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Third party review required: NA

Understanding changes to the *Horticulture Award*

In early April the Fair Work Commission (FWC) made amendments to a number of modern awards, most relevantly, the *Horticulture Award 2010*. The amendments to the Awards are in response to the recent Covid-19 pandemic.

The decision inserts two new clauses to the Awards which are

Unpaid Pandemic Leave

This leave provides employees who are acting on medical advice from a medical practitioner or are required by medical authorities or any government authority (State or Federal) to self isolate, two weeks unpaid leave where ordinarily they would be required to attend work at the employer's premises.

Whilst the leave is unpaid, it is an authorised absence from the workplace and it would be illegal for adverse action to be taken against an employee because they have accessed this leave.

Furthermore, if there is useful work for the employee to do, during the self-isolation period AND it is possible for the employee to do that work from home, I strongly advise members to do everything reasonable to enable the employee to do that work. Naturally, if the employee is able to work from home, they need to be paid. In addition, if the employee has accrued annual or long services leave AND would prefer to access those paid entitlements, it is strongly advised that employers allow the employees to access the paid leave.

If the employee is sick/injured and/or is required to care for an immediate family member who is sick/injured, the employee is entitled to access any paid personal leave entitlements that they have accrued.

Changes to Annual Leave

If the employer AND the employee agree, employees can now take double the amount of annual leave on half pay. For example, an employee and employer can agree for the employee to take two weeks annual leave at half pay, which will result in only one week of leave being deducted from the employee's annual leave accrual

Next Steps

The decision inserts the clauses with effect from 8 April 2020 until 30 June 2020. Should the pandemic still be ongoing at that point in time, or the Commission decides that the clauses need to be operative after 30 June 2020, the clauses may be continued after 30 June 2020.

More information

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