

COMPASSIONATE LEAVE

A Network SA Resource for Children's Services October 2010

The National Employment Standards (NES) provide for compassionate leave for employees where a member of the employee's immediate family, or a member of their household is seriously ill, seriously injured, or dies. This leave is paid leave for full time and part time employees and unpaid for casual employees.

The employee is entitled to 2 days of compassionate leave for each occasion. Compassionate leave may be taken:

- a) to spend time with a member of their immediate family or household who has a life-threatening illness or injury, or
- b) after the death of a member of the employee's immediate family or household.

The leave can be taken for each occasion as:

- a) a single continuous two day period; or
- b) two separate periods of one day each; or
- c) any separate periods to which the employee and his or her employer agree.

In the case of life-threatening illness or injury, the employee may take the compassionate leave more than once. The entitlement applies while the illness or injury persists.

The entitlement is described in Division 7, Subdivision C, clauses 104 to 106 of the NES. Notice and evidence requirements are outlined in clause 107 of the same Subdivision of the NES.

To download a copy of the NES, go to the Australian Industrial Relations Commission website www.airc.gov.au/awardmod/download/nas.pdf.

Who is 'immediate family'?

The employee's 'immediate family' includes:

- a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee;
- a child, parent, grandparent or sibling of a spouse or de facto partner of the employee
- a child, parent, grandparent or sibling of a former de facto partner.

Ref. Section 12 of the *Fair Work Act 2009*

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