

STUDENT INTERNSHIPS

VITAL TO GAINING PROFESSIONAL EXPERIENCE



“Unpaid internships have been around for a long time in Australia”, says Professionals Australia CEO Chris Walton, “and clearly in the context of a university program, they’re legitimate and a vital part of gaining professional experience.”

“What we find in times of economic downturn though is that the number of interns taken on by those simply trying to cut costs can blow out - but of course it’s very hard to monitor with the arrangements being mostly off the books.”

“In the GFC and post-GFC environment, we saw examples of graduates trying to break into the job market undertaking a series of internships either unpaid or paid well below their correct entitlements. Graduates are keen to get experience and, particularly in tight market conditions, this leaves them open to exploitation which often takes the form of working for nothing or well below the rate to which they’re entitled.”

“We’re concerned too about the myth that unpaid internships are a sound pathway to paid employment. While research hasn’t been undertaken in the Australian context, a study from the United States suggests that undertaking an unpaid internship doesn’t necessarily help graduates find paid employment. The 2011 National Association of Colleges and Employers survey found that 61 per cent of students who worked in a paid internship were offered a job when they graduated, compared with 38 percent of students who took an unpaid position, suggesting that undertaking a paid internship is a far more effective way of securing a paid position and working for free.”

“Professionals Australia believes that staff should be paid their legal entitlements and employers should comply with all the relevant industrial instruments including the relevant Award and the National Employment Standards. This isn’t simply a moral position based on fairness and equity but one that has the interests of workforce sustainability in the long term at heart. Where employers minimise labour costs without reference to minimum employment standards, they potentially contravene labour laws. Those who avoid proper rates of pay and other entitlements create an unfair competitive advantage, subverting what should be a level playing field and creating a race to the bottom whereby other employers are in turn forced to consider breaching the Award and relevant standards to remain competitive.”

“With each boom/bust cycle, unscrupulous and sometimes even well-intentioned but uninformed employers alike run the risk of driving basic standards into the ground – with the flow-on effects likely to remain in the sector in the longer term.”

“Every time an intern is taken on without pay, the sustainability of the relevant profession is compromised. Economic rationalists who argue that basic employment entitlements need to be cut when the industry contracts don’t acknowledge the longer-term damage that can be caused as pay and conditions are undermined.”

“We need to alter the culture of unpaid work as an acceptable or legitimate industry response to economic downturn.”

WHAT ARE THE FACTS AROUND INTERNSHIPS AND STUDENT PLACEMENTS?

Internships and vocational placements are a form of providing on the job training for students about to enter a profession. Professional Engineers, Professional Scientists, Architects, Nurses and Lawyers for example are all required to complete a period of supervised training before they can be registered to practice in their chosen career. However the circumstances under which this work can be unpaid is tightly controlled by the Fair Work Act 2009 (“the Act”). The Act allows for unpaid vocational placements if the following criteria are met:

- the training is undertaken as a requirement of an Australian-based educational or training course;
- it is authorised under a law or an administrative arrangement of the Commonwealth, a State or Territory; and
- it is undertaken with an employer for which a person is not entitled to be paid any remuneration.

Unpaid work experience placements and internships that don’t meet the definition of a vocational placement can also be lawful in some instances – provided the relationship between the parties is not one of “employer” and “employee”. When assessing whether the parties intended to form a legally binding employment relationship, the Fair Work Commission lists some of the key indicators as:

- **Purpose of the arrangement.** Was it to provide work experience to the person or was it to get the person to do work to assist with the business outputs and productivity?
- **Length of time.** Generally, the longer the period of placement, the more likely the person is an employee.
- **The person’s obligations in the workplace.** Although the person may do some productive activities during a placement, they are less likely to be considered an employee if there is no expectation or requirement of productivity in the workplace.
- **Who benefits from the arrangement?** The main benefit of a genuine work placement or internship should flow to the person doing the placement. If a business is gaining a significant benefit as a result of engaging the person, this may indicate an employment relationship has been formed. Unpaid work experience programs are less likely to involve employment if they are primarily observational.
- **Was the placement entered into through a university or vocational training organisation program?** If so, then it is unlikely that an employment relationship exists.

A simple rule of thumb is if the employer attracts a value to you work (such as a charge out rate or by making you do work that other employees would normally be required to do), then it is most likely an employment relationship and you should be getting paid.

PAID STUDENT INTERNSHIPS

GUIDELINES FOR VACATION WORK

Generally speaking, there is a distinction between work experience and what is known as vacation work - a paid student internship.

Work experience is something you do for experience only - and is not generally paid, nor does it attract any other benefits. Vacation employment is paid employment which is frequently (but not exclusively) undertaken as a compulsory component of a degree course and all other workplace benefits and entitlements apply, including workers' compensation coverage. Professionals Australia has developed the following guidelines for science students engaged in vacation work as part of their course requirements.

