

Submission to the House of Representatives Standing Committee on Employment, Workplace Relations, Skills and Training

Inquiry into the National Employment Standards (NES)

Subject: Inclusion of Stepchildren and Stepparents in Compassionate Leave Entitlements

1. Introduction

This submission is made to the House of Representatives Standing Committee on Employment, Workplace Relations, Skills and Training in relation to its consideration of the National Employment Standards (NES). The purpose of this submission is to recommend that compassionate leave entitlements under the NES be expressly extended to include stepchildren and stepparents.

The NES play a critical role in establishing minimum employment protections for Australian workers. Compassionate leave, in particular, is intended to recognize the personal, emotional and practical impacts of serious illness, injury or death of close family members. As family structures in Australia continue to evolve, the definition of who constitutes an employee's family must also evolve to ensure the NES remain fair, contemporary and fit for purpose.

2. Current Legislative Framework

Under section 12 of the Fair Work Act 2009 (Cth), the definition of an employee's "immediate family" for the purposes of compassionate leave includes:

- A spouse or de facto partner
- A child
- A parent
- A grandparent
- A grandchild
- A sibling

While the Act recognizes adopted children and children of a de facto partner, it does not explicitly include stepchildren or stepparents unless they fall within the category of “members of the employee’s household.” This creates ambiguity and inconsistency in the application of compassionate leave and places an unnecessary administrative and emotional burden on employees during times of grief and crisis.

3. Rationale for Inclusion of Stepchildren and Stepparents

3.1 Contemporary Family Structures

Australian families are increasingly blended, with step-relationships forming a core part of many households. In many cases, stepchildren and stepparents have relationships that are functionally indistinguishable from biological parent-child relationships. Excluding these relationships from compassionate leave entitlements fails to reflect the lived reality of modern families.

3.2 Equity and Fairness

The purpose of compassionate leave is to provide employees with the ability to attend personal matters arising from serious illness, injury or death of those closest to them. Excluding stepchildren and stepparents creates inequitable outcomes where employees experience the same emotional and caregiving responsibilities as those with biological family members yet are denied equivalent entitlements.

This inequity is particularly pronounced where an employee has acted as a primary caregiver to a stepchild, or where a stepparent has played a significant parental role over many years.

3.3 Reduced Discretion and Disputes

The absence of explicit inclusion results in reliance on employer discretion or interpretation, which can lead to inconsistent outcomes, employee dissatisfaction and workplace disputes. Clear legislative inclusion would provide certainty for employers and employees alike, reduce administrative complexity and support consistent application across workplaces.

4. Alignment with the Objectives of the NES

The NES are intended to provide a safety net of minimum terms and conditions that are fair, relevant and enforceable. Expanding compassionate leave to include stepchildren and stepparents aligns with these objectives by:

- Ensuring minimum standards reflect contemporary social norms
- Supporting employee wellbeing and mental health

Promoting fairness and inclusion in the workplace

Reducing reliance on discretionary or ad hoc arrangements

Such an amendment would not impose an unreasonable burden on employers, as compassionate leave remains limited in duration and scope, and many employers already recognize step-relatives through policy or enterprise agreements.

5. Proposed Amendment

It is recommended that the definition of “immediate family” in section 12 of the Fair Work Act 2009 be amended to expressly include:

Stepchildren

Stepparents

This could be achieved either through explicit listing or by broadening the definition to include individuals who have a parent-child relationship by virtue of marriage or de facto partnership.

6. Conclusion

Updating the compassionate leave provisions under the NES to include stepchildren and stepparents would ensure that Australia’s workplace relations framework reflects modern family structures, promotes equity and supports employees during times of significant personal hardship.

This reform represents a modest but meaningful enhancement to the NES, strengthening its relevance and effectiveness while maintaining its role as a fair and balanced minimum safety net.

Thank you for the opportunity to make this submission.

Amanda Schneider