 1,000 for couples or families are also subject to the Medicare Levy surcharge.

Superannuation (pension): Australia also has a compulsory private superannuation (pension) contribution system. Under this system, employers must contribute a minimum percentage of the employee's ordinary time earnings (OTE) base to a complying superannuation fund for the retirement benefit of its employees. The minimum percentage is currently 10.5% (as of July 2022).



EMPLOYMENT OF FOREIGN NATIONALS

An individual wishing to enter Australia for employment reasons may apply for a temporary work short stay specialist (subclass 400) visa, temporary activity (subclass 408) visa or temporary skill shortage (subclass 482) visa. The temporary work short stay specialist (subclass 400) visa applicants must have highly specialised skills, experience, or knowledge that can help Australian business that can't be reasonably found in Australia. The visa holder can only do work or activities for which the

visa was granted. Depending on circumstances, the visa can be issued for up to 6 months. Generally, for a stay period of longer than 3 months, a strong business case must be provided with the application. This visa cannot be extended. The temporary activity (subclass 408) visa allows applicants to come to Australia to participate in events which are endorsed by the Australian Government. The applicant must be sponsored or supported, and the visa is valid for the duration of the event, or up to 4 years. The temporary skill shortage (subclass 482) visa enables employers to address labour shortages by bringing in skilled workers where employers can't source an appropriately skilled Australian worker. Applicants must have relevant and required skills that are short in Australia and be nominated for a skilled position by an approved sponsor. Visa holders can stay for up to 2 years, or up to 4 years if an International Trade Obligation (ITO) applies.





SALARY AND SALARY TAXES

MINIMUM WAGE

The national pre-tax minimum wage in Australia is \$21.38 per hour (\$812.60 per 38-hour week). Casual employees covered by the national minimum wage also receive a 'casual loading' of at least 25%.

INCOME TAX

Taxable income bands for residents:



Taxable income band (AUD)	National income tax rates
0 - 18,200	0%
18,201 - 37,000	19%
37,001 - 90,000	32.5%
90,001 - 180,000	37%
180,001 +	45%

Taxable income bands for non-residents:

Taxable income band (AUD)	National income tax rates
0 - 90,000	0%
90,001 - 180,000	19%
180,001 +	32.5%



SALARY PAYMENTS

Employees must be paid at least monthly for the work they do. Most awards, enterprise agreements or registered agreements will set out when employees must be paid (weekly, fortnightly, or monthly). Employees need to be given a payslip within 1 working day of being paid.

SOCIAL SECURITY CONTRIBUTIONS

Resident individuals pay 2% of their taxable income as a Medical Levy, with some exceptions. High income resident taxpayers who do not have adequate private health insurance may be subject to an additional 1-1.5% Medicare Levy surcharge. High-income taxpayers whose private hospital insurance carries an excess payment of more than AUD 500 for single individuals or AUD 1,000 for couples or families are also subject to the Medicare Levy surcharge.



EMERALD TECHNOLOGY

www.emerald-technology.com
info@emerald-technology.com
+44 (0) 870 889 0300

Europe

Somerset House
37 Temple Street
Birmingham
B2 5DP
United Kingdom

Asia Pacific

22 Malacca Street
#03-02
RB Capital Building
Singapore
048980

Middle East

Business Central
Towers
PO BOX 503055 2001A
Dubai Internet City
UAE