

**Senate Standing Committee on Education Employment and Workplace  
Relations**

**QUESTIONS ON NOTICE  
Budget Estimates 2010-2011**

**Outcome 5 - Workplace Relations**

**DEEWR Question No. EW0210\_11**

**Senator Abetz asked on 31/05/2010, Hansard page 115.**

**Question**

***PAID PERSONAL LEAVE***

Ms Paul—I am happy to take a particular case on notice and have a look at it, but I am not willing to speculate. Senator FISHER—Rostered hours. Senator ABETZ—What about this: I am being forced to use a new award because of Fair Work Australia. My old award was Teachers (Non-Government Early Childhood Service Centres Other Than Pre-Schools) (State) Award 2006. The new award is Educational Services (Teachers) Award 2010. The new award, section 24, says personal leave is provided for in the NES, That is days paid personal leave per year. The old award, section 7.1, says 15 days paid personal leave in the first year of employment and 25 days paid personal leave for the second and subsequent years of employment. That has now been reduced to 10, has it not? Ms Paul—You have given us a particular case. I am happy to take that on notice and look at it.

**Answer**

The National Employment Standards (NES) in the *Fair Work Act 2009* (Fair Work Act) provide a minimum entitlement to 10 days of personal leave per annum (pro-rated for part-time employees).

The minimum standards provided in the NES, which were the subject of extensive consultation in the development of the Fair Work Act, are designed to provide a safety net or legislative minima for employees which cannot be undercut by employers. Through enterprise bargaining employers and employees can negotiate wages and other conditions of employment which exceed the minimum standards provided in the NES to suit the particular needs of the enterprise and its employees.

In the award modernisation process, the Australian Industrial Relations Commission (the Commission) had to determine new benchmarks for modern awards based on the existing range of conditions. In the case of the Educational Services(Teachers) Award 2010 (teachers award), the Commission was required to consolidate more than 25 pre-reform awards and Notional Agreements Preserving State Awards (NAPSAs). These instruments included varying levels of entitlement to personal leave. For example, some pre-reform awards and NAPSAs also provided an additional leave entitlement for certain infectious diseases. The disparity in entitlements across instruments and jurisdictions necessarily resulted in changes to this particular entitlement for some employees.

Interested parties were able to contribute their views in writing or via public hearings throughout the award modernisation process and were provided with the opportunity

to view and comment on exposure drafts of modern awards prior to the making of final awards. A number of submissions addressed the issue of personal leave for employees in the Early Childhood Education sector, and the Commission considered these submissions when making the final teachers award.