

The 10 National Employment Standards - Applies from 1st January 2010

1. Maximum weekly hours of work

The maximum hours of work remain at 38 hrs per week. An employee cannot be asked to work more than 38 hours a week unless the request is "reasonable". The following are some of the factors that must be considered:

- any risk to employee health & safety from working the additional hours;
- the employee's personal circumstances, including family responsibilities;
- the needs of the workplace in which the employee is employed;
- whether the employee is entitled to receive overtime payments, penalty rates or other compensation for working additional hours;
- any notice given by the employer of any request or requirement to work the additional hours;
- any notice given by the employee of his or her intention to refuse to work the additional hours;
- the usual patterns of work in the industry
- the nature of the employee's role, and the employee's level of responsibility;

2. Flexible working arrangements

Flexible working hours have been introduced for all carers of children under school age or with a child under 18 years with a disability with 12 months of minimum service. State /Territory laws continue to apply if they're more beneficial.

An employer can only refuse a request for flexible working hours on "reasonable" business grounds.

This applies to all permanent employees and long term casual employees

3. Parental Leave

Both parents now have an entitlement to 12 months of unpaid parental leave. One parent can take 2 years if the other parent is not taking their 12 months leave.

Requests for this additional year can only be refused by the employer on "reasonable grounds".

Maternity and paternity leave and adoption leave are now all called parental leave. These rights apply to permanent and long term casual employees.

4. Annual Leave

The NES allow for the cashing out of annual leave if a modern award or enterprise agreement allows for it if an employer and employee agree in writing to the cashing out of annual leave.

Strict rules apply to govern the cashing out of annual leave. Four weeks of accrued annual leave must remain in place immediately after the cashing out of the annual leave. There is no requirement on employers to cash out annual leave.

There is a right to require employees to take leave if it's reasonable to do so (eg: if the employee has accrued excessive amounts of leave or if there is a workplace closure)

5. Personal/carer's leave and compassionate leave

Paid personal/carers leave accrues from year to year (10 days) but doesn't apply to casual employees.

Personal and carer's leave can be cashed out as long as 15 days leave remains & only if an award/enterprise agreement provides for it.

Two days unpaid carers leave and compassionate leave applies to casual employees.

6. Community service leave

This covers certain types of community service activity including voluntary emergency management on an unpaid volunteer basis.

It also includes jury service and requires that an employer provide to the employee 10 days of make up pay for such jury service to the extent that the employee wasn't compensated by jury service pay. State and Territory laws remain in existence to the extent they are more beneficial (including jury service pay).

7. Long service leave

State and Territory laws remain in place unaltered until the long service leave provisions are drafted.

8. Public holidays

These provisions are unchanged other than official recognition of the Queen's birthday as a federal holiday.

9. Notice of termination and redundancy pay

The periods of notice of termination are the same but the right to redundancy pay (in addition to any payment made in lieu of notice) is new.

Redundancy pay is required to be paid if an employer has 15 or more employees. This is based on continuous service.

10. Fair work information sheet

Employees need to provide a Fair Work Information Statement to all current employees before 1 January 2010 and to all new employees thereafter.