



Australian Government

WorkChoices

WorkChoices and preserved award terms

Under WorkChoices, annual leave, personal/carer's leave, parental leave, long service leave, jury service, notice of termination and superannuation become 'preserved' award terms.

Preserved award terms will not bind employers who become covered by the award after the commencement of WorkChoices.

Preserved award terms do not form part of an AWA or collective agreement after the commencement of WorkChoices.

Annual leave, personal/carer's leave and parental leave

Although terms in awards about annual leave, personal/carer's leave and parental leave are preserved, an employee's entitlements will generally be determined by the Fair Pay and Conditions Standard (the Standard).


When a preserved award term is more generous to an employee than the Standard, the more generous award entitlement will apply. Otherwise the Standard applies.

Under WorkChoices, the Workplace Relations Regulations 2006 ensure that employees are entitled to certain aspects of the Standard regardless of the more generous comparison. These entitlements are:

- special maternity leave;
- the entitlement to transfer to a safe job or take paid leave (if no safe job can be found) prior to a period of maternity leave;
- compassionate leave; and
- unpaid carer's leave.



WorkChoices and awards



Some specific entitlements existing as preserved award terms will be treated as separate matters when applying the more generous test. These conditions will continue to apply to some employees even when they are broadly provided for by the Standard. These entitlements are:

- war service sick leave;
- infectious diseases sick leave; and
- any other like forms of sick leave.

Paid and unpaid parental leave are also treated as separate matters for the purpose of the more generous comparison. This enables award entitlements for paid parental leave to continue to operate, in addition to the parental leave entitlements provided in the Standard.

Long service leave, jury service, notice of termination and superannuation

Preserved award terms about long service leave, jury service and notice of termination continue to apply to award reliant employees.

Preserved award terms about superannuation continue to apply in accordance with the award terms until 30 June 2008 when the Superannuation Guarantee legislation for the uniform calculation of all employers' superannuation liability will come into effect.

Notional Agreements Preserving States Awards (NAPSAs)

Equivalent provisions apply to preserve terms of NAPSAs. For more information see 'WorkChoices and state awards and agreements' fact sheet.

WorkChoices is a new system of workplace relations legislation that covers up to 85 per cent of Australian employees. This series of fact sheets is available to assist workers and employers to understand their rights and obligations under the legislation.

For more information call the
WorkChoices Infoline on **1300 363 264**
or visit the **WorkChoices** website
www.workchoices.gov.au