



# Employing Staff in Victoria

## INDUSTRIAL RELATIONS

### The Fair Work System AUS

Australia has a national workplace relations system, established and regulated by the *Fair Work Act 2009* (Cth) (Fair Work Act) (Fair Work system).

#### Key elements of the Fair Work system include:

- a safety net of minimum terms and conditions of employment consisting of ten legislated National Employment Standards and modern awards that apply nationally to specific industries and occupations;
- a focus on agreement making at the enterprise level;
- unfair dismissal protection for employees; and
- an independent umpire called Fair Work Australia which has the power to vary modern awards, determine unfair dismissal claims, assist employers and employees to make enterprise agreements and resolve a range of workplace disputes.

### The Safety Net

#### National Employment Standards

The following ten National Employment Standards apply to all employees covered by the Fair Work System:

- **maximum weekly working hours** – 38 hours per week, plus reasonable additional hours;
- **a right to request flexible working arrangements** – an entitlement allowing parents/carers of a child under school age, or a child under 18 years of age with a disability, to make a request to their employer for flexible working arrangements to assist with those caring responsibilities;



- **parental leave and related entitlements** – up to 12 months unpaid parental leave per employee with the option to request an additional 12 months unpaid leave (does not apply to short-term casual employees);
- **four weeks paid annual leave per annum** – calculated on a pro-rata basis for part-time employees with an additional week for certain shift workers (does not apply to casual employees);
- **personal/carer's leave and compassionate leave** – 10 days paid personal/carer's leave for full-time employees, calculated on a pro-rata basis for part-time employees. Full-time, part-time and casual employees are also entitled to two days unpaid carer's leave on each occasion required, and two days compassionate leave (paid for full-time and part-time employees and unpaid for casuals) on the death or serious illness or injury of a member of the employee's immediate family or household;
- **community service leave** – unpaid leave for voluntary emergency activities and leave for jury service (with an entitlement to be paid the difference between the employee's usual rate of pay and the amount paid by the State or Territory government for the performance of jury service, but only in respect of a maximum 10 days);

- **long service leave** – this sets out an interim standard pending the development of a uniform national long service leave standard. In general terms, under the interim standard, an employee is entitled to long service leave in accordance with the award or agreement that applied to them prior to 1 January 2010, or under the applicable State or Territory long service leave legislation. In Victoria, long service leave entitlements are provided by the Long Service Leave Act 1992. See the Business Victoria website for further information: [www.business.vic.gov.au](http://www.business.vic.gov.au); public holidays – an entitlement to reasonably refuse to work on a day or part-day that is a public holiday, and to be paid at the employee’s base rate of pay. There are eight nationally recognised public holidays, plus such other days recognised as public holidays under State or Territory law;
- **notice of termination and redundancy pay** – up to five weeks notice of termination (depending on length of service) and redundancy pay starting at four weeks pay for an employee with at least one year but less than two years service and up to 16 weeks pay for an employee with at least nine years but less than 10 years service;
- **Fair Work Information Statement** – employers must provide all new employees with the Fair Work Information Statement.

For more information, including fact sheets, see: [www.fairwork.gov.au](http://www.fairwork.gov.au)

## Modern Awards

- Modern awards commenced operation on 1 January 2010, replacing more than 1500 federal and state awards with 122 modern awards that set minimum terms and conditions of employment on an industry or occupational basis.

- Modern awards, which apply in addition to the National Employment Standards, may include terms in relation to: minimum wages; types of employment; arrangements for when work is performed; overtime and penalty rates; annualised salary arrangements; allowances; superannuation, and dispute resolution.
- The modern award for the retail industry is the *General Retail Industry Award 2010* (Retail Industry Award) which can be found at: [www.fwa.gov.au](http://www.fwa.gov.au)

## Enterprise agreements

- Employers and employees wanting to tailor terms and conditions of employment to meet the needs of a particular enterprise or workplace can make an enterprise agreement.
- A modern award does not apply to an employer and its employees who are covered by an enterprise agreement so that all terms and conditions of employment may be contained in the one document. However, before approving an agreement, Fair Work Australia must be satisfied that the employees who will be covered by the agreement will be better off overall under the agreement than under the applicable modern award.
- Fair Work Australia can assist in the process of making enterprise agreements, including assisting parties to resolve any disputes that may arise during bargaining.

## More information about agreement making and other employment conditions in the Fair Work system can be found at:

[www.fairwork.gov.au](http://www.fairwork.gov.au) and [www.fwc.gov.au](http://www.fwc.gov.au)

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