

**Index and links to:**

**THE NATIONAL EMPLOYMENT STANDARDS**

**Divisions 1-12 of Part 2-2 of the [Fair Work Act 2009](#) (Cth)**

**As at 15.11.18**

**PART 2-2--THE NATIONAL EMPLOYMENT STANDARDS**

**Division 1--Introduction**

- [59](#) Guide to this Part
- [60](#) Meanings of [employee and](#) employer

**Division 2--The National Employment Standards**

- [61](#) The National Employment Standards are minimum standards applying to employment of employees

**Division 3--Maximum weekly hours**

- [62](#) Maximum weekly hours
- [63](#) Modern awards and enterprise agreements may provide for averaging of hours of work
- [64](#) Averaging of hours of work for award/agreement free employees

**Division 4--Requests for flexible working arrangements**

- [65](#) Requests for flexible working arrangements
- [66](#) State and Territory laws that are not excluded

**Division 5--Parental leave and related entitlements**

**Subdivision A--General**

- [67](#) General rule--employee must have completed at least 12 months of service
- [68](#) General rule for adoption-related leave--child must be under 16 etc.
- [69](#) Transfer of employment situations in which employee is entitled to continue on leave etc.

**Subdivision B--Parental leave**

- [70](#) Entitlement to unpaid parental leave
- [71](#) The period of leave--other than for members of an employee couple who each intend to take leave
- [72](#) The period of leave--members of an employee couple who each intend to take leave
- [73](#) Pregnant employee may be required to take unpaid parental leave within 6 weeks before the birth
- [74](#) Notice and evidence requirements
- [75](#) Extending period of unpaid parental leave--extending to use more of available parental leave period

- [76](#) Extending period of unpaid parental leave--extending for up to 12 months beyond available parental leave period
- [77](#) Reducing period of unpaid parental leave
- [77A](#) Pregnancy ends (other than by birth of a living child) or child born alive dies
- [78](#) Employee who ceases to have responsibility for care of child
- [79](#) Interaction with paid leave
- [79A](#) Keeping in touch days
- [79B](#) Unpaid parental leave not extended by paid leave or keeping in touch days

### **Subdivision C--Other entitlements**

- [80](#) Unpaid special maternity leave
- [81](#) Transfer to a safe job
- [81A](#) Paid no safe job leave
- [82](#) Employee on paid no safe job leave may be asked to provide a further medical certificate
- [82A](#) Unpaid no safe job leave
- [83](#) Consultation with employee on unpaid parental leave
- [84](#) Return to work guarantee
- [84A](#) Replacement employees
- [85](#) Unpaid pre-adoption leave

### **Division 6--Annual leave**

- [86](#) Division applies to employees other than casual employees
- [87](#) Entitlement to annual leave
- [88](#) Taking paid annual leave
- [89](#) Employee not taken to be on paid annual leave at certain times
- [90](#) Payment for annual leave
- [91](#) Transfer of employment situations that affect entitlement to payment for period of untaken paid annual leave
- [92](#) Paid annual leave must not be cashed out except in accordance with permitted cashing out terms
- [93](#) Modern awards and enterprise agreements may include terms relating to cashing out and taking paid annual leave
- [94](#) Cashing out and taking paid annual leave for award/agreement free employees

### **Division 7--Personal**

#### **Subdivision A--Paid personal**

- [95](#) Subdivision applies to employees other than casual employees
- [96](#) Entitlement to paid personal/carer's leave
- [97](#) Taking paid personal/carer's leave
- [98](#) Employee taken not to be on paid personal/carer's leave on public holiday
- [99](#) Payment for paid personal/carer's leave
- [100](#) Paid personal/carer's leave must not be cashed out except in accordance with permitted cashing out terms
- [101](#) Modern awards and enterprise agreements may include terms relating to cashing out paid personal/carer's leave

### **Subdivision B--Unpaid carer's leave**

- [102](#) Entitlement to unpaid carer's leave
- [103](#) Taking unpaid carer's leave

### **Subdivision C--Compassionate leave**

- [104](#) Entitlement to compassionate leave
- [105](#) Taking compassionate leave
- [106](#) Payment for compassionate leave (other than for casual employees)

### **Subdivision D--Notice and evidence requirements**

- [107](#) Notice and evidence requirements

## **Division 8--Community service leave**

- [108](#) Entitlement to be absent from employment for engaging in eligible community service activity
- [109](#) Meaning of eligible community service activity
- [110](#) Notice and evidence requirements
- [111](#) Payment to employees (other than casuals) on jury service
- [112](#) State and Territory laws that are not excluded

## **Division 9--Long service leave**

- [113](#) Entitlement to long service leave
- [113A](#) Enterprise agreements may contain terms discounting service under prior agreements etc. in certain circumstances

## **Division 10--Public holidays**

- [114](#) Entitlement to be absent from employment on public holiday
- [115](#) Meaning of public holiday
- [116](#) Payment for absence on public holiday

## **Division 11--Notice of termination and redundancy pay**

### **Subdivision A--Notice of termination or payment in lieu of notice**

- [117](#) Requirement for notice of termination or payment in lieu
- [118](#) Modern awards and enterprise agreements may provide for notice of termination by employees

### **Subdivision B--Redundancy pay**

- [119](#) Redundancy pay
- [120](#) Variation of redundancy pay for other employment or incapacity to pay
- [121](#) Exclusions from obligation to pay redundancy pay

- [122](#) Transfer of employment situations that affect the obligation to pay redundancy pay

#### **Subdivision C--Limits on scope of this Division**

- [123](#) Limits on scope of this Division

#### **Division 12--Fair Work Information Statement**

- [124](#) Fair Work Ombudsman to prepare and publish Fair Work Information Statement
- [125](#) Giving new employees the Fair Work Information Statement

#### **Division 13--Miscellaneous**

- [126](#) Modern awards and enterprise agreements may provide for school-based apprentices and trainees to be paid loadings in lieu
- [127](#) Regulations about what modern awards and enterprise agreements can do
- [128](#) Relationship between National Employment Standards and agreements etc. permitted by this Part for award/agreement free employees
- [129](#) Regulations about what can be agreed to etc. in relation to award/agreement free employees
- [130](#) Restriction on taking or accruing leave or absence while receiving workers' compensation
- [131](#) Relationship with other Commonwealth laws