

INDUSTRIAL RELATIONS IN SOUTH AUSTRALIA

南澳洲劳资关系

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TWO INDUSTRIAL RELATIONS SYSTEMS

两种劳资关系体系

- The South Australian industrial relations system covers most unincorporated businesses in South Australia (e.g. sole traders and partnerships) as well as some incorporated businesses operating in SA (e.g. some charities and not-for-profit organisations).
- 南澳洲劳资关系体系涵盖了大多数在南澳洲设立的非法人企业（诸如个体营业者和合伙关系）和部分法人企业（诸如慈善机构和非盈利组织）。

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INDUSTRIAL RELATIONS 劳资关系

Legislation 立法情况

Federal 联邦法律

- Fair Work Bill 公平工作法案

South Australia 南澳洲法律

- *Fair Work Act 1994* 公平工作法案 (1994)
- *Long Service Leave Act 1987* 长期服务休假法案 (1987)
- Industrial Awards and 行业报酬制度,及
- Enterprise Agreements 企业协约

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INDUSTRIAL AWARDS 行业报酬制度

A Legal Obligation 法律义务

- There are approximately 160 Industrial Awards in South Australia .
- 目前南澳大约有160种行业报酬制度。
- Awards set the terms & conditions of employment, including wages .
- 这些制度规定了包括薪金在内的一些雇佣条款和条件。
- Eg Cafes & Restaurants Award – ordinary hours of work, overtime, time off, working on weekends, uniform allowances, public holidays.
- 比如，咖啡店和餐馆行业报酬制度就规定了正常工作时间、加班、下班时间、周末工作时间、制服补贴和公共假期等。
- Awards can be accessed from: www.industrialcourt.sa.gov.au
- 登录网站 www.industrialcourt.sa.gov.au 可查阅这些制度的详细内容。

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PROBATION 试用期

- Must be reasonable
- 试用期必须合理
- Length depends of seniority
- 试用期应根据工作级别确定
- Usual period is 3 months.
- 试用期一般为 3 个月
- Must be set at time employment commences
- 试用期应从员工开始工作时确定

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NOTICE 开除通知

- Employer/employer required to give notice prior to dismissing (unless for serious & willful misconduct)
- 雇主开除员工必须提前通知（除非由于严重或故意的渎职行为）
- Usually 2 weeks.
- 开除员工通常应提前 2 周通知。

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FAIR WORK ACT 公平工作法案

- Objects include:
- 该法案的宗旨是：
 - To promote and facilitate employment
 - 推动就业
 - To establish and maintain fair and enforceable minimum conditions
 - 设定并维持公平的、可执行的最低工作条件
 - Facilitate the effective balance of work and family responsibilities
- Safe Work 2007 促进工作与家庭责任的有效平衡



MINIMUM STANDARDS 最低标准

Sick Leave / Carer's Leave 病假/看护假

- 10 days per year
- 每年 10 天
- Up to 5 days each year as carer's leave
- 看护假每年最多 5 天
- Reasonable evidence can be required – employees required to provide medical certificate if required
- 需要提供合理证明 – 如必要，员工需要提供病历
- Can be taken in one hour blocks
- 允许按小时休假
- Employee must:
- 员工请假必须注意：
 - Notify their employer asap
 - 尽快告知雇主
 - Within 24 hours
 - 须在 24 小时内

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MINIMUM STANDARDS 最低标准

Annual Leave 年假

- Permanent full time employees are entitled to
- 长期全职员工可以享受
 - 20 days annual leave for every 12 months
 - 每年 20 天的年假
 - Part-time employees receive pro-rata
 - 兼职员工可按比例休假
- If no agreement - an employer may direct an employee to take annual leave
- 如无协议，雇主可指示某位员工休年假
 - 2 weeks notice
 - 提前 2 周通知
- leave loading
- 年假附加工资

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MINIMUM STANDARDS 最低标准

Unpaid Parental Leave 无薪育婴假

- Permanent employees employed at least 12 mths:
- 工作满一年后的固定员工可享受：
 - 52 weeks unpaid parental leave
 - 52 周无薪育婴假
- An employee must give:
- 休假员工必须：
 - 10 weeks notice to the employer of intention to take leave
 - 在打算休假前 10 周通知雇主
- Employee entitled to return to original position
- 休假后员工有权重返原来的工作岗位
- Employee has right to request their employer:
- 员工有权向雇主提出以下要求：
 - Simultaneous unpaid leave to 8 weeks
 - 同时休最长 8 周的无薪休假
 - Extend unpaid leave from 52 to 104 weeks
 - 将无薪育婴假从 52 周延长至 104 周
 - Part-time return until child school age
 - 休假后在公司从事兼职工作，直至孩子上学
 - Employer right to refuse on reasonable grounds
 - 雇主有权在合理情况下拒绝员工的要求

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CONCILIATION CONFERENCES 调解会议

Unfair Dismissal & Underpayment 不公正解雇与短付工资

- Conciliation conferences are compulsory in
- 需举行调解会议的情况
 - underpayment and
 - 短付工资
 - unfair dismissal
 - 不公正解雇
- Presiding officer must give the parties
- 会议主持人必须向各方公布：
 - a preliminary assessment of the claim
 - 员工投诉的初步评估结果
 - a recommendation how to proceed
 - 解决问题的建议
 - Recommendations to be given
 - 建议公布日期
 - within 3 business days of the conference
 - 在调解会议的 3 个工作日内公布

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UNFAIR DISMISSAL 不公正解雇

Employees Excluded 例外情况

An employee is excluded from an unfair dismissal claim if
以下情况员工不能提出不公正解雇索赔：

- Employed for a specified period or task
- 员工只是为特定时期、任务而受聘用；
- during a probationary period
- 还在试用期内
- Exceeds income threshold of 85k approx
- 年薪超过 85,000 澳元
- Casual – unless employed on regular & systematic basis for 6 months with reasonable expectation of continuing employment.
- 临时工——除非员工已连续稳定工作 6 个月，且在合理情况下理应继续受雇。
- Independent contractor
- 员工为独立承包商

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For Further Assistance 欲获得进一步帮助

- SafeWork SA website – www.safework.sa.gov.au
- 登录 SafeWork SA 网站 www.safework.sa.gov.au
- SafeWork Help and Early Intervention Centre
- SafeWork SA 帮助中心和早期干预中心

Phone: 1300 700 525

电话： 1300 700 525

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