

Calculating continuous service and period of employment:

(Fair Work Act 2009)

22 Meanings of *service* and *continuous service*

Meaning for Divisions 4 and 5, and Subdivision A of Division 11, of Part 2-2

(4) For the purposes of Divisions 4 and 5, and Subdivision A of Division 11, of Part 2-2:

- (a) a period of ***service*** by a national system employee with his or her national system employer is a period during which the employee is employed by the employer, but does not include:
 - (i) any period of unauthorised absence; or
 - (ii) any other period of a kind prescribed by the regulations; and
- (b) a period referred to in subparagraph (a)(i) or (ii) does not break a national system employee's ***continuous service*** with his or her national system employer, but does not count towards the length of the employee's continuous service; and
- (c) subsections (1), (2) and (3) do not apply.

Note: Divisions 4 and 5, and Subdivision A of Division 11, of Part 2-2 deal, respectively, with requests for flexible working arrangements, parental leave and related entitlements, and notice of termination or payment in lieu of notice.

When service with one employer counts as service with another employer

(5) If there is a transfer of employment (see subsection (7)) in relation to a national system employee:

- (a) any period of service of the employee with the first employer counts as service of the employee with the second employer; and
- (b) the period between the termination of the employment with the first employer and the start of the employment with the second employer does not break the employee's continuous service with the second employer (taking account of the effect of paragraph (a)), but does not count towards the length of the employee's continuous service with the second employer.