



VICTORIAN PUBLIC SERVICE AGREEMENT & NATIONAL EMPLOYMENT STANDARDS



The Fair Work Act 2009 sets out minimum conditions referred to as National Employment Standards which operate as a minimum safety net. As from 1 January 2010, the NES will override less favourable conditions in enterprise agreements, including less favourable conditions in the 2009 extended and varied version of the Victorian Public Service Agreement 2006. From 1 January 2010 entitlements in enterprise agreements and awards must not be detrimental to an employee in any respect, when compared with the NES.

The following are significant matters in the NES that have been identified as more favourable than the corresponding provisions in the Victorian Public Service Agreement:

Requests for Flexible Working Arrangements

The NES provides an entitlement for parents/persons who have responsibility for the care of a child under the age of 18 who has a disability to request a change in working arrangements to assist with the care of the child. The employer will only be able to refuse the request on reasonable business grounds and, if the request is refused, must give details of the reason for the refusal.

No comparable provision exists in the Victorian Public Service Agreement and thus this NES needs to be applied by all Departments and agencies covered by the Victorian Public Service Agreement.

Parental Leave

The Victorian Public Service Agreement provides an entitlement to adoption leave in situations where an eligible child under the age of 5 is being adopted. The adoption leave entitlement in the NES relates to a child under the age of 16 years.

Whilst the paid adoption leave entitlements in the Victorian Public Service Agreement are more beneficial than the unpaid adoption leave entitlements in the NES, it would be appropriate for Departments and agencies covered by the Victorian Public Service Agreement to extend the paid adoption leave entitlements in the VPS Agreement to the adoption of an eligible child under the age of 16 years.

Personal/Carers Leave

The Victorian Public Service Agreement provides 114 hours cumulative sick leave per year of employment, together with 76 hours' non-cumulative carer's leave, which comes out of the sick leave entitlement.

The NES provides 10 days paid personal/carer's leave per year of service. It is cumulative, which means that the amount of the paid personal/carer's leave accrual that can be taken in 12 months is unlimited.

In effect, the NES means that the 76 hours per employment year carer's leave limitation in the Victorian Public Service Agreement no longer should apply and that employees covered by the Agreement can now, subject to appropriate evidentiary requirements, use any of their sick leave accrual as carer's leave.

Compassionate Leave

The Victorian Public Service Agreement provides the following compassionate leave entitlements:

- 3 days paid leave per year for serious illness or death of a member of the employee's immediate family or household;
- If the above is exhausted, 3 days paid bereavement leave for each death of a member of an employee's immediate family or household;
- If the entitlement in dot point 1 is exhausted, 3 days paid sick leave can be used for the serious illness of a member of an employee's immediate family or household;
- If an employee's accrued sick leave is exhausted, 2 days unpaid compassionate leave can be used for each occasion of serious illness of a member of an employee's immediate family or household.

The NES provides 2 days paid compassionate leave for each permissible occasion.

The effect of the NES is that the entitlement in the Victorian Public Service Agreement needs to be improved so that, for each occasion of serious illness of an employee's immediate family or household, at least 2 days paid compassionate leave is available.

Fair Work Australia Information Statement

The new Information Statement must be given to new employees as soon as practical after they commence employment.