

Inquiry on the operation and adequacy of the National Employment Standards (NES)

Dear members of the Committee,

Thank you for the opportunity to provide input into the operation and adequacy of the NES. I am writing in a personal capacity as a member of the Australian workforce, with context from my experience as a Human Resources practitioner.

I have considered the standards set out in the NES and have provided comments on some elements the Committee may wish to review. I appreciate the complexity of balancing employee protections with employer flexibility in the current economic environment.

Maximum weekly hours

This is presently set as 38 hours per week plus reasonable additional hours. In many similarly developed economies, a lower number of contracted hours is considered full-time.

My suggestion is that this could be reduced to 35 hours per week, staggered over a number of years with no reduction in take-home pay. The potential benefits of this would be:

- As artificial intelligence (AI) becomes more prevalent in the workplace, it is likely to decrease the demand for human labour. Reducing contracted hours for full-time workers would balance this reduction in demand, potentially reducing the need for job losses.
- Studies on four-day working weeks indicate that there can be productivity gains from compressing existing work into fewer hours. This indicates it should be possible to enable this change without the need for significant hiring or loss in economic output.
- The reduction in working time could be used by workers in leisure and recreation activities, potentially stimulating the economy through increased economic consumption. It may also slightly reduce the demand on childcare, easing pressures on stretched provision.

Annual leave and long service leave (LSL)

Four weeks of annual leave per year (for non-shift workers) is relatively low. It appears that this has been in place in Australia for decades, despite the intensity of working life having increased significantly over that time. Whilst this is intended as a safety net, it appears a large number of employers in Australia do not enhance beyond this.

I would suggest there are a number of issues with the current LSL setup:

- The lack of a national LSL scheme creates administrative complexities in administering LSL where employers have workers based in multiple States and Territories.
- The Fair Work Act preserves LSL from pre-modern awards but this is not immediately obvious. This provides the possibility of inadvertent non-compliance and administrative complexity.
- The structure of modern careers means that workers typically have to move between employers for progression. The Government has recognised that non-compete clauses operate as a barrier to productivity and arguably LSL is in this same vein.
- LSL is payable to casual workers in some States and Territories. These calculations can be complex and difficult for employers to explain to workers leaving employment.

My suggestion is to consider abolishing LSL across the Commonwealth and enhancing the base rate of annual leave significantly to compensate for this. For casuals, this could be mirrored through the 25% loading being increased. Accrued LSL balances could be paid out or transferred to the accrued annual leave balance.

Personal/carer's leave

Ten days (full-time equivalent) per year of personal/carer's leave is relatively low. The system appears to be based around individuals being employed for long periods and accruing leave over a number of years,

such that if they suffer a non-work-related long-term illness, they will have sufficient leave to not experience financial hardship. As mentioned above, given there is a tendency for workers to move jobs more frequently than in the past, this assumption may no longer be valid.

Whilst some workers may be able to access income protection insurance to help with long-term illnesses, those with significant or multiple underlying medical conditions may be unable to obtain or afford insurance. This means that they are in a more precarious financial position if they have a long-term illness.

My suggestion is to move to a higher annual entitlement, but with no carry-over. This would provide a better safety net. It may also help those with health issues to remain in employment and provide them with the confidence to move jobs, which could help with productivity in the long run.

A further suggestion is to remove the requirement to provide evidence of illness for shorter absences in line with other similar developed economies (for example, absences of less than one week). This would reduce demand on General Practitioner appointments and the associated cost to the Government through Medicare rebates.

Compassionate leave

The restriction that compassionate leave does not apply in the case of a miscarriage of a former spouse/partner feels like an unnecessary restriction. There may be cases where, despite the breakdown of a relationship, the miscarriage of the former partner may cause significant distress to an individual. My suggestion is to consider removing this restriction.

Notice of termination and redundancy pay

The period of notice to be provided by an employer is quite short compared to other similar developed economies. My suggestion is that this should be reviewed and extended, particularly for longer serving employees who may take longer to find a new role.

Redundancy pay currently reduces when reaching 10 years' service (12 weeks' pay) compared to 9 years' service (16 weeks' pay), with the logic being that employees at that milestone will have access to LSL. Given that some States and Territories provide access to LSL earlier (for example, 7 years' service), substantial amounts of LSL may have been taken. My suggestion is to remove this reduction from 10 years' service. (This would also be consistent with my suggestion to consolidate LSL into annual leave.)

Given that redundancy is not due to the fault of the employee, my suggestion is that the initial threshold for receiving redundancy pay should be reduced from 1 year to 6 months to align with the qualifying period for unfair dismissal claims.

Thank you for considering my suggestions. I look forward to reading about the inquiry's findings in due course.