

Annual Leave Calculations from 1/1/2010

MODERN FEDERAL NURSES AWARD 2010

PROVISIONS

31. Annual Leave

Annual leave is provided for in the NES. This clause contains additional provisions.

31.1.1 Quantum of annual leave

- (a) In addition to the entitlements in the NES, full-time employees are entitled to an additional week of annual leave on the same terms and conditions.
- (b) For the purpose of the additional weeks annual leave provided by the NES, a shift worker is defined as an employee who:
 - (i) is regularly rostered over seven days a week; and
 - (ii) regularly works on weekends.

NATIONAL EMPLOYMENT STANDARDS (NES)

DIVISION 6 – Annual Leave

86. Division applies to employees other than casual employees

This Division applies to employees, other than casual employees.

87. Entitlement to annual leave

Amount of leave

- (1) For each year of service with his or her employer, an employee is entitled to:
 - (a) 4 weeks of paid annual leave; or
 - (b) 5 weeks of paid annual leave, if:

- (i) a modern award applies to the employee and defines or describes the employee as a shift worker for the purposes of the National Employment Standards; or
- (ii) an enterprise agreement applies to the employee and defines or describes the employee as a shift worker for the purposes of the National Employment Standards; or
- (iii) the employee qualifies for the shift worker annual leave entitlement under subsection (3) (this relates to award/agreement free employees).

Note: Section 196 affects whether FWA may approve an enterprise agreement covering an employee, if the employee is covered by a modern award that is in operation and defines or describes the employee as a shift worker for the purposes of the National Employment Standards.

Accrual of leave

- (2) An employee's entitlement to paid annual leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.

Note: If an employee's employment ends during what would otherwise have been a year of service, the employee accrues paid annual leave up to when the employment ends.

Award/agreement free employees who qualify for the shift worker entitlement.

- (3) An award/agreement free employee qualifies for the shift worker annual leave entitlement if:
 - (a) the employee:
 - (i) is employed in an enterprise in which shifts are continuously rostered 24 hours a day for 7 days a week; and
 - (ii) is regularly rostered to work those shifts; and
 - (iii) regularly works Sundays and public holidays; or
 - (b) the employee is in a class of employees prescribed by the regulations as shift workers for the purposes of the National Employment Standards.
- (4) However, an employee referred to in subsection (3) does not qualify for the shift worker annual leave entitlement if the employee is in a class of employees prescribed by the regulations as not being qualified for that entitlement.

(5) Without limiting the way in which a class may be described for the purposes of paragraph (3)(b) or subsection (4), the class may be described by reference to one or more of the following:

- (a) a particular industry or part of an industry;
- (b) a particular kind of work;
- (c) a particular type of employment.

SUMMARY

- **Part-time Employees**

- 1) Entitled to 4 weeks;
- 2) Entitled to 5 weeks if:
 - (a) regularly rostered over 7 days a week; and
 - (b) regularly work on weekends.

- **Full-time Employees**

- 1) Entitled to 5 weeks if:
 - (a) not regularly rostered over 7 days a week and weekends;
- 2) Entitled to 6 weeks if:
 - (a) regularly rostered over 7 days a week; and
 - (b) regularly work on weekends.

ACTION

On and from 1/1/2010 employers must:

1. Vary annual leave entitlements in accordance with Award and NES entitlements.
2. Keep a record of hours worked by shift workers on weekends to determine whether employees are entitled to 5 weeks or 6 weeks annual leave.

Annual Leave Calculations from 1/1/2010

MODERN FEDERAL AGED CARE AWARD 2010

PROVISIONS

28. Annual Leave

Annual leave is provided for in the NES. This clause contains additional provisions.

28.1 Quantum of annual leave

- (a) In addition to the entitlements in the NES a shiftworker or an employee who works for more than four ordinary hours on 10 or more weekends is entitled to an additional week's annual leave on the same terms and conditions.
- (b) For the purpose of the NES, a shiftworker is defined as an employee who is regularly rostered to work their ordinary hours outside the ordinary hours of work of a day worker as defined in clause 22.2(a).

NATIONAL EMPLOYMENT STANDARDS (NES)

DIVISION 6 – Annual Leave

86. Division applies to employees other than casual employees

This Division applies to employees, other than casual employees.

87. Entitlement to annual leave

Amount of leave

- (1) For each year of service with his or her employer, an employee is entitled to:
 - (a) 4 weeks of paid annual leave; or
 - (b) 5 weeks of paid annual leave, if:

- (i) a modern award applies to the employee and defines or describes the employee as a shift worker for the purposes of the National Employment Standards; or
- (ii) an enterprise agreement applies to the employee and defines or describes the employee as a shift worker for the purposes of the National Employment Standards; or
- (iii) the employee qualifies for the shift worker annual leave entitlement under subsection (3) (this relates to award/agreement free employees).

Note: Section 196 affects whether FWA may approve an enterprise agreement covering an employee, if the employee is covered by a modern award that is in operation and defines or describes the employee as a shift worker for the purposes of the National Employment Standards.

Accrual of leave

- (2) An employee's entitlement to paid annual leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.

Note: If an employee's employment ends during what would otherwise have been a year of service, the employee accrues paid annual leave up to when the employment ends.

Award/agreement free employees who qualify for the shift worker entitlement.

- (3) An award/agreement free employee qualifies for the shift worker annual leave entitlement if:
 - (a) the employee:
 - (i) is employed in an enterprise in which shifts are continuously rostered 24 hours a day for 7 days a week; and
 - (ii) is regularly rostered to work those shifts; and
 - (iii) regularly works Sundays and public holidays; or
 - (b) the employee is in a class of employees prescribed by the regulations as shift workers for the purposes of the National Employment Standards.
- (4) However, an employee referred to in subsection (3) does not qualify for the shift worker annual leave entitlement if the employee is in a class of employees prescribed by the regulations as not being qualified for that entitlement.

(5) Without limiting the way in which a class may be described for the purposes of paragraph (3)(b) or subsection (4), the class may be described by reference to one or more of the following:

- (a) a particular industry or part of an industry;
- (b) a particular kind of work;
- (c) a particular type of employment.

SUMMARY

1. Employees who are not shift workers are entitled to 4 weeks annual leave.
2. Employees who are shift workers or an employee who works for more than 4 ordinary hours on 10 or more weekends are entitled to 6 weeks annual leave.
3. Employees who are not shift workers who work for more than 4 ordinary hours on 10 or more weekends are entitled to 5 weeks annual leave.
4. Employees who are shift workers and work for 4 hours or less and who work for less than 10 weekends are entitled to 5 weeks annual leave.

ACTION

On and from 1/1/2010 employers must:

1. Vary annual leave entitlements in accordance with Award and NES entitlements.
2. Keep a record of hours worked by shift workers on weekends to determine whether employees are entitled to 5 weeks or 6 weeks annual leave.