

COMMUNITY SERVICE LEAVE

Community Service Leave forms part of the 'safety net' entitlements provided by the National Employment Standards (NES), which came into effect on 1 January 2010. The NES applies to all employees covered by the national workplace relations system, regardless of the applicable industrial instrument or contract of employment. However, terms in awards, agreements, employment contracts and State and Territory legislation can provide more favourable terms and conditions in addition to the minimum entitlements set out under the NES.

Community Service Leave See *Fair Work Act* [s. 108](#)

Employees, including casual employees, are entitled to take leave and carry out certain community service activities such as:

- > Jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory;
- > 'Voluntary emergency management activity' if and only if:
 - > the activity deals with an emergency or natural disaster;
 - > the employee engages in the activity on a voluntary basis;
 - > the employee is a member of, or has a member-like association with, a 'recognised emergency management body'; and
 - > the body requests the employee to engage in the activity, or it would be reasonable to expect that such a request would have been made.

Definition of 'recognised emergency management body' See *Fair Work Act* [s.109 \(3\)](#)

A body or part of a body, that has a role or function under a plan that:

- > is for coping with emergencies and/or disasters;
- > is prepared by the Commonwealth, a state or a territory;
- > a fire-fighting, civil defence or rescue body, or part of such a body;
- > any other body, or part of a body, which substantially involves:
 - o securing the safety of persons or animals in an emergency or natural disaster;
 - o protecting property in an emergency or natural disaster; or
 - o otherwise responding to an emergency or natural disaster.

The following are examples of bodies that would be recognised for the purposes of community service leave:

- > The State Emergency Service (SES)
- > The Country Fire Authority (CFA)
- > The RSPCA (in respect to animal rescue during emergencies or natural disasters).

Entitlement to Community Service Leave

There is no set limit on the amount of community service leave an employee is entitled to. An employee is entitled to be absent from his or her employment:

- > for the time that the employee is engaged in the eligible community service activity, including reasonable travelling time associated with the activity, and reasonable rest time immediately following the activity;
- > if the absence is reasonable in all the circumstances.

Please note that the requirement that the amount of community service leave taken is 'reasonable' does not apply to jury service.

Notification Requirements See *Fair Work Act* [s. 110](#)

An employee's absence from his or her employment is not covered by community service leave unless the employee complies with the notice and evidence requirements under the *Fair Work Act*.

To be eligible for community service leave, employees must give their employer:

- > notice of the leave;
- > the period or expected period of leave; and
- > reasonable evidence that the employee is entitled to the leave (if requested by the employer).

Payment for Community Service Leave

The NES does not stipulate payment for Community Service Leave. However, [s.112](#) states that the *FW Act* is not intended to overrule any State or Territory laws that provide entitlements to community service leave that are more beneficial to an employee. The applicable community service legislation in each State and Territory is listed below.

State	Payment prescribed by legislation
Australian Capital Territory	No EMERGENCIES ACT 2004
New South Wales	No STATE EMERGENCY AND RESCUE MANAGEMENT ACT 1989
Northern Territory	No FIRE AND EMERGENCY ACT 1996 EMERGENCY MANAGEMENT ACT 2013
Queensland	Yes PUBLIC SAFETY PRESERVATION ACT 1986 - 44 Protection of employment rights (1) A person must not dismiss from employment an employee who is or was absent from the employee's employment because of a relevant direction. Maximum penalty—40 penalty units or 1 year's imprisonment. (2) This Act shall not be construed to prejudice any right of action by any person in respect of wrongful dismissal. (3) For the purpose of calculating the entitlement of any employee to long service leave, sick leave, recreation leave or other benefits to which the employee is entitled, the continuity of