WHAT SORT OF WORK SHOULD I BE DOING?

Recognising that industrial experience is an essential element of exposure to professional science practice, students should be allocated work which is relevant to their discipline and provides insight into the impact of the work of professional scientists.

ON WHAT BASIS SHOULD I BE EMPLOYED?

Students can be employed as either full or part-time temporary employees, or as casuals. Temporary employees should receive the normal benefits of permanent employment on a pro-rata basis while casual employees should be paid a loading of 20% to compensate for annual leave, public holidays, sick leave, etc.

TO WHOM SHOULD I REPORT?

Science students should report to a professional scientist or perhaps to a senior technical/technology employee nominated by a professional scientist in larger organisations. This person should sign off a report providing an appraisal or rating of the student's performance.

HOW LONG DO PLACEMENTS USUALLY LAST?

Student placements are normally around twelve weeks in total but can be divided into shorter periods. They may also be accumulated by regular shorter periods of employment (minimum usually one week) or one period of twelve weeks. The industrial experience need not necessarily be with the one employer.

HOW ARE THE PLACEMENTS REGULATED?

A placement is generally regulated by an exchange of documents between either the student or educational institution and the employer. The document signed by the employer normally sets out:

- the period of employment;
- the number of weeks of placement;
- remuneration arrangements;
- nature of the work;
- minimum work hours per week;
- location of employment;
- industrial award/national employment standards covering work to be performed;
- any special travel/accommodation conditions;
- preferred year of course student will have completed; and
- branch of science involved in the work.

WHAT ABOUT MY EXAMS?

Students should be granted special leave to attend examinations or supplementary examinations.

GENERAL CONDITIONS

The same general conditions of employment that apply to base-grade professional scientists in the organisation should apply to students, pro-rata where necessary.

WHAT SHOULD I BE PAID?

Vacation science students should be paid at a rate not less than the figure based upon their level of studies as shown below.

SALARY BASED ON LEVEL OF STUDIES COMPLETED

Completed 1st year - 50% of Lower Quartile Level 1 Base salary Market rate for Professional Scientists

Completed 2nd year - 60% of Lower Quartile Level 1 Base salary Market rate for Professional Scientists

Completed 3rd year - 70% of Lower Quartile Level 1 Base salary Market rate for Professional Scientists

Completed 4th year - 80% of Lower Quartile Level 1 Base salary Market rate for Professional Scientists

12 week work placement - 90% of Lower Quartile Level 1 Base salary Market rate for Professional Scientists

Note: These rates apply only for period of work experience. A graduate employed as a professional scientist must be paid at the full graduate salary.

For current market rates for Professional Scientists, refer to table setting out Base salaries and Total packages for Professional Scientists at <http://www.professionalsaustralia.org.au/financial-edge/salary-survey-reports/scientists/scientists-summary-report/>.

TRAVEL

Where the place of employment is more than 100 km from the student's normal residential address, consideration should be given by the employer to the provision of assistance with travel expenses.

ACCOMMODATION

At sites more than 100 km from the student's normal residence, consideration should be given by the employer to the provision of assistance with accommodation costs.

REPORT ON VACATION WORK

Vacation science students are generally required to submit a report on their vacation work experience to their education institution and to the employer. Employers should ensure that this report is complete before cessation of employment.

WHAT ABOUT WORKERS' COMPENSATION?

Where work is unpaid and arranged and approved by the university, the university's personal accident insurance generally covers a student's placement, but it is essential to confirm this with the university. If, as is often the case, the student has arranged the placement independently, the university's policy may not apply. Common law action is generally available to students in the event of an injury while doing voluntary work experience. Where undergraduates are receiving wages for their work, there is a wage-work bargain, an employment relationship exists, and the student therefore falls under the ordinary definition of an employee for the purposes of workers' compensation. In this case the employer is responsible for taking out the appropriate workers' compensation insurance.

WHAT ABOUT PROFESSIONAL INDEMNITY AND PUBLIC LIABILITY?

Where a placement is paid, the student is considered an employee and the employer's professional indemnity and public liability insurances covers the work placement. Where the placement is unpaid, the universities carry public liability and professional indemnity insurance cover. It may be appropriate for the educational institution to clarify or reassure employers regarding the situation in relation to insurances by sending a letter setting out the insurance covers they carry in relation to their work experience program.

Am I entitled to superannuation?

Where a student over 18 years earns more than a threshold amount per quarter (refer to ATO for threshold amount), the employer has an obligation to make a superannuation contribution to a complying fund on their behalf (this also applies to casuals). Where the placement is voluntary, there is no obligation to pay the employer superannuation contribution.

If you're considering an unpaid internship outside your university course, contact the Professionals Australia Workplace Advisory Service on 1300 273 762 for advice.