

New Requirements to Flexible Working Arrangement Rules

From 1 December 2018, modern awards include new rules about requests for flexible work arrangements.

What are flexible working arrangements?

Examples of flexible working arrangements include changes to:

- hours of work (eg changes to start and finish times)
- patterns of work (eg split shifts or job sharing)
- locations of work (eg working from home)

Who can request flexible working arrangements?

Employees (other than a casual employee) who have worked with the same employer for at least 12 months can request flexible working arrangements if they:

- are the parent, or have responsibility for the care, of a child who is school aged or younger
- are a carer (under the Carer Recognition Act 2010)
- have a disability
- are 55 or older
- are experiencing family or domestic violence, or
- provide care or support to a member of their household or immediate family who requires care and support because of family or domestic violence.

Casual employees can make a request if:

- they've been working for the same employer regularly and systematically for at least 12 months
- there's a reasonable expectation of continuing work with the employer on a regular and systematic basis.

New Changes to Awards

Before responding to a request from an eligible employee, an employer must first discuss the request with the employee to try to reach an agreement about a change to their working arrangements.

Requests can only be refused on reasonable business grounds. If employers refuse a request, they need to provide the employee with a written response.

How do employees request flexible working arrangements?

Requests for flexible working arrangements have to:

- be in writing
- explain what changes are being asked for
- explain the reasons for the requested change

What should employers do with a request?

Employers covered by an award must first discuss the request with their employee to try to reach an agreement about changes to the employee's working conditions, taking into consideration:

- the needs of the employee
- consequences for the employee if changes in working arrangements aren't made
- any reasonable business grounds for refusing the employee's request

All employers who receive a request must provide a written response within 21 days which outlines whether the request is approved or refused.

Employers can only refuse a request on reasonable business grounds. If a request is refused the written response must include the reasons for the refusal.

Awards contain specific information on what needs to be included in the written response if the request is refused or if a different change in working arrangements is agreed.

What are reasonable business grounds?

Reasonable business grounds can include:

- the requested arrangements are too costly
- other employees' working arrangements can't be changed to accommodate the request
- it's impractical to change other employees' working arrangements or hire new employees to accommodate the request
- the request would result in a significant loss of productivity or have a significant negative impact on customer service.

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