

Annual leave – updates to the Pastoral Award and provisions for termination of employment.

By CHAS CINI

On July 29, 2016, a number of changes were made to the Pastoral Industry Award which means livestock producers employing staff are likely to be impacted.

Annual leave

Annual leave conditions were amended to enable employers and employees to agree to 'cash out' annual leave and request to take annual leave in advance.

An employee wanting to cash out annual leave must have at least four weeks' annual leave remaining after the leave is cashed out. The maximum amount of accrued paid annual leave that may be cashed out in 12 months is two weeks. The employer and employee need to complete and sign the written agreement.

Personal Carers Leave (previously known as sick leave)

Personal Carers leave is 10 days per year and does not apply to casuals. The entitlement accrues on a pro rata basis from the date of commencement of employment. Personal Carers Leave accumulates indefinitely and there is NO obligation to pay out unused personal carers leave on termination of employment.

Employers should have policies as to when medical certificates are required. Whilst there is no obligation to have policies it will be helpful to have some rules in place before you suspect an employee is malingering or forms a pattern of absences on particular days eg Fridays, Mondays, either side of Public Holidays etc.

Domestic Violence Leave

The Fair Work Commission is currently considering the introduction of this type of leave. We will provide an update after a decision is made.

Termination of Employment and Unfair Dismissal Claims

Employment terminated by the Employer should be procedurally fair and lawful (eg must not breach equal opportunity legislation).

A small employer (less than 15 employees including casuals) is exempt from unfair dismissal laws if the termination occurs in the first twelve months' employment of that employee. Small Employers should follow the guidelines at this link. <https://www.fairwork.gov.au/ArticleDocuments/715/Small-Business-Fair-Dismissal-Code-2011.pdf.aspx?Embed=Y>

Large employers (more than 15 employees) are also exempt from unfair dismissal during the first six months' employment of the employee.