

New Annual Leave Provisions

Summary of the Fair Work Commission

On 29th July 2016 a Full Bench of the Fair Work Commission handed down its decision regarding variations to the annual leave provisions contained in all modern awards, which is part of the four yearly review of awards. The variations therefore also applies to the Meat Industry Award 2010.

The particular terms being inserted into the Meat Industry Award 2010 include:

- (a) Cashing out of annual leave;
- (b) Electronic Funds Transfer (EFT) payment of annual leave;
- (c) Granting annual leave in advance;
- (d) Excessive Leave accruals.

Cashing out annual leave

Under the decision, a maximum of 2 weeks' paid annual leave can be cashed out in any 12 month period (pro-rata for part-time employees), with additional safeguards for those under 18 years old. The employee must retain at least four weeks of accrued annual leave after the cashing out has occurred. Although it is not compulsory the employer and the employee should have a written agreement specifying the amount of leave to be cashed out as well as the date on which the payment is made.

EFT and paid annual leave

An employer now has the choice to pay an employee for annual leave prior to taking leave or to pay EFT-paid employees in their usual pay cycle. This means that an employer can pay the employee on a weekly basis in accordance to the company's pay cycle rather than paying all of it before they go on the leave.

Granting leave in advance

The employer and the employee can agree in writing to the taking of annual leave in advance of accrual. Employers will be able to deduct any shortfall from any money payable to an employee on termination.

Excessive annual leave

The decision allows employers to direct the taking of annual leave for employees who have accrued more than 8 weeks leave (or 10 weeks for a seven day shiftworker). The employer or employee can request a meeting, and must genuinely try to agree upon steps that will be taken to reduce or eliminate the excessive leave accrual. Where agreement is not reached, either the employer or employee can provide written directions on the taking of the leave.

The operative date for these variations is **the first full pay period that starts on or after 29 July 2016.**

If you have any queries regarding these changes or annual leave in general please contact the AMIC.