

Community Service Leave

This document has been created to provide Clubs with a summary of community service leave entitlements and rules. Please note however that this is not an exhaustive list of everything that may apply to community service leave.

Entitlement

An employee is entitled to community service leave where they are engaging in a voluntary emergency management activity or they are on jury duty. Community service leave forms part of the National Employment Standards (NES) which covers all employees regardless of what industrial instrument they are covered by.

In terms of what will be deemed as an emergency management activity, it is where:

- the activity deals with an emergency or a natural disaster;
- the employee is engaged in this activity on a voluntary basis;
- the employee was requested to engage in the emergency management activity or it is reasonably expected that they would had circumstances permitted this; and
- the employee is a member with a recognised emergency management body or they have a member-like association.

What is a Recognised Emergency Management Body?

- they have a role or function under a plan that is for coping with emergencies / natural disasters (prepared by the Commonwealth or a state or territory); or
- they are a fire fighting, civil defence or rescue body; or
- they are any other body which is mainly involved in responding to an emergency or natural disaster.

Examples of a recognised emergency management body include the Country Fire Service (CFS), Army Reserves and State Emergency Service (SES).

Payment

Apart from Jury Duty (which is discussed later), community service leave is unpaid.

Taking of Leave

There is no limit on the amount of leave that can be taken and an employee can take leave for the duration that they are engaged in the activity, as well as reasonable travel and rest time.

The leave must also be reasonable in all circumstances. Please note that Jury Duty is always considered reasonable.

Notice and Evidence Requirements

When an employee takes community service leave they have to notify their employer of the absence ASAP (which could be after the leave starts in some circumstances) and what the period or expected duration will be.

An employer can ask for evidence that they are entitled to use the leave.

Jury Duty

Notice and Evidence Requirements

Should an employee be called up for jury duty then they have to advise their employer of the period or expected period of absence ASAP. If an employee wishes/is required to use leave during this time then they have to provide evidence that they are required to attend jury selection and/or jury duty.

Payment

Under the Fair Work Act 2009 (Cth), a permanent employee (full-time or part-time) is required to be paid 'make-up' pay for the first 10 days of jury selection and duty. A casual is not entitled to 'make-up' pay but can seek payment for lost wages from the Court (explained further below).

'Make-up pay' is the difference between any payment an employee receives from jury duty payments from the Court (not including any expense-related allowances) and the base rate of pay for the ordinary hours that an employee would have ordinarily worked.

Before making any 'make-up' payments to an employee an employer can ask that the employee provide evidence that they have sought jury payment from the Court and how much this was. If an employee fails in providing sufficient evidence then the employer isn't required to pay them 'make-up pay'.

Juror Payments via the Court

A juror is paid a base amount of \$20 a day for each day of attendance. They are also provided with a travelling allowance of 85 cents per kilometre based on the distance from the juror's house to the Court and back for each day they attend.

If a juror can show that they have incurred a loss as a result of being called to jury selection / duty (e.g. loss of wages or having to sort child care arrangements) then they can claim up to \$158 a day on top of the base \$20.

An employee will need to apply for the additional payment via a form from the Sherriff's office (Can be found via the following link: [Juror Payment Forms](#)) and provide evidence that they have lost income e.g. something in writing from their employer stating that they are employed, have lost shifts etc.

If an employer pays their employee while they are on jury service then they can claim a reimbursement from the Court up to the maximum amount specified (which as of 1 July 2022 is a max of \$178 per day).