

WORK INTEGRATED LEARNING & INTERNSHIPS

A WIL Placement or an Internship must be a “Vocational Placement” under the *Fair Work Act 2009* to exempt the Host Organisation from being required (at law) to pay the student as an employee.

What is a Vocational Placement?

Under the *Fair Work Act*, a Vocational Placement is a placement that is **required** as part of the course or subject. This can be for credit or as a hurdle requirement.

A Vocational Placement is NOT something done by the student to help their CV/Resume. It must be a course or subject requirement and the placement must be **approved** by the University.

In addition there must be no **entitlement** to payment. While you can receive payment, there can be no expectation that the work being performed or the manner in which it is performed entitles the student to payment.

What does entitled mean?

A person will be **entitled** to be paid as an employee if the work they are performing is that which an employee should be doing. The work should mostly benefit the student learning and not mostly benefit the Organisation in terms of its output or productivity.

What sort of payment can I get?

Students can receive a nominal payment while they are on a WIL program or internship. Students can receive a flat stipend or scholarship amount. This **must not** be linked to the work performed (eg \$10 per story) or the time at work (eg \$5 per hour). If it is linked to output then the placement may be considered to be employment and not a Vocational Placement. A stipend or scholarship should not be reduced for sick days or leave days as this implies there is an employment relationship as it links the payment to time at work/work performed.

What if it doesn't meet the criteria of a Vocational Placement?

If the placement does not meet the criteria of a Vocational Placement then the student could be considered (under the *Fair Work Act*) to be an employee. This will mean that the Host Organisation may have to pay the student the minimum payment under the relevant Award, pay for sick leave, annual leave, overtime, superannuation etc. There are other matters such as workers compensation, payroll tax, access to the unfair dismissal regime and equal opportunity act provisions for employees which may impact on the Host Organisation. These may add extra costs which the Host Organisation did not expect and leave the Host Organisation in breach of the Fair Work Act.

Are Stipends or Scholarships taxed?

We cannot give financial advice. All taxation matters are for an individual to consider based on their own specific circumstances. Please seek financial advice if you have questions.

What if the student is an employee?

The above does not apply when a student is undertaking their WIL placement or internship as an employee of the Host Organisation.

Legal Advice

Students and Host Organisations need to seek their own legal advice if they have any questions about whether the placement or internship meet the requirements of a Vocational Placement under the *Fair Work Act 2009*.

Work Integrated Learning (WIL)

MORE INFORMATION

FAIR WORK OMBUDSMAN

Please see the Fair Work Ombudsman website for more information about unpaid work:

<https://www.fairwork.gov.au/pay/unpaid-work>

LEGAL ADVICE

You may be able to seek advice from the LTSU legal service or from your local community legal centre. See: latrobesu.org.au/legal or www.fclc.org.au