

Variation to Awards to include Pandemic Leave and flexibility to take Annual Leave at half pay



On the 1 April 2020 the Fair Work Commission released a statement in relation to varying 103 Awards to insert a new schedule X – additional measures during COVID 19 Pandemic - AM2020/12

<https://www.fwc.gov.au/awards-and-agreements/awards/award-modernisation/variation-applications/AM2020/12?type=variation>

Timeline:

- Submissions supporting or opposing the provisional views set out in the Statement must be lodged by 4 pm on Monday 6 April 2020.
- In the event that a submission is received opposing the provision views the matter will proceed to a hearing at 2.00 pm Wednesday 8 April 2020.

In summary it is proposed a provision be included for Unpaid Pandemic Leave:

- An employee may elect to take up to 2 weeks' unpaid leave if the employee is required, by government or medical authorities or action of medical advice, to self-isolate or is otherwise prevented from working by measures taken by government or medical authorities in response to the COVID-19 pandemic in circumstance where the employee is required to work premises operated by an employer
- An employee must give you notice of the taking of the pandemic leave and of the reason they required to leave, as soon as practicable, in some cases, this may be after the leave has started
- If requested the employee must provide evidence that would satisfy a reasonable person that the leave is taken in response to advice listed above
- The pandemic leave does not affect any other paid or unpaid leave entitlements and counts as service for the purposes of entitlements under an Award/Agreement and the National Employment Standards
- Will be available in full immediately, rather than accruing progressively during a year of service.
- Will be available to all full-time, part-time and casual employees (not pro-rated)
- It will not be necessary for employees to exhaust their paid leave entitlements before accessing unpaid pandemic leave
- No comments in the statement on how many times this leave can be utilised
- Will only be available until 30th June 2020 (unless extended by further variation and dependent of the duration of the COVID-19 pandemic)

Proposal for **Annual leave at half pay**

- Builds on the annual leave flexibility clauses currently in awards
- By agreement between the employer and employee, an employee may take up to twice as much annual leave at half the rate of pay.
- The agreement must be recorded in writing and retained as an employee record.

Example: instead of an employee taking one week's annual leave on full pay, you may agree with the employee to taking 2 weeks' annual leave on half pay, ie/ the employee's full pay for the 2 weeks leave is the same as the pay the employee who have been entitled to for 1 weeks' leave on full pay (including leave loading under the annual leave clause of the relevant award) and one week's leave is deducted from their annual leave accrual.

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