



**Redfern
Legal
Centre**

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WORKPLACE JUSTICE VISA FACTSHEET

Do you hold a temporary visa with work rights, or have you held a temporary visa with work rights in the past 28 days? Have you experienced any of the following while working in Australia?

- Not paid properly or not paid at all (including not receiving entitlements like superannuation).
- Had money taken from your wages.
- Treated as an independent contractor with an Australian Business Number (ABN) instead of an employee with a Tax File Number (TFN) to avoid being paid proper wages, annual leave or sick leave.
- Subjected to unwanted touching, sexual comments, or other conduct that amounts to sexual harassment.
- Asked to work in unsafe conditions.
- Fired or forced to quit your job in circumstances that were unfair.
- Treated unfavourably because of your age, gender, sexuality or nationality.
- Threatened so that you will do certain things (e.g. threats to have your visa cancelled).
- Pressured to do or not do certain things (e.g. give your passport to your employer or pressured not to join a union).
- Other types of workplace exploitation.

If so, you may be eligible for a Workplace Justice visa.

What is a Workplace Justice visa?

The Workplace Justice visa is a temporary visa that allows temporary visa holders, or recent temporary visa holders, to stay in Australia to take legal action if they have been exploited at work (**workplace exploitation**). You must hold, or have held, a temporary visa with work rights to obtain a Workplace Justice visa.

Who is eligible for a Workplace Justice visa?

To be eligible for a Workplace Justice visa you must:

- Be in Australia either:
 - On a temporary visa with work rights (other than a Bridging visa, Criminal Justice visa or Enforcement visa) that expires in 28 days or less **OR**
 - Have held a temporary visa with work rights (other than a Bridging visa, Criminal Justice visa or Enforcement visa) that expired no more than 28 days ago.
- Have your workplace exploitation claim certified by an accredited third party (see list **below**).
- Have health insurance and sufficient funds to cover your stay in Australia.
- Intend to stay in Australia for a temporary period.
- Meet certain health and character criteria.

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Case Study 1 – Eligible for a Workplace Justice visa

Cindy arrived in Australia on a Temporary Skill Shortage visa (subclass 482). During her employment, her boss transferred the correct wage to her bank account each fortnight, but then each Monday, he walked her to an ATM and insisted that she gives him \$150 in cash. She tried to protest but he said that if she told anyone he would have her deported. He would also make comments about where she was from and how she looked.

She stayed with her employer for years thinking they would eventually sponsor her for permanent residency. Unfortunately, 10 days before her visa expired, she was told they would not sponsor her, and she had to leave Australia.

Cindy may be eligible for a Workplace Justice visa to bring a claim against her employer as she holds a temporary visa with work rights that is not a Bridging visa, Criminal Justice visa or Enforcement visa.

Who may not be eligible for a Workplace Justice visa?

You may not be eligible for a Workplace Justice visa if you have had a visa refused or cancelled.

You **will not** be eligible for a Workplace Justice visa if you have not held a temporary visa with work rights for more than 28 days and currently hold a Bridging visa, Criminal Justice visa, Enforcement visa or are unlawful.

Case Study 2 – Not Eligible for a Workplace Justice visa

Chris arrived in Australia on a Student visa (subclass 500). He applied for many jobs, but no one wanted to hire someone on a Student visa due to the 48-hour fortnight work restriction.

Eventually he found a job at a local cafe that did not seem to mind that he was on a Student visa. They offered him \$8 an hour, which he accepted because he was struggling to find a job. He started having to work additional shifts due to the low pay to make ends meet. This put him in breach of his Student visa working hours restrictions.

When his Student visa expired, he was granted a Bridging visa. After more than two months on his Bridging visa, he heard about the Workplace Justice visa and wanted to apply for it to bring a claim against his employer.

Unfortunately, Chris is unable to apply for a Workplace Justice visa because his temporary visa with work rights expired more than 28 days ago.

How much will it cost to apply for a Workplace Justice visa?

It is free - you **will not** have to pay a fee to apply for a Workplace Justice visa.

What does the Workplace Justice visa allow me to do?

It allows you to remain in Australia for 6 to 12 months to pursue a workplace exploitation claim relating to your employer. You are allowed to work while you hold this visa. You can also include family members if they are in Australia with you.

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Who can certify my workplace claim?

The following organisations can certify your workplace claim:

- The Office of the Fair Work Ombudsman
- Australian Rail, Tram, and Bus Industry Union (ARTBIU)
- Australian Workers' Union
- Australasian Meat Industry Employees' Union
- Electrical Trades Union of Australia National Council
- Human Rights Law Centre
- Migrant Workers Centre
- Redfern Legal Centre
- SA Unions
- Shop, Distributive and Allied Employees' Association (SDA)
- Unions Tasmania
- The Association of Professional Engineers, Scientists and Managers
- UnionsACT
- Transport Workers' Union of Australia
- Unions NSW
- UnionsWA
- United Workers Union (UWU)
- Western Community Legal Centre (Westjustice)

I want to apply for a Workplace Justice visa, what should I do?

It is important that you get immigration **and** employment law advice before applying for a Workplace Justice visa:

Step 1: You should get immigration law advice. You can contact a community legal centre that specialises in immigration law, a union (and ask for a referral to their immigration law service) or a private migration agent or lawyer.

Step 2: If they confirm you may be eligible for a Workplace Justice visa, you can contact an accredited third party (see list **above**) so they can provide you with relevant advice and certify your workplace exploitation claim.

Step 3: Once you receive your certification, you should contact a migration agent or lawyer to assist you to apply for a Workplace Justice visa.

You can also apply for a Workplace Justice visa through your ImmiAccount. You will need to apply for a subclass 408 visa in the "Workplace Justice Pilot" and provide the following documents with your application:

- Certification from an accredited third party.
- Evidence that you have sufficient funds for your stay in Australia.
- Evidence that you have suitable health insurance.

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