

Changes to Annual Leave - Do they affect your business?

Industrial Relations
Human Resources



IRHR 16/03

The Fair Work Commission (FWC) has varied some awards with new or changed terms about taking annual leave. A majority of these changes take effect from 29 July 2016 and affect the following awards used by businesses in the Brisbane Markets and our Retail Program members, including but not limited to:

- Storage Services and Wholesale Industry Award
- Clerks Private Sector Award
- Road Transport Industry Award
- General Retail Industry Award

NOTE: Market businesses who currently have an employee collective or enterprise agreements already have these provisions in their agreements. Therefore, there is no change in the application of annual leave under these agreements.

Below is a summary of the changes in annual leave:

Cashing Out Annual Leave

Previously not allowed, this has now been included in the above awards. Employees can now 'cash out' annual leave, if they:

- Have at least 4 weeks annual leave left after the cash out
- Have a signed written agreement with their employer
- Don't cash out more than 2 weeks each 12 months

Employers need to keep this agreement for the employee's records. An employer can't force or pressure an employee to 'cash out' annual leave. The payment for cashed out leave has to be the same as what the employee would have been paid if they took the leave.

Taking Annual Leave in Advance

Employees can now take annual leave in advance if their employer agrees in writing. The agreement needs to:

- Be signed by both employer and employee
- Say how much annual leave is being taken in advance
- Say the day the leave will start

Employers need to keep this agreement with the employee's records. If an employee takes leave in advance and their employment ends before they have accrued the leave, the employer can deduct the amount still owing from their final pay.

Excessive Annual Leave

Excessive Annual Leave is when an employee has accumulated at least 8 weeks of leave (10 weeks for a shiftworker). In this circumstance, if an employee can't agree with their employer on when to take leave, the employer can currently:

- Tell the employee in writing that they must take annual leave
- Give the employee at least 8 weeks notice (not more than 12 months) of when the leave will start

There are further rules about how long the period of leave has to be and how much the employee has to have left afterwards.

Notice by employee

These awards will now include a new clause, to take effect from 29 July 2017, allowing employees with excessive annual leave balances to tell their employer that they will take a period of leave.

If you would like more information on the impact of these changes, further annual leave information or any other IR/HR Advice, please contact Lisa Dwyer on 3915 4213 or ldwyer@brismark.com.au.

Source: www.fairwork.gov.au, News and media releases, Changes to Annual Leave in Some Awards