



Australian Government

WorkChoices

More flexibility

WorkChoices will make it easier for employees and employers to negotiate workplace agreements incorporating family friendly working arrangements. Bargaining at the workplace level is particularly suited to tailoring working arrangements in ways that assist employees to balance work and family responsibilities.

Agreements negotiated at the workplace level can include a range of innovative and flexible working arrangements including (but not limited to):

- flexible working hours;
- job sharing;
- working from home arrangements;
- casual or part-time work; and
- parental leave entitlements.

These types of employment arrangements allow employees to balance paid work with other responsibilities such as caring for others, study or voluntary work and can help to attract and retain parents, carers, mature age workers and people with disabilities in the workforce.

Flexible, family friendly working conditions have a number of benefits for both employers and employees, including:

- greater attraction and retention of quality staff, lower staff costs;
- higher staff morale and productivity;
- lower absenteeism rates; and



WorkChoices and Australian families

- improved corporate image.

Many employers and employees are already taking advantage of agreement-making provisions to negotiate family friendly conditions of employment. Currently 88 per cent of federal certified agreements have at least one family friendly or flexible working hours provision (as at December 2005).

Minimum entitlements

The Australian Fair Pay and Conditions Standard (the Standard) ensures that family friendly leave entitlements including parental leave and personal/carer's leave are set in legislation. Employers and employees may negotiate family friendly working arrangements that are more favourable than the Standard through agreement-making.

For more information see the 'WorkChoices and the Australian Fair Pay and Conditions Standard' fact sheet.

Award provisions for personal/carer's leave, parental leave or annual leave are preserved and will apply to an employee if they provide a more generous amount of leave to the employee than the Standard. This means that current and future employees of employers covered by the award on the commencement of WorkChoices, will continue to enjoy their more generous provisions.

Personal/carer's leave

The Standard for personal/carer's leave consists of:

- ten days of paid personal/carer's leave per annum for full-time employees, of which ten days can be used as carer's leave in a 12 month period;

- pro-rata entitlement to paid personal/carer's leave for part-time employees;
- two days of unpaid carer's leave per occasion for employees who have exhausted their paid personal/carer's leave, in the event of an unexpected emergency or who are casual employees; and
- two days of paid compassionate leave per occasion which can be taken upon the death of a member of the employee's immediate family or household, or to spend time with a seriously ill, injured or dying person who is a member of the employee's immediate family or household.

For more information see the 'WorkChoices and personal/carer's leave' fact sheet.

Parental leave

The Standard provides for up to 52 weeks of unpaid parental leave for employees, including eligible casual employees, with at least 12 months of continuous service with their current employer. Parental leave can be taken as maternity, paternity or adoption leave.

For more information see the 'WorkChoices and parental leave' fact sheet.

Hours of work

The Standard provides that an employer may request or require an employee to work 38 ordinary hours per week and reasonable additional hours. In determining whether the additional hours an employee is requested or required to work are 'reasonable', a range of factors must be taken into account, including the employee's personal circumstances or family responsibilities.

For more information see the 'WorkChoices and ordinary hours' fact sheet.

Protection against discrimination

Under WorkChoices, it is unlawful for an employer to terminate an employee's employment on discriminatory grounds including:

- sex;
- marital status;
- family responsibilities or pregnancy;
- absence of work during maternity or other parental leave.

Regardless of the size of their employer's business, employees can apply to the Australian Industrial Relations Commission for conciliation if they believe their employment was terminated on unlawful grounds. If conciliation is unsuccessful, the employee can apply to the Federal Court (or the Federal Magistrates Court) for a remedy, including compensation or reinstatement. Under the Unlawful Termination Assistance Scheme, employees may also be eligible to receive up to \$4,000 of independent legal advice.

For more information see the 'WorkChoices and termination of employment' fact sheet.

WorkChoices also provides that a clause in a workplace agreement which discriminates against an employee or employees on any of the above grounds is prohibited content. This means that such a clause would be void. In addition, an employer could be liable for a penalty for lodging a workplace agreement containing prohibited content.

Further information

The Office of the Employment Advocate (OEA) can provide information and examples of clauses that can be included in Australian Workplace Agreements (AWAs) to make the

workplace family friendly. Visit the OEA website at www.oea.gov.au

The Department of Employment and Workplace Relations (DEWR) maintains a Family Friendly Clause Database that provides online access to a range of agreement clauses that can be used to assist in the development and implementation of family friendly, flexible working arrangements. Visit the database at www.wagenet.gov.au/ffac

DEWR also provides a website containing information on work and family issues at www.workplace.gov.au/WorkFamily. Publications available on the site include:

'Work and Family- the importance of workplace flexibility in promoting the balance between work and family', an issues paper released by the Minister for Employment and Workplace Relations; and

'Winning Workplaces 2005', a publication providing information on the winners and finalists in the Work and Family Awards for 2005.

Visit the Publications section of the Work and Family website for more information.

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



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