

Your responses suggest that you appear to be an award and agreement free employee.

(Fair Work Act 2009)

award/agreement free employee means a national system employee to whom neither a modern award nor an enterprise agreement applies.

129 Regulations about what can be agreed to etc. in relation to award/agreement free employees

The regulations may:

- (a) permit employers, and award/agreement free employees, to agree on matters that would or might otherwise be contrary to this Part; or
- (b) prohibit employers and award/agreement free employees from agreeing on matters, or prohibit employers from making requirements of such employees, that would or might otherwise be permitted by a provision of this Part.

(Fair Work Regulations 2009)

2.03 What can be agreed to etc. in relation to award/agreement free employees

For paragraph 129(a) of the Act, employers and award/agreement free employees may agree to the provision of either or both of:

- (a) extra annual leave in exchange for foregoing an equivalent amount of pay; and
- (b) extra personal/carer's leave in exchange for foregoing an equivalent amount of pay.

(Fair Work Act 2009)

Part 2-2—The National Employment Standards

Division 1—Introduction

59 Guide to this Part

This Part contains the National Employment Standards.

Division 2 identifies the National Employment Standards, the detail of which is set out in Divisions 3 to 12.

Division 13 contains miscellaneous provisions relating to the National Employment Standards.

The National Employment Standards are minimum standards that apply to the employment of national system employees. Part 2-1 (which deals with the core provisions for this Chapter) contains the obligation for employers to comply with the National Employment Standards (see section 44).

The National Employment Standards also underpin what can be included in modern awards and enterprise agreements. Part 2-1 provides that the

National Employment Standards cannot be excluded by modern awards or enterprise agreements, and contains other provisions about the interaction between the National Employment Standards and modern awards or enterprise agreements (see sections 55 and 56).

Divisions 2 and 3 of Part 6-3 extend the operation of the parental leave and notice of termination provisions of the National Employment Standards to employees who are not national system employees.

(Fair Work Act 2009)

128 Relationship between National Employment Standards and agreements etc. permitted by this Part for award/agreement free employees

The National Employment Standards have effect subject to:

- (a) an agreement between an employer and an award/agreement free employee or a requirement made by an employer of an award/agreement free employee, that is expressly permitted by a provision of this Part; or
- (b) an agreement between an employer and an award/agreement free employee that is expressly permitted by regulations made for the purpose of section 129.

Note 1: In determining what matters are permitted to be agreed or required under paragraph (a), any regulations made for the purpose of section 129 that expressly prohibit certain agreements or requirements must be taken into account.

Note 2: See also the note to section 64 (which deals with the effect of averaging arrangements).