

Fair Work | Fact Sheet

Community Service Leave

The information in this sheet concerns all national system employers. It explains minimum entitlements to community service leave set out in the *National Employment Standards (NES)* contained in the *Fair Work Act 2009 (Cth)*. The NES entitlement commenced operation on 1 January 2010. There is no provision for this kind of entitlement in the *Workplace Relations Act*.

What is the community service leave NES?

The community service leave NES is an entitlement to be absent from employment when engaging in eligible community service activity.

Eligible community service activity is:

- jury service, including attendance for jury selection, that is required by Commonwealth, State or territory law;
- voluntary emergency management activity; or
- an activity that is of community service nature prescribed by regulations.

Voluntary emergency management activity is a voluntary activity that involves dealing with an emergency or natural disaster. The employee must be a member of a recognised emergency management body (or have a 'member-like' association with the body). The body must request the employee to engage in the activity (or if circumstances do not permit the making of such request it would have been reasonable to expect that absent those circumstances a request would have been likely). Although the activity must be voluntary this does not preclude the leave being available even if the employee agrees to take a gratuity or honorarium for engaging in the activity.

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A recognised emergency management body is:

- a body that has a role or function under a plan prepared by Commonwealth, State or territory government to cope with emergencies and/or disasters;
- a fire-fighting, civil defence or rescue body;
- a body that has a substantial purpose of responding to an emergency or natural disaster (e.g. securing the safety of persons or animals or protecting property); or
- a body prescribed by regulations.

Entitlement

An employee is entitled to community service leave under the NES for the period during which the employee engages in eligible community service activity plus reasonable travelling time associated with the activity and reasonable rest time immediately following the activity. Unless the activity is jury service, the employee's absence must be reasonable in all the circumstances.

Community service leave is unpaid, except for non-casuals engaged in jury service. The payment for leave for jury service is made at the employee's base rate of pay for ordinary hours of work in the period, capped at 10 days for each jury service summons. The employer may make payment conditional upon the employee taking all necessary steps to obtain jury service pay from the relevant authorities and to provide the employer with evidence of this fact. The employer is entitled to reduce the pay made to the employee for jury service leave by the amount of jury service pay received from the authorities.

Notice and evidence

The employee must notify the employer of the expected period of absence as soon as practicable. The employer may require the employee to provide reasonable evidence that the absence from work is because the employee is engaging in an eligible community service activity.

Other instruments make provision for community service leave

State and territory legislation in Queensland, Western Australia and Victoria imposes obligations on employers to make up the difference between the jury service fee paid by the State to employees summoned to attend for jury service and their ordinary wages. In Western Australia, there is an additional obligation in respect of employees absent from work due to carrying out emergency management response to pay their ordinary wages during the period of absence. These obligations will continue to apply, to the extent that the obligation under the State law provides a more beneficial entitlement.

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Some awards and workplace agreements make provision for jury service leave or other community service leave entitlements. These provisions will continue to operate, provided that if a term in any of these instruments undercuts the NES in any respect it will be of no effect.



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