

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE**

**2006-2007 ADDITIONAL SENATE ESTIMATES HEARING
15 FEBRUARY 2007
EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO**

QUESTIONS ON NOTICE

Outcome 2: Higher productivity, higher pay workplace

Output Group: 2.1 Workplace relations policy and analysis

Output: 2.1.2 Workplace relations legislation development

Question Number: W1225-07

Question:

Senator Wong asked in writing:

Jury duty If an employee is serving on a jury, is this considered ‘authorised leave’? Do employee entitlements continue to accrue whilst an employee is on jury service? Is there a limit on this accrual?

Answer:

The Australian Fair Pay and Conditions Standard (the Standard) guarantees minimum entitlements to annual leave and personal leave. Whether annual and personal leave continues to accrue under the Standard while an employee is on jury service will depend on whether the leave is authorised and whether the leave counts as service. Whether leave is authorised or counts as service will depend on the terms of employment set out in the relevant law or industrial instrument, rather than the operation of the Standard.

- An employee will continue to accrue entitlements under the Standard in relation to a period of paid leave that is authorised by the employer or under a term or condition of employment or under a Commonwealth, State and Territory law (or instrument under that law).
- An employee will also continue to accrue entitlements under the Standard in relation to a period of unpaid leave that is:
 - authorised by the employer or under a term or condition of employment or under a Commonwealth, State and Territory law (or instrument under that law); and

- the term or condition of employment or a Commonwealth, State and Territory law (or instrument under that law) expressly provides that the period counts as service.

The *Workplace Relations Act 1996* does not exclude State and Territory laws to the extent those laws deal with attendance for service on a jury. Most States and Territories have enacted legislation that deals with leave for employees to attend jury service.

To the extent that leave to attend jury service is “authorised leave” that counts as service for the purpose of annual and personal leave accrual under the Standard, there is no limit on the amount that may be accrued.

Estimated cost: Based on the FOI calculator it has taken approximately 2 hours and 15 minutes at an estimated cost of \$44 to prepare this answer.