

We've done the analysis so you don't need to

LOGIN

SIGN UP

CONTACT US

LEGISLATION AWARDS TERMINATION INDUSTRIAL RELATIONS PAYROLL HR MANAGEMENT RECRUITMENT OHS RESOURCES

SEARCH

Advanced search

Saved searches

Home > Payroll > Leave > Q&A > Are allowances part of ordinary pay for annual leave purposes?

Are allowances part of ordinary pay for annual leave purposes?

6

By [Paul Munro](#) on 20 September 2012

The National Employment Standards (NES) and modern awards are the critical sources of entitlements in relation to annual leave pay, so employers should start there when deciding whether to include **allowances** in annual leave pay.

This question was recently sent to [WorkplaceInfo](#).

Q The majority of our employees are covered by two modern awards — the [Manufacturing and Associated Industries and Occupations Award 2010](#) and the [Clerks — Private Sector Award 2010](#).

A couple of employees have questioned the pay they received when taking annual leave.

The company pays annual leave in line with the definition of ordinary pay under the National Employment Standards (ie the employee's base rate of pay).

The employees involved are our designated first-aid officers and receive a first-aid **allowance** as per the relevant modern award.

The definition under the NES does not include 'allowances' and, consequently, the company does not pay the first-aid **allowance** when an employee takes annual leave.

Have we misinterpreted the definition under the NES in this circumstance?

A A term of a modern award may provide a more beneficial entitlement than the employee's 'base rate of pay' provided by the NES (see [s86 ff](#)) with respect to the ordinary pay payable to an employee who takes annual leave.

Manufacturing award

In this case, cl 41.4 of the *Manufacturing and Associated Industries and Occupations Award 2010* provides that instead of the base rate of pay payable under the NES, an employee must be paid their ordinary rate of pay, which is defined in the Award as including **allowances**, loadings and penalties paid for all purposes of the award, first-aid **allowance** and other wages payable under the employee's contract of employment, including any over-award payment.

This means any employee employed in the establishment whose duties are covered by the Manufacturing modern award receive their first-aid **allowance** for any period of annual leave.

Compare Clerks award

The *Clerks — Private Sector Award 2010*, however, refers to the NES with respect to most matters pertaining to annual leave.

This means ordinary pay is as defined by the NES (ie at the employee's base rate of pay (which excludes payment of **allowances**)), meaning the employer is not required to pay first-aid **allowance** on annual leave for any employee employed in the establishment whose duties are covered under the Clerks modern award.

Employers' choice

The employer could choose to pay the first-aid **allowance** to clerical employees as part of a company annual leave policy, to maintain similar benefits to all award-covered staff.



TODAY'S MEDIA

SIGN UP FOR A FREE TRIAL

RECENT ARTICLES

News

Cases

Analysis

Q&A

In the news: spitting, swearing and HR's CEO aspirations 15/03/2018

Webinar: AI, robotics and workforce planning 14/03/2018

In the news: workplace flexibility, business outlook and uniform dispute 14/03/2018

Logistics executives should be 'embarrassed' about lack of diversity 13/03/2018

ASK AN EXPERT

Employment topics A-Z

Your workplace encyclopedia

Updated continuously by workplace expert **Paul Munro**



COMMENTS

No comments yet. Be the first.

YOU MIGHT BE INTERESTED IN...

Not on roster: should we pay Easter public holidays?

By [Paul Munro](#) on
15 March 2018

If employees aren't rostered to work on Fridays or Saturdays, should they be paid the Easter public holidays? [Read more](#)

Are casual employees entitled to parental leave?

By [Paul Munro](#) on
8 March 2018

Are casual employees entitled to unpaid parental leave under the National Employment Standards? Paul Munro explains. [Read more](#)

Specialist appointment: which leave applies?

By [Paul Munro](#) on
7 March 2018

Is an employee entitled to carer's leave if she attends a medical appointment with her husband? Paul Munro explains. [Read more](#)

[Marketing](#) [WHS](#) [HR](#) [Business Growth](#) [International Trade](#) [Legal](#)

[About Us](#) [Contact Us](#) [Conditions of Use](#) [Privacy](#) [FAQs](#) [Terms and Conditions](#) [Use of Cookies](#)

Copyright © 2018 NSW Business Chamber (ABN 63 000 014 504). All rights reserved. No materials on this site or any part of this site may be reproduced or copied in any form without the prior written permission of the publisher. Please refer to our conditions of use, privacy policy and disclaimer.