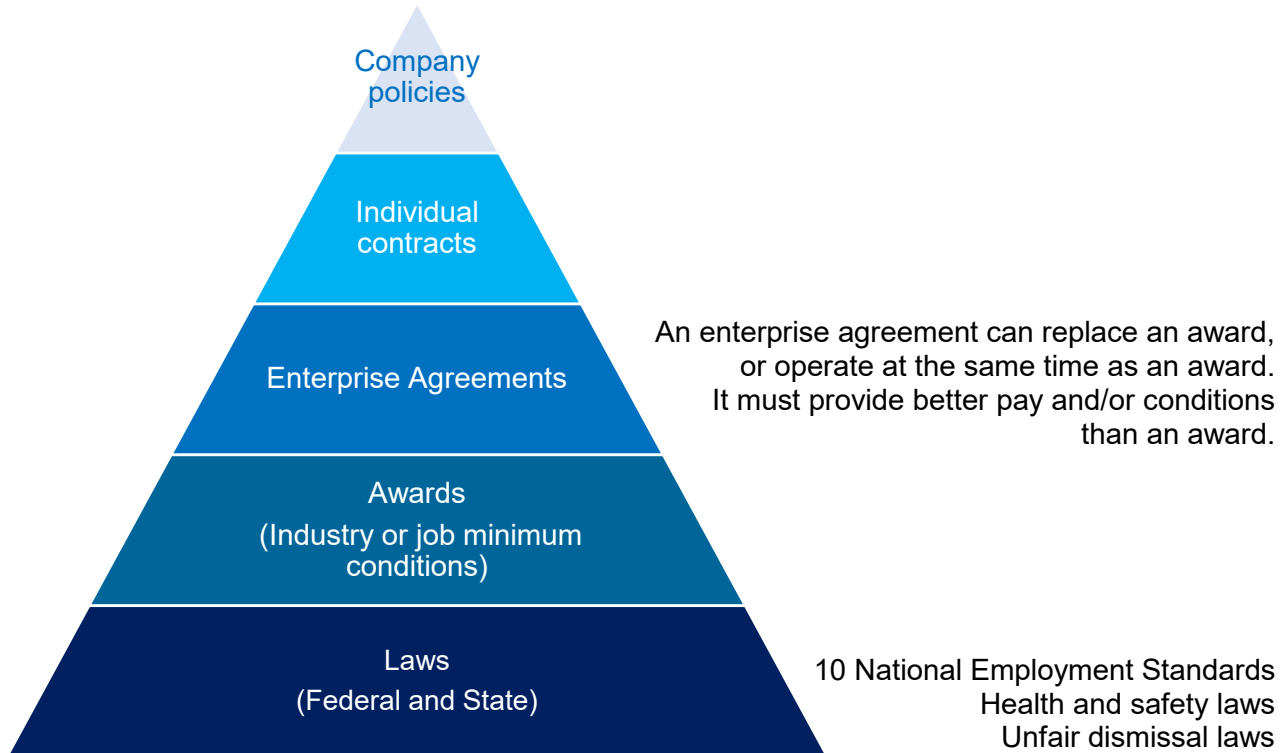


Employment Law Framework

A person's pay and conditions of employment come from a number of different sources, including:



The most important of these are workplace laws. Other conditions cannot cancel out or provide less than the law.

10 National Employment Standards

The National Employment Standards set out in the *Fair Work Act 2009* (Cth) provide 10 employment conditions that Australian employers must provide as a minimum. These are:

1) Maximum weekly hours

An employer must not require an employee to work more than 38 hours ordinary hours per week, plus *reasonable* overtime. An employee may refuse to work additional hours if they are unreasonable. A range of factors need to be considered when determining whether a request is reasonable.



2) Requests for flexible working arrangements

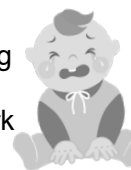
Employees who have at least 12 months continuous service may request a flexible work arrangement to: care for a child who is of school age or younger; or to care for someone who is disabled, elderly or experiencing



domestic violence.

3) Parental Leave

Employees may be entitled to take up to 12 months unpaid leave following the birth of a child. This may be extended by a further 12 months by request. Employers may request proof that an employee is fit to be at work within 6 weeks of the expected