

(Fair Work Act 2009)

## **92 Paid annual leave must not be cashed out except in accordance with permitted cashing out terms**

Paid annual leave must not be cashed out, except in accordance with:

- (a) cashing out terms included in a modern award or enterprise agreement under section 93, or
- (b) an agreement between an employer and an award/agreement free employee under subsection 94(1).

(Fair Work Act 2009)

## **93 Modern awards and enterprise agreements may include terms relating to cashing out and taking paid annual leave**

### *Terms about cashing out paid annual leave*

- (1) A modern award or enterprise agreement may include terms providing for the cashing out of paid annual leave by an employee.
- (2) The terms must require that:
  - (a) paid annual leave must not be cashed out if the cashing out would result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks; and
  - (b) each cashing out of a particular amount of paid annual leave must be by a separate agreement in writing between the employer and the employee; and
  - (c) the employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone.

### *Terms about requirements to take paid annual leave*

- (3) A modern award or enterprise agreement may include terms requiring an employee, or allowing for an employee to be required, to take paid annual leave in particular circumstances, but only if the requirement is reasonable.

### *Terms about taking paid annual leave*

- (4) A modern award or enterprise agreement may include terms otherwise dealing with the taking of paid annual leave.

(Fair Work Act 2009)

## **90 Payment for annual leave**

- (1) If, in accordance with this Division, an employee takes a period of paid annual leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.
- (2) If, when the employment of an employee ends, the employee has a period of untaken paid annual leave, the employer must pay the employee the amount that would have been payable to the employee had the employee taken that period of leave.

