



Annual Leave



Under “Workchoices” basic employment rights were slashed to a handful of minimum conditions.

The Fair Work Act has restored and improved statutory annual leave.

Overview

The NES sets out the minimum entitlements to annual leave, when it can be taken and the rate you should be paid while on annual leave.

It also states what happens to your annual leave when you transfer jobs, and the arrangements that apply to the cashing out of annual leave.

What am I entitled to?

As a minimum, you are entitled to four weeks paid annual leave for each year of service (unless you are a casual employee). Your entitlement to annual leave accrues on a continuous basis according to the number of ordinary hours you work.

If you are a shift worker, you are entitled to five weeks paid annual leave. There are other circumstances when you may also qualify for five weeks annual leave:

- If you are employed in an enterprise where shifts are continuously rostered 24 hours a day for seven days a week
- If you are regularly rostered to work those shifts
- If you regularly work on Sundays and public holidays.

When you take annual leave, you will only be entitled to your base rate of pay for the ordinary hours you would have worked during that period. Therefore, it does not include any penalties, loadings, bonuses, allowances, etc.

If you are terminated from employment, your employer must pay you all remaining annual leave entitlements that you have not taken.





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When can I take annual leave?

It is up to you and your employer when and for how long paid annual leave may be taken. However, annual leave under the NES does not have to be taken each year, as the entitlement can accumulate.

Your employer must not reasonably refuse your request to take paid annual leave. There is no maximum period of annual leave that may be taken.

You are not paid annual leave if the period during which you take annual leave:

- Is a public holiday
- Includes a period of any other leave (except for unpaid parental leave), or a period of absence from employment due to community service leave.

Can I be directed to take annual leave?

If your relevant award or agreement allows for it, your employer may be able to direct you to take annual leave (if the request is reasonable). Examples of reasonable requests includes a requirement for you to take annual leave because you have accrued an excessive amount of paid annual leave, or if your workplace is being shut down for a period (such as between Christmas and New Year). Other issues to consider of whether a request is reasonable include:

- Your needs against the needs of business
- any prior agreed arrangement made between you and your employer
- Custom and practice of the business
- Reasonableness of the period of notice given

Other related issues

If you have transferred employment from one workplace to another unrelated entity, unless your new employer agrees to recognise your accrued annual leave, your previous employer will need to pay out your remaining annual leave entitlements.

You are able to cash out your annual leave if your award or agreement allows for it. The restrictions on cashing out annual leave are:

- You must retain at least 4 weeks leave
- There must be separate agreement in writing on each occasion
- You must be paid at least the full amount that would have been payable had you taken the leave

It is unlawful for your employer to force (or try to force) you to make (or not make) an agreement to cash out annual leave.

United Voice does not generally support the cashing out of annual leave.

Contact us

For more information on any of these topics, please see the other United Voice fact sheets. If you are unsure or require further advice, please contact your union delegate or call United Voice Member Assist on 3291 4600 or 1800 065 885 outside of the Brisbane area. Alternatively you can now lodge a request for information or assistance at www.memberassist.org.au

