

Table of Contents

Chapter One - Introduction	1
Key Elements of the <i>Fair Work Act</i>	2
Managing leave entitlements under the Fair Work system	3
Guide to determining leave entitlements under the <i>Fair Work Act</i>	4
Chapter Two – Understanding the <i>Fair Work Act</i>.....	1
Overview.....	1
Employers and employees covered by the <i>Fair Work Act</i>	2
National Employment Standards.....	2
Modern Awards.....	4
Enterprise agreements and bargaining	5
Industrial action.....	9
Remedies for non-compliance	10
Chapter Three – Annual Leave	1
Annual leave and the <i>Fair Work Act</i>	1
Employees entitled to annual leave under the NES	2
How the annual leave provisions under the NES interact with modern awards and enterprise agreements.....	3
How the annual leave provisions under the NES interact with pre-Fair Work Act agreements	4
Amount of annual leave and method of accrual	4
Accrual of annual leave during particular types of absences	5
Additional amount of leave for certain shift workers and method of accrual	7
Crediting of annual leave	9
Payment for periods of annual leave.....	9
Annual leave in advance.....	10
Employee not taken to be on annual leave at certain times.....	11
Cashing out annual leave	11
Taking annual leave.....	13
Directing an employee to take leave: excessive accrued leave	14
Annual close down provisions and the NES.....	17
Annual leave loading remains a separate entitlement	19

Payment of annual leave on termination.....	19
Managing annual leave	20
Enterprise bargaining	23
Other issues.....	26
Questions and answers.....	28
Chapter Four – Public Holidays	1
Public holidays and the <i>Fair Work Act</i>	1
Definition of “public holiday”	1
Right to refuse request to work on a public holiday	2
Additional restrictions to working on some public holidays	4
Payment for absence on public holidays	5
Penalties for work on public holidays.....	6
Working part only of a holiday	7
Inter-relationship of public holidays with other leave of absence or non-attendance.....	7
Questions and answers.....	11
Chapter Five – Personal/Carer’s Leave	1
Personal/carers’ leave and the <i>Fair Work Act</i>	1
What is personal/carers’ leave?	2
Employees entitled to <u>paid</u> personal/carers’ leave under the NES.....	2
Employees entitled to <u>unpaid</u> carers’ leave under the NES	2
How the personal/carers’ leave provisions under the NES interact with modern awards and enterprise agreements	3
How the personal/carers’ leave provisions under the NES interact with agreements made before 1 July 2009.....	3
Amount of paid personal/carers’ leave and method of accrual.....	4
Accrual of personal/carers’ leave during particular types of absences.....	4
No cap on the amount of accrued paid personal/carers’ leave which can be taken as carers’ leave	9
Crediting of paid personal/carers’ leave	9
Payments for periods of personal/carers’ leave	9
Cashing out of personal/carers’ leave	9
Unpaid personal/carers’ leave	10
Documentary and notice requirements.....	10
Managing personal/carers’ leave.....	14
Other issues.....	19
Questions and answers.....	23

Chapter Six – Compassionate Leave	1
Compassionate leave and the <i>Fair Work Act</i>	1
Meaning of “compassionate leave”	1
Employees entitled to compassionate leave under the NES	2
How the compassionate leave provisions under the NES interact with awards	2
How the compassionate leave provisions under the NES interact with enterprise agreements.....	2
Relationship between the compassionate leave provisions and the personal/carer’s leave provisions of the NES	2
Amount of compassionate leave	2
Payment for periods of compassionate leave.....	3
Taking compassionate leave.....	3
Documentary and notice requirements.....	3
Managing compassionate leave.....	4
Questions and answers	7
 Chapter Seven – Parental Leave	 1
Overview.....	1
Parental leave and the <i>Fair Work Act</i>	1
Who is covered by the parental leave provisions	2
Unpaid parental leave	2
Unpaid special maternity leave	7
“Transfer to a safe job” entitlements.....	7
No safe job leave	8
Stillbirth or infant death	8
Replacement employees	9
Keeping in touch days.....	10
Consultation with employee on unpaid parental leave.....	10
Unpaid pre-adoption leave	11
Managing the pregnancy	11
Managing parental leave.....	14
Managing the return to work	19
Paid parental leave scheme.....	24
Paid parental leave obligations for employers.....	26
Employer-funded paid parental leave.....	27
Proposed changes to the Paid Parental Leave Scheme	27
Enterprise bargaining and parental leave.....	27
Employees who do not have access to unpaid parental leave under the NES	29
Questions and Answers	30

Appendix A – Establishing start and finish dates	1
Chapter Eight – Long Service Leave	1
Long service leave and the <i>Fair Work Act</i>	1
Where an agreement applies to the employee	2
Continued operation of state and territory long service leave legislation	3
Chapter Nine – Other Leave.....	1
Community service leave and the <i>Fair Work Act</i>	1
Jury service	2
Voluntary emergency management activities	5
Defence services leave	8
Trade union training leave / dispute resolution procedure training leave	12
Garden leave	15
Chapter Ten – Employee Records, Pay Records and Pay Slips.....	1
Who do the record-keeping requirements apply to?	1
What records must be kept?.....	1
Pay slips.....	3
Electronic records and Pay Slips	3
Penalties for breaching record-keeping requirements.....	4
Record keeping and the government paid parental leave scheme.....	4
Access to employee records	5
General care of employee records	6
Fair Work Information Statement.....	7