



## NATIONAL EMPLOYMENT STANDARDS

### How do the new National Employment Standards Apply?

The new Fair Work Act has introduced a set of 10 National Employment Standards (NES) which have applied to *all* federal system employers from 1 January 2010.

Terms and conditions of existing AWA's, ITEA's, Workplace Agreements and future Awards and Enterprise Agreements must meet the new standard – regardless of the actual term within (for instance) a current agreement.

*Simply put, the National Employment Standards (along with Modern Awards) form a new 'safety net' of terms and conditions. From 1 January 2010 all federal system employers must comply – no exceptions.*

### What are the 10 new National Employment Standards?

#### 1. Maximum weekly hours of work

Maximum weekly hours of work are 38 hours for full-time employees with 'reasonable additional hours' for full-time and part-time employees. A modern award or enterprise agreement may provide an average of ordinary weekly hours. Non-award/enterprise agreement employees can agree to an average of hours over six months or less. Averaging of hours will be subject to reasonableness factors.

#### 2. Requests for flexible working arrangements

Parents with responsibility of caring for a child under school age (or under 18 with a disability) may request a change in working arrangements to assist with the care of the child. An Employer may refuse such a request on reasonable business grounds and the employer's decision will not be subject to review.

#### 3. Parental leave and related entitlements

Both parents will be entitled to separate periods of up to 12 months unpaid parental leave. Alternatively, one parent can apply for an additional 12 months (so still a total of 24 months *per couple*) unpaid parental leave but an employer can refuse an employee's request on reasonable business grounds. Parental leave is applicable equally to same sex couples.

#### 4. Annual leave

Four weeks annual leave per annum. Paid annual leave will accrue as per the current system of accrual. Cashing out of annual leave will be allowed if provided for in modern awards or enterprise agreements. Non-award/agreement employees may agree to do so provided a balance of four weeks annual leave remains.

### 5. Personal/carer's leave and compassionate leave

10 days paid personal/carer's leave per annum and two days compassionate leave per occasion. Paid carer's leave is no longer capped at 10 days per year (the employee must have a sufficient accrual to take more however). Carer's leave is applicable equally to same sex couples.

### 6. Community service leave

Unpaid leave to enable an employee to undertake eligible community work such as jury duty or voluntary emergency management activity (ie SES duty). In regard to jury service make up pay of up to 10 days at the employee's base rate of pay applies for full-time and part-time employees.

### 7. Long service leave

Employees will continue to be entitled to long service leave in accordance with their current entitlements.

### 8. Public holidays

8 National Public Holidays plus additional days gazetted in the State or Territory where the employee works (ie. Labour Day). The employer may reasonably request an employee work a public holiday. The employee may refuse if the request is unreasonable or if their refusal is reasonable in the circumstances. Specific factors are provided in respect to determining 'reasonableness'.

### 9. Notice of termination of employment and redundancy pay

Periods of notice of termination by the employer remain unchanged, however, notice by the employer must be in writing. Also, a scale of redundancy pay based on continuous service with the employer now applies to all federal system employers who employ 15 employees or more; previously this only applied to award covered employees.

### 10. Fair Work Information Statement

Employers will be required to give the Fair Work Australia Information Statement to all new employees after January 1, 2010. A copy is available in the Fact Sheet section.



**IndigoField**

Industrial Relations

**If you have any questions regarding this fact sheet or would like assistance regarding IR/HR/OHS contact IR Assist for more information:**

**p: 1300 393 519 | m: 0408826625 | e: [info@irassist.com.au](mailto:info@irassist.com.au)**