	<p>service of the employee is taken not to have been broken only by the employee's absence from the employment because of a relevant direction or the exercise by an emergency responder of powers under part 3.</p> <p>(4) An employee who is absent from the employee's employment because of a relevant direction is entitled to be paid by the person's employer wages payable for the period of the employee's absence during normal working hours.</p> <p>(5) Subsections (1) to (4) apply whether or not the employer in question has consented to the absence of the employee in the circumstances set out therein.</p> <p>(6) In this section— relevant direction means either of the following, whether given under part 2, 2A or 3— (a) a resource operator direction; (b) a help direction.</p>
South Australia	<p>No</p> <p>EMERGENCY MANAGEMENT ACT 2004 (SA)</p>
Tasmania	<p>Yes</p> <p>EMERGENCY MANAGEMENT ACT 2006 - 57 Protection of employment rights</p> <p>A person who is absent from his or her usual employment for the purposes of participating in emergency management, or participating in a rescue and retrieval operation during or after the incident or other event that is the reason for the operation, is not liable for dismissal or loss of long service leave, sick leave, recreation leave or other benefits to which he or she may be entitled under any industrial award or agreement or under any law by reason only of that absence (whether or not his or her usual employer has consented to that absence) if –</p> <ul style="list-style-type: none"> (a) the person is a member of, or has a member-like association with, the State Emergency Service, another statutory service, a municipal volunteer SES unit or an affiliated organisation and either – <ul style="list-style-type: none"> i. was requested by or on behalf of the State Emergency Service, statutory service, municipal volunteer SES unit or affiliated organisation to participate in the emergency management or rescue and retrieval operation; or ii. no such request was made, but it would be reasonable to expect that, if the circumstances had permitted the making of such a request, it is likely that such a request would have been made; or (b) the person has been directed or required under the exercise of emergency powers or special emergency powers to so participate in the emergency management or rescue and retrieval operation.
Victoria	<p>No</p> <p>EMERGENCY MANAGEMENT ACT 1986 (VIC)</p>

Western Australia	<p>Yes</p> <p><u>EMERGENCY MANAGEMENT ACT 2005 - SECT 92</u> - 92 Protection of employment rights</p> <p>(1) For the purpose of calculating the entitlement of an employee to long service leave, sick leave, recreational leave or other benefits to which the employee is entitled, the continuity of service of the employee is to be taken not to have been broken only by the employee's absence from the employment because the employee was carrying out an emergency management response.</p> <p>(2) An employee who is absent from the employee's employment because the employee is carrying out an emergency management response is entitled to be paid by the person's employer remuneration for the period of the employee's absence calculated at the employee's ordinary rate of remuneration, determined in accordance with the regulations, on the time that the employee would ordinarily have worked had the employee worked his or her scheduled work time.</p>
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Have you been impacted by the bushfires?

Emergency assistance payments and other non-financial support is available to people affected by the East Gippsland fires.

Where to get help

The Victorian Chamber works with Local, State and Federal governments to ensure affected businesses have access to disaster assistance arrangements. If your business has been affected by the East Gippsland bushfires please let us know at disaster@victorianchamber.com.au

Personal well-being

It is normal to feel anxious or physically, mentally and emotionally unwell after a distressing or frightening event.

Support is available to you and your family from:

[Lifeline](#) - 13 11 14

[Beyond Blue](#) - 1300 22 4636 or [online chat](#)

[Any of these services](#)

Other useful links

Australian Capital Territory

For emergency services and assistance please contact the [ACT Emergency Services Agency](#).

New South Wales

For all NSW related incident and relief and recovery information, please visit [Emergency NSW](#) and [Rural Assistance Authority](#).

Northern Territory

For bushfire information, including alerts and warnings and management assistance please visit [SecureNT](#).

Queensland

For assistance with bushfire planning and information please visit the [Rural Fire Service](#). For related information please visit the [Queensland Fire and Emergency Services](#) website.

South Australia

For information relating to warnings and incidents including current bushfire conditions, please contact the [South Australian Country Fire Service](#).

Tasmania

For emergency clear and consistent emergency information please visit [Tasmania Fire Service](#) and [TasALERT](#).

Victoria

For all incident and relief and recovery information, including information on making an insurance claim, please visit [Emergency Victoria](#).

Western Australia

For warning and incidents and recovery information please visit [EmergencyWA](#).

Contacting the Victorian Chamber of Commerce and Industry

The Victorian Chamber's team of experienced workplace relations advisors can assist members with a range of employment, human resources and industrial relations issues.

Our experienced workplace relations consultants can also provide assistance to both members and non-members on a range of more complex matters for a fee-for-service. The consultants can, among other things, provide training to employees, conduct investigations and provide representation at proceedings at the Fair Work Commission.

For assistance or more information, please contact the Workplace Relations Advice Line on **(03) 8662 5222**.

Disclaimer

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