

Calculating continuous service and period of employment:

(Fair Work Act 2009)

22 Meanings of *service* and *continuous service*

General meaning

- (1) 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 any period (an ***excluded period***) that does not count as service because of subsection (2).
- (2) The following periods do not count as service:
 - (a) any period of unauthorised absence;
 - (b) any period of unpaid leave or unpaid authorised absence, other than:
 - (i) a period of absence under Division 8 of Part 2-2 (which deals with community service leave); or
 - (ii) a period of stand down under Part 3-5, under an enterprise agreement that applies to the employee, or under the employee's contract of employment; or
 - (iii) a period of leave or absence of a kind prescribed by the regulations;
 - (c) any other period of a kind prescribed by the regulations.
- (3) An excluded period 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.

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.