

# Table of Contents

<b>Chapter One – Introduction .....</b>	<b>1</b>
Overview of this Handbook.....	2
Key elements of the <i>Fair Work Act</i> .....	2
Managing leave entitlements under the Fair Work system.....	3
Guide to determining leave entitlements under the <i>Fair Work Act</i> .....	4
<b>Chapter Two – Understanding the <i>Fair Work Act</i> .....</b>	<b>1</b>
Overview.....	1
Employers and employees covered by the <i>Fair Work Act</i> .....	2
National Employment Standards .....	2
Modern awards .....	5
Enterprise agreements .....	6
Remedies for non-compliance .....	6
<b>Chapter Three – Annual Leave .....</b>	<b>1</b>
Annual leave and the <i>Fair Work Act</i> .....	1
Employees entitled to annual leave under the NES .....	2
How the annual leave provisions under the NES interact with modern awards and enterprise agreements .....	5
How the annual leave provisions under the NES interact with pre- <i>Fair Work Act</i> agreements .....	5
Amount of annual leave and method of accrual .....	5
Accrual of annual leave during particular types of absences .....	6
Additional leave for certain shift workers and method of accrual.....	9
Crediting of annual leave .....	11
Payment for periods of annual leave .....	11
Annual leave in advance .....	12
Interaction between annual leave and other entitlements .....	13
Cashing out annual leave .....	14
Taking annual leave .....	15
Directing an employee to take leave: excessive accrued leave .....	16
Annual shutdown provisions and the NES .....	18
Taking of annual leave during a workers' compensation absence .....	22
Payment of annual leave on termination .....	23

Managing annual leave .....	24
Enterprise bargaining .....	27
Other issues .....	30
Questions and answers.....	32
<b>Chapter Four – Public Holidays .....</b>	<b>1</b>
Public holidays and the <i>Fair Work Act</i> .....	1
Definition of “public holiday” .....	1
Requesting employees to work on a public holiday .....	2
Additional restrictions to working on some public holidays .....	6
Payment for absence on public holidays.....	6
Penalties for work on public holidays .....	7
Working only part of a holiday .....	8
Relationship between public holidays and other forms of leave/absence .....	8
Questions and answers.....	12
<b>Chapter Five – Personal/Carer’s Leave .....</b>	<b>1</b>
Personal/carers’ leave and the <i>Fair Work Act</i> .....	1
What is personal/carers’ leave? .....	2
Employees entitled to <u>paid</u> personal/carers’ leave under the NES .....	2
Employees entitled to <u>unpaid</u> carer’s leave under the NES .....	2
How the personal/carers’ leave provisions under the NES interact with modern awards and enterprise agreements .....	3
Amount of paid personal/carers’ leave and method of accrual .....	3
Accrual of personal/carers’ leave during particular types of absences .....	4
No cap on the amount of accrued paid personal/carers’ leave which can be taken as carer’s leave .....	7
Payments for periods of personal/carers’ leave .....	7
Cashing out of personal/carers’ leave.....	8
Unpaid personal/carers’ leave.....	8
Documentary and notice requirements .....	8
Managing personal/carers’ leave .....	12
Other issues .....	18
Questions and answers.....	22

<b>Chapter Six – Compassionate Leave .....</b>	<b>1</b>
Compassionate leave and the <i>Fair Work Act</i> .....	1
Meaning of “compassionate leave” .....	1
Employees entitled to compassionate leave under the NES .....	2
How the compassionate leave provisions under the NES interact with awards .....	2
How the compassionate leave provisions under the NES interact with enterprise agreements .....	2
Relationship between the compassionate leave provisions and the personal/carer’s leave provisions of the NES .....	2
Amount of compassionate leave .....	2
Payment for periods of compassionate leave .....	3
Taking compassionate leave .....	3
Documentary and notice requirements .....	3
Managing compassionate leave .....	4
Questions and answers .....	7
<b>Chapter Seven – Parental Leave .....</b>	<b>1</b>
Overview .....	1
Parental leave and the <i>Fair Work Act</i> .....	1
Who is covered by the parental leave provisions .....	2
Unpaid parental leave .....	2
Unpaid special parental leave .....	10
“Transfer to a safe job” entitlements .....	10
Stillbirth or infant death .....	12
Hospitalised children and premature birth .....	13
Replacement employees .....	13
Consultation with employee on unpaid parental leave .....	14
Unpaid pre-adoption leave .....	14
Managing the pregnancy .....	14
Managing parental leave .....	18
Managing the return to work .....	23
Paid parental leave (PPL) scheme .....	29
Enterprise bargaining and parental leave .....	33
Employees who do not have access to unpaid parental leave under the NES .....	34
Questions and answers .....	35
<b>Appendix A – Establishing start and finish dates .....</b>	<b>1</b>

<b>Chapter Eight – Long Service Leave .....</b>	<b>1</b>
Long service leave and the <i>Fair Work Act</i> .....	1
Where an agreement applies to the employee .....	2
Continued operation of state and territory long service leave legislation .....	3
<b>Chapter Nine – Family and Domestic Violence Leave.....</b>	<b>1</b>
What is family and domestic violence? .....	1
Background of family and domestic violence leave .....	2
Family and domestic violence leave entitlement.....	3
When can an employee access family and domestic violence leave?.....	3
Rate of pay for paid family and domestic violence leave .....	4
Notice and evidence requirements.....	4
Payslip disclosure restrictions .....	5
Interaction with other forms of leave .....	6
<b>Chapter Ten – Other Leave .....</b>	<b>1</b>
Community service leave and the <i>Fair Work Act</i> .....	1
Jury service .....	2
Voluntary emergency management activities .....	5
Defence services leave .....	8
Trade union training leave/dispute resolution procedure training leave.....	12
Garden leave.....	17
<b>Chapter Eleven – Employee Records, Pay Records and Pay Slips .....</b>	<b>1</b>
Who do the record-keeping requirements apply to? .....	1
What records must be kept? .....	1
Pay slips.....	3
Electronic records and pay slips .....	4
Penalties for breaching record-keeping requirements .....	4
Reverse onus of proof if records are not kept.....	5
Record keeping and the government paid parental leave scheme .....	5
Access to employee records.....	6
General care of employee records.....	8