

The Fair Work system on Norfolk Island

The Fair Work Act 2009 (Cth) (Fair Work Act) and some related laws are being phased in on Norfolk Island in three stages between 1 July 2016 and 1 July 2018.

For information about the transitional period and other key entitlements visit:

- [Norfolk Island July 2016 - June 2017](http://www.fairwork.gov.au/library/k600578_norfolk-island-july-2016-june-2017) at www.fairwork.gov.au/library/k600578_norfolk-island-july-2016-june-2017
- [Norfolk Island reform](http://www.fairwork.gov.au/about-us/legislation/norfolk-island) at www.fairwork.gov.au/about-us/legislation/norfolk-island

Fair Work Ombudsman and the Fair Work Commission

The Fair Work Ombudsman and the Fair Work Commission are two independent government organisations, performing different roles in relation to the Fair Work system.

The [Fair Work Ombudsman](#) is responsible for matters such as:

- providing education, information and advice about the operation of the Fair Work system, including the National Employment Standards and modern awards
- enforcing compliance with all aspects of the Fair Work Act.

The [Fair Work Commission](#) is a tribunal responsible for matters such as:

- making and maintaining modern awards
- approving enterprise agreements
- dealing with disputes and industrial action
- dealing with dismissal-related claims.

The Fair Work system

The National Employment Standards (NES)

The NES have applied on Norfolk Island since 1 July 2016 (to the extent they were more favourable than terms under the Norfolk Island Employment Act 1988).

The NES include minimum standards for working hours, parental leave, annual leave, personal (sick/carer's) leave, compassionate leave, community service leave, redundancy and notice.

The NES also give some employees a right to request flexible work arrangements and require an employer to give employees a Fair Work Information Statement when they start employment.

There are some rules about how you recognise an employee's leave and service prior to 1 July 2016 under the NES.

You can find more [information about the NES](#), including recognising prior service, at www.fairwork.gov.au/employee-entitlements/national-employment-standards.

Modern awards

Modern awards apply on Norfolk Island from 1 July 2018.

A modern award is a legally binding document that sets particular pay rates and terms and conditions of employment for a specific industry or, in some cases, a specific occupation. An award will set minimum rates of pay. It will often require payment of special rates of pay for casual, evening, public holiday and overtime work. Awards might also require payment of special allowances and a 17.5% loading on annual leave. If you have questions about the entitlements under a particular award, [contact the Fair Work Ombudsman](#) at www.fairwork.gov.au/contact-us.

Entitlements vary from award to award. It is important to work out which is the right award to apply to your business and employees.

To assess whether a particular employer and employee are covered by a particular award, you should look at the coverage clause in the award (some terms in the coverage clause may be explained in the definitions clause). You should then look at whether the award contains a classification for your employee (classification definitions usually appear in a schedule at the back of the award). If you're having trouble working out which award applies, contact the Fair Work Ombudsman.

Sometimes, an employee may perform work that falls within the scope of more than one award or classification in an award. If you're not sure what to do in this situation, contact the Fair Work Ombudsman.

Where can I find rates of pay?

On Norfolk Island, the national minimum wage (NMW) has applied since 1 July 2016. Employees were required to be paid at least 85% of the NMW from 1 July 2016, then 100% of the NMW from 1 July 2017. Modern award rates will apply from 1 July 2018.

In many cases, a modern award will tell you how to calculate pay rates, but won't set out what all of those rates actually are. To make finding and calculating pay rates easier, the Fair Work Ombudsman has a pay calculator, the [Pay and Conditions Tool \(PACT\)](#) at www.calculate.fairwork.gov.au.

Please note: the Fair Work Commission reviews award rates of pay annually. The new rates are effective from 1 July each year. You should check PACT close to 1 July each year to find out what the new rates are for your award. Alternatively, receive notification of pay increases by signing up for a [Fair Work Ombudsman account](#) at www.fairwork.gov.au/my-account/registerpage.aspx.

Can I vary the way a modern award applies to my business?

You can alter the way a modern award applies by making an enterprise agreement (EA), which must be approved by the Fair Work Commission. For more information, visit the:

- Fair Work Ombudsman [Agreements](#) page at www.fairwork.gov.au/awards-and-agreements/agreements
- Fair Work Commission [Agreements](#) page at www.fwc.gov.au/awards-and-agreements/agreements.

You can enter into Individual Flexibility Agreements (IFA) with individual staff. These allow variation of certain award terms. You can find information about [Individual flexibility arrangements](#) at www.fairwork.gov.au/employee-entitlements/flexibility-in-the-workplace/individual-flexibility-arrangements.

Please note: an employee must be 'better off overall' under an EA or IFA.

Unfair dismissal, unlawful termination and workplace rights

From 1 July 2016, the Fair Work Act 2009 (Cth) rules regarding unfair dismissal, unlawful termination and workplace rights have applied on Norfolk Island.

You can find more information about [Unfair dismissal](#) at www.fwc.gov.au/termination-of-employment/unfair-dismissal and [Unlawful termination](#) at www.fwc.gov.au/termination-of-employment/unlawful-termination, including when and how such claims can be made.

You can find more information about protections at work at www.fairwork.gov.au/employee-entitlements/protections-at-work, including when and how you can take action in relation to your workplace rights. Information on [rights & obligations](#) is also available on the Fair Work Commission website at www.fwc.gov.au/disputes-at-work/fairness-in-the-workplace/rights-and-obligations.

Other matters

The Fair Work Act 2009 (Cth) contains rules about a range of other matters. These have applied on Norfolk Island since 1 July 2016.

You can find information about:

- [industrial action](#), and when it is and isn't permitted, at www.fairwork.gov.au/employee-entitlements/industrial-action-and-union-membership/industrial-action
- [employee entitlements on a transfer of business](#), including if a business is sold or otherwise transferred at www.fairwork.gov.au/employee-entitlements/when-businesses-change-owners/employee-entitlements-on-a-transfer-of-business
- [unions entering the workplace](#), including when they can enter at www.fairwork.gov.au/employee-entitlements/industrial-action-and-union-membership/the-role-of-unions/unions-entering-the-workplace.

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: **13 13 94**

Hearing & speech assistance

Call through the National Relay Service (NRS):

- For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94
- Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94