

## Nannies & au pairs - employment status & award coverage

### Employment status

Whether a nanny or an au pair is an employee will depend on the individual relationship.

#### Nannies

Nannies are most often engaged as employees. This doesn't mean nannies can't be genuine independent contractors.

#### Au Pairs

Au pairs are often employees too.

Some au pairs are like live-in employees, working long hours as a child carer for the family.

Some au pairs aren't in an employment arrangement. For example, some au pairs are from overseas and live with families in Australia primarily for a cultural experience. They only give the family a small amount of assistance looking after children.

If the family has a lot of control over the au pair's day to day activities, they are likely to be an employee.

### Award coverage

#### Miscellaneous Award

Employees can be covered by the Miscellaneous Award when they are in an employment relationship, working in a private home and performing tasks such as:

- the care of children
- preparing meals for children
- planning educational and extra-curricular activities
- light household work.

#### Example

Mary works three days a week, caring for a 2 year old and 3 year old from 7am to 5pm in the children's home while their parents are at work. Mary is paid an hourly rate. Mary's hours and tasks are set by the children's parents.

While caring for the children Mary takes them to swimming lessons and music classes and prepares their meals and snacks. She also occasionally tidies the children's bedrooms and washes their clothes.

Mary is covered by the Miscellaneous Award.

### Children's Services Award

The Children's Services Award is likely to cover employees performing child care work in day care facilities, family based childcare, out-of-school hours care, vacation care, in-home care (a government funded program), kindergartens and preschools, mobile centres and early childhood intervention programs.

### References

Miscellaneous Award (<http://awardviewer.fwo.gov.au/award/show/MA000104>)



Children's Services Award (<http://awardviewer.fwo.gov.au/award/show/MA000120>)



For further information on Miscellaneous Award coverage, see the Fair Work Commission's decision in *United Voice v Gold Coast Kennels Discretionary Trust t/a AAA Pet Resort* [2018] FWCFB 128 (<https://www.fwc.gov.au/documents/decisionsigned/html/2018fwcfb128.htm>)



For further information on the In Home Care program see the Department of Education and Training website - <https://www.education.gov.au/in-home-care>



<https://www.education.gov.au/in-home-care>

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