



Community service leave and the National Employment Standards

Overview

Community service leave forms part of the National Employment Standards (NES). The NES apply to all employees covered by the national workplace relations system, regardless of any award, agreement or contract.

The NES entitles employees to be absent from work to engage in certain community service activities such as:

- a voluntary emergency management activity
- jury duty, including attendance for jury selection.

What is a voluntary emergency management activity?

An employee engages in a voluntary emergency management activity only if they:

- engage in an activity that involves dealing with an emergency or natural disaster
- engage in the activity on a voluntary basis
- were either requested to engage in an activity, or it would be reasonable to expect that such a request would have been made if circumstances had permitted
- are a member of, or have a member-like association with, a recognised emergency management body.

What is a recognised emergency management body?

A recognised emergency management body is:

- a body that has a role or function under a plan that is for coping with emergencies and/or disasters (prepared by the Commonwealth, a state or a territory)
- a fire-fighting, civil defence or rescue body
- any other body which substantially involves responding to an emergency or natural disaster.

This would include bodies such as the State Emergency Service (SES), Country Fire Authority (CFA) or the RSPCA (in respect of animal rescue).

How much leave can an employee take?

There is no set limit on the amount of leave an employee is entitled to. They can be absent from their employment:

- for the time that they are engaged in the activity, including reasonable travelling time associated with the activity, and reasonable rest time immediately following the activity
- if the absence is reasonable in all the circumstances (jury duty is taken to always be reasonable).

Are there notice/evidence requirements?

For an employee to be covered by the community service leave provisions, they must give their employer:

- notice of the absence as soon as practicable
- the period or expected period of absence
- evidence that they are entitled to the leave, if requested by the employer.

Is community service leave paid leave?

Community service leave under the NES is unpaid, except for jury duty. Employees (except casuals) are entitled to make-up pay for the first 10 days they are absent for jury duty.

Make-up pay is the difference between jury duty pay (excluding expense-related allowances) and the employee's base pay rate for the ordinary hours they would have worked.

If requested by the employer, an employee must show:

- they have taken all necessary steps to obtain jury duty pay
- the total amount of jury duty pay that has been paid or will be payable to the employee for the period.

If the employee is unable to provide this evidence, they won't be entitled to make-up pay.

However, if state and territory laws provide more beneficial entitlements than the NES, these will apply instead. For example, if a state or territory law provides casual employees with pay for jury duty, this would apply instead of the NES.

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