

Childcare Queensland Conference Workshop

Sunday 1 August 2010



Childcare
Queensland







Minimum Award Conditions for your Industry are regulated by:


- Children's Services Award 2010
- Educational Services (Teachers) Award 2010
- National Employment Standards (NES)
- Division '2B' Awards


Note: the Children's Services Award includes National Training Wage

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- For Child Care Centres in the State Industrial System at 31/12/2010 you are in the Federal (Fair Work) System from 01/01/2010.
 - You will retain your State Award or Awards until 31/12/2010. These Awards are described as Division '2B' Awards.



This happens because the State Governments (other than WA) have referred IR powers to the Federal Government.

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- Apart from remaining under your '2B' Award everything else in the Fair Work System applies.
 - The \$26.00 Minimum Wage Increase **did not** apply.
 - After 12 months you will become regulated by the Modern Award(s).
 - **NOTE:** Transitional rules still to be released.



For Federal system employers at
31/12/2009 you were regulated by
one or both Modern Awards plus the
NES from 01.01.2010.

The NES

- What does the NES cover?
- Can the NES be diminished in whole or in part?

NO.



The NES

- The NES consists of 10 minimum standards.
- Your Awards default to certain provisions.

The NES

- Children's Services Award 2010
 - Termination (CL 11)
 - Redundancy (CL 12)
 - Annual Leave (CL 24)
 - Personal/Carers (CL 25)
 - Compassionate (CL 25)
 - Community Service Leave (CL 26)
 - Public Holidays (CL 27)

The NES

- Educational Services (Teachers) Award 2010
 - Termination (CL 11)
NOTE: 4 weeks notice other than schools (CL 11.3)
 - Redundancy (CL 12)
 - Annual Leave (CL 21)
 - Personal/Carers (CL 24)
 - Compassionate (CL 24)
 - Community Service Leave (CL 25)
 - Public Holidays (CL 26)

The NES

- Parental Leave is set out fully in the NES s67-85.
- It can be up to 104 weeks and shared between the birth mother and the other member of the “employee” couple.

The NES

- Some new conditions in the NES
 - No limit on paid sick leave taken and accrued
 - No limit on paid carers leave taken and accrued
 - 10 day limit on Jury service
 - SES; Volunteer Fire Services duty recognised but unpaid
 - If sick on Annual Leave, right to substitute, same for Carers/Compassionate.

The NES

- Personal – Sick or Carers Leave
 - A special mention regarding Notice and Evidence.
 - You will note the Award(s) are silent on Medical certificates, more than 2 days etc.

The NES

- Evidence to satisfy a “reasonable person” (s107 of NES)
 - We strongly recommend you establish a policy on what would satisfy you – perhaps all absences over 2 consecutive days requires a “medical certificate”.
 - Previous Queensland Child Care NAPSA
 - More than 2 days (CL 7.2.3)
 - Single day absences – no more than 3 (CL 7.2.7)

Transitional Provisions

- What actually applies from 01/01/2010 and on 01/07/2010?
- Schedule A of both Modern Awards regulates the “phasing in” of certain monetary conditions.

Transitional Provisions

- Schedule A:
 - From 01/01/2010: everything **but** increased wage rates, Penalty rates (not overtime) and 25% Casual Loading
 - From 01/07/2010 they are effectively subject to 20% adjustments in 2010; 2011; 2012; 2013; on 1 July 2014 the final (100%) rate in the applicable Modern Award applies.

Transitional Provisions

- The 20% is calculated on the Transitional amount or difference. The “difference” may be higher or lower.
- **NOTE:** though that no employee can suffer an Award induced reduction in “take home” pay if their circumstances remain the same. They can go to FWA. (very few examples)

Transitional Provisions

○ **Note:**

- Minimum safety net increases apply in full but can be offset by a “transitional amount or difference”
- “Overawards” can offset any monetary increases.
- \$26.00 per week ppc on or after 01/07/10

Wage Increases

- Very few increases, but note the specific classifications in Schedule B.
- Also note variations in Directors Rates – different Levels.
- See Translation Document issued by ES to CCQ.

Children's Services Award 2010

- Overtime is now 1.5 times for first two hours, and yes TOIL remains – time for time (CL 23.1). Limit to 20 hours but may be taken with Annual Leave.
- CL 23.2 – emergency overtime max. of 1 hour, paid at ordinary time.
- Applies 01/01/2010.

Children's Services Award 2010

Hours – CL 21:

- Full Timers
 - Average 38 hours
 - Up to 10 hours per day. (Note: CL 7)
 - Broken Shifts

- Part Timers & Casuals
 - Minimum of 2 hours

- Non Contact time of 2 hours

Children's Services Award 2010

Breaks:

- Meal Breaks (Clause 22.1)
 - No more than 5 hours
- 6 hours only – elect for no break
- Rest Pauses (Clause 22.2)

Children's Services Award 2010

Part Timers - CL 10.4:

- Less than 38 hours (b)
- Agreed in writing (c)
- Changes in writing or 7 days notice (change of days) (d)
- Agree to work in excess of normal hours – ordinary time (f)
- Anytime over 8 hours – overtime (f)

Children's Services Award 2010

Casuals - CL 10.5:

- Engaged for temporary or relief purposes
- Could work 38 hours
- Over 8 hours or 38 hours – overtime
- Casual Loading (a) – 23% (Queensland) until 30/06/2010 then 0.4% increases until 2013 (so 25% by 2014)

Children's Services Award 2010

Juniors - CL 14.3:

- Levels 3/4/5 – Adult Rate
- Levels 1 or 2 paid as per Level 2
- U17 – 70%
- U18 – 80%
- U19 – 90%
- U20 – 100%

Children's Services Award 2010

Allowances – CL 15:

- Broken Shift;
- Clothing;
- Excess fares;
- First Aid – classified below Level 3 (amended 28/04/10);
- Meals;
- Qualifications;
- Vehicle;

Children's Services Award 2010

Superannuation - CL 20.4:

- Employee Choice
- Plus 9 named default funds
- Work related injury or illness covered by Paid Leave or WorkCover (CL 20.5).



Individual Flexibility Clause:

- **Applies to both Modern Awards**
- Clause 7.1 does allow for flexibility.
- Let's discuss the clause.

Educational Services (Teachers) Award 2010

- Employee means a person employed as a teacher in Children's Services and Early Childhood Education.
- Special provisions for full time/ part time /casual Teachers in Early Childhood
 - 4% higher wages
 - Operating for 48 weeks or more

Educational Services (Teachers) Award 2010

- Teachers appointed as Directors – additional allowances – subject to number of places. Ranges between 11.5% - 17.3% (CL 15)

Educational Services (Teachers) Award 2010

○ Schedule B

- Teachers employed in early childhood services operating for at least 48 weeks per year.
- Ordinary hours of work (B.1)
 - 38 hours per week
 - Can be averaged
 - 6.00am – 6.30pm
 - 8 hour day
 - 10 hour day subject to clause 7.1

Educational Services (Teachers) Award 2010

- Non-contact Time (B.3.2)
 - Minimum of 2 hours per week where responsible for programming/ planning.
- Superannuation: 18 default funds; note there is no provision to contribute up to 52 weeks whilst on workcover (CL 18.4).
- Overtime: 1.5 times for first 3 hours, 2 times thereafter (CL B.4.1)
- TOIL: Time for time (CL B.4.2)

Educational Services (Teachers) Award 2010

- **Note for Salaries** – the NAPSA extended from Band 2 Step 1 - \$743.66 to Band 3 Step 2 - \$901.36.
- Modern Award is now \$790.10 - \$1093.20