

Glossary

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Base rate of pay for ordinary hours of work

The employee's base rate of pay for ordinary hours of work is important for working out entitlements such as annual leave and personal/carer's leave

The employee's base rate of pay, is the rate payable to the employee for ordinary hours of work. The employee's base rate of pay does not include:

- incentive based payments and bonuses;
- loadings;
- monetary allowances;
- overtime or penalty rates;

Modern awards or enterprise agreements set out what are "ordinary hours of work".

The Pastoral Award 2010 specifies ordinary hours of work for full time and casual employees on dairy farms as 152 hours worked over a 4 consecutive week period.

For award free employees the ordinary hours of work are those agreed to between the employer and the employee, up to 38 hours per week.

Carer's leave

Carer's leave is leave to provide care or support to a member of the employee's immediate family or a member of the employee's household, who requires care or support because of:

- (a) a personal illness or injury
- (b) an unexpected emergency affecting the immediate family member.

Immediate family

Immediate family is defined as 'spouse, child, parent, grandparent, grandchild, or sibling of the employee or the employee's spouse.'

National Employment Standards (NES)

The federal industrial laws which came into effect on 1 July 2009 created a new set of 10 minimum standards which apply to all national system employers from 1 January 2010.

The 10 standards cover the following entitlements:

- maximum weekly hours of work;
- the right to request flexible working arrangements;
- parental leave and related entitlements;
- annual leave
- personal/carer's leave and compassionate leave;
- community service leave;
- long service leave;
- public holidays;
- notice of termination and redundancy pay;
- provision of a Fair Work Information Statement, which will detail the rights and entitlements of employees under the new system and how to seek advice and assistance.

National system employer

As of 1 January 2010, businesses which employ workers in Victoria, New South Wales, South Australia, Tasmania, Queensland, the ACT and the Northern Territory are called national system employers.

This is because these states have handed over their powers to make industrial laws to the federal government and they no longer have a state industrial relations system for the private sector.

Businesses in Western Australia run by a company, including trusts with a company trustee, which employ workers as part of their business are also called national system employers.

Non-national system employer

Businesses in Western Australia which are run by a partnership, sole trader or other unincorporated entity (not run by a company) and which employ workers are called non-national system employers.

The federal laws about parental leave, notice of termination and discrimination apply to non-national system employers.

The remainder of the federal industrial laws do not apply to non-national system employers.

State awards and/or state industrial laws about minimum conditions of employment, unfair dismissal, record keeping and workplace agreements apply to non-national system employers.

Modern Awards

In 2008 and 2009, all federal awards in Australia were modernised into industry-based awards which apply as of 1 January 2010, to all national system employers.

In the farming industry about 40 awards were taken into account in forming the modern Pastoral Industry Award 2010 and the Horticulture Industry Award 2010.

Importantly for dairy farmers, the modern Pastoral Award 2010 retains the hours of work terms of the current Pastoral Industry Award which allow for 152 hours to be worked over 4 weeks by full time and casual employees before overtime is payable.

Federal Transitional Awards

As of 26 March 2011, federal transitional awards ceased to apply to employers in Western Australia.

A federal transitional award was a federal award which applied to a business on 26 March 2006, if the business employed workers, and was run by a partnership, sole trader or other unincorporated entity (not run by a company). The federal transitional award retained most of the conditions and entitlements as the previous federal award. The relevant federal transitional award for the dairy industry was the Pastoral Industry Award 1988.

Employers bound by a transitional award were called 'federal transitional employers'. These businesses were able to rely on the federal transitional award for 5 years until March 2011. This was called a 'transitional period'.

At the end of the transitional period these employers (now called non-national system employers) are bound by state awards which apply to them as common rule awards. In WA, the state farming award, the Farm Employees Award 1985 does not apply to the dairy industry.

Federal laws about notice of termination, unlawful dismissal and parental leave continue to apply to non-national system employers.

Federal Transitional employer

Businesses which were bound by 'federal transitional awards' were called 'federal transitional employers'.

Reasonable Business Grounds

Fair Work Act provides the following list of matters which may amount to reasonable business grounds but there may be others:

- That the new working arrangements would be too costly for the employer;
- That there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee;
- That it would be impractical to change the working arrangements of other employees or recruit new employees to accommodate the new working arrangements requested by the employee;
- That the new working arrangements requested by the employee would be likely to result in a significant loss in efficiency or productivity;
- That the new working arrangements requested by the employee would be likely to have a significant negative impact on customer service;

Division 2B Awards and Agreements

Division 2 B awards are awards which applied to employers who ran their business as sole traders, partnerships or with a trust with a trustee which is not a company as at 1 January 2010.

Division 2B awards continued to apply to these employers until the end of the full pay period commencing before 1 February 2011.

After this time, the relevant modern award applies to these employers.

Division 2B employers

National system employers who were bound by state transitional awards and agreements were called 'Division 2B Employers'.

NAPSAs

NAPSAs were created by the WorkChoices laws.

They were state awards or state minimum conditions of employment which applied to employers who ran their business with a company structure or a trust with a company as trustee as at 26 March 2006.

NAPSAs have been absorbed into modern awards as of 1 January 2010.