



The National Employment Standards (NES) and New Wage Setting Arrangements

Australian Fair Pay and Conditions Standards (AFPCS) → National Employment Standards (NES)		
Employment Condition	Current AFPCS	Changes in proposed NES (to operate from 1 January 2010)
Annual leave	<ul style="list-style-type: none"> 4 weeks paid annual leave per annum (pro rata). Calculated on actual hours worked. Complex record keeping requirements to track actual hours. 	<ul style="list-style-type: none"> No change. Calculated on ordinary hours (not actual hours) worked at the base rate. Record keeping requirements simplified. Can pay out accrued annual leave by agreement providing leave a balance of 4 weeks
Personal leave <ul style="list-style-type: none"> Sick/Carers leave Compassionate leave 	<ul style="list-style-type: none"> 10 days paid sick/carers leave per annum calculated on actual hours worked. 2 days unpaid carers leave (if paid leave exhausted). Complex record keeping requirements. 	<ul style="list-style-type: none"> Calculated on ordinary hours (not actual hours) worked at the base rate. Record keeping simplified.
	<ul style="list-style-type: none"> 2 days compassionate leave. 	<ul style="list-style-type: none"> No change.
Parental leave	<ul style="list-style-type: none"> 12 months unpaid parental leave. 	<ul style="list-style-type: none"> Ability for employee to request a second 12 months unpaid leave. Spouse can have up to 3 weeks concurrent leave on birth etc up from 1 week.
Maximum hours of work	<ul style="list-style-type: none"> 38 hours per week plus reasonable additional hours. Can be averaged over a 12 month period 	<ul style="list-style-type: none"> An employee can be required to work additional hours (exceeding 38 hours per week) but may refuse if the request is unreasonable. New considerations for reasonableness now include: <ul style="list-style-type: none"> whether or not the employee is entitled to receive overtime, penalty rates or other compensation; the usual pattern of work in the industry; the employee's role and level of responsibility; and whether the hours are in addition with agreed averaging arrangements. An award or enterprise agreement can specify a period over which

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		<ul style="list-style-type: none"> the maximum weekly hours can be averaged. For employees not covered by an award or enterprise agreement, the hours can be averaged over a period of not more than 26 weeks. 																						
Request for flexible working arrangements	<ul style="list-style-type: none"> No provision. 	<ul style="list-style-type: none"> An employee who is a parent of or has responsibility for a child under school age can request flexible working hours. An employer may refuse on 'reasonable business grounds'. Request and refusal must be in writing and provide reasons. Intention to encourage negotiated outcomes. Fair Work Australia can't impose the arrangements on an employer. 																						
Community service leave	<ul style="list-style-type: none"> No provision. 	<ul style="list-style-type: none"> Right to be absent for jury service, employer to top up jury pay to employee's base rate for ordinary hours. Right to take unpaid leave for voluntary emergency service duty. 																						
Public holidays	<ul style="list-style-type: none"> Employee can be asked to work and can refuse on specified grounds. 	<ul style="list-style-type: none"> No significant change but ACT will probably be able to reinstate Union Picnic Day. 																						
Redundancy pay	<ul style="list-style-type: none"> No provision. 	<ul style="list-style-type: none"> Previously only applied where award specified. A business with 15 or more employees must pay redundancy pay (below) if the employee's job is no longer needed or the employer is bankrupted/liquidated. 																						
		<table border="1"> <thead> <tr> <th>Redundancy pay period (Employee's period of continuous service with the employer on termination)</th> <th>Redundancy pay period</th> </tr> </thead> <tbody> <tr> <td>At least 1 but less than 2 years</td> <td>4 weeks</td> </tr> <tr> <td>At least 2 but less than 3 years</td> <td>6 weeks</td> </tr> <tr> <td>At least 3 but less than 4 years</td> <td>7 weeks</td> </tr> <tr> <td>At least 4 but less than 5 years</td> <td>8 weeks</td> </tr> <tr> <td>At least 5 but less than 6 years</td> <td>10 weeks</td> </tr> <tr> <td>At least 6 but less than 7 years</td> <td>11 weeks</td> </tr> <tr> <td>At least 7 but less than 8 years</td> <td>13 weeks</td> </tr> <tr> <td>At least 8 but less than 9 years</td> <td>14 weeks</td> </tr> <tr> <td>At least 9 but less than 10 years</td> <td>16 weeks</td> </tr> <tr> <td>At least 10 years</td> <td>12 weeks</td> </tr> </tbody> </table>	Redundancy pay period (Employee's period of continuous service with the employer on termination)	Redundancy pay period	At least 1 but less than 2 years	4 weeks	At least 2 but less than 3 years	6 weeks	At least 3 but less than 4 years	7 weeks	At least 4 but less than 5 years	8 weeks	At least 5 but less than 6 years	10 weeks	At least 6 but less than 7 years	11 weeks	At least 7 but less than 8 years	13 weeks	At least 8 but less than 9 years	14 weeks	At least 9 but less than 10 years	16 weeks	At least 10 years	12 weeks
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Notice periods for termination	(required by the Workplace Relations Act 1996)																							
	Period of employment	Period of notice																						
	Not more than 1 year	At least 1 week																						
	More than 1 but not more than 3 years	At least 2 weeks																						
	More than 3 but not more than 5 years	At least 3 weeks																						
	More than 5 years	At least 4 weeks*																						
	* may be increased by 1 week where employee is over 45 and has two years continuous service																							
		<ul style="list-style-type: none"> No change. 																						

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Wage Setting

Minimum Wage matters are no longer part of the AFPCS/NES but are Dealt With Separately in the *Workplace Relations Act 1996* (Cth).

From January 2010, Fair Work Australia must review and determine each financial year:

1. all award minimum wages; and
2. the national minimum wage order.

The national minimum wage order will include:

- The national minimum wage base rate
- The special minimum wage rates for:
 - juniors
 - Trainees; and
 - Employees with disabilities
- The casual loading for award and non-award employees.

All determinations on award or other minimum wage rates will operate from 1 July each year and will be published by Fair Work Australia on its website before then.

All new rates are to be implemented from the start of the employee's first full pay period after 1 July.

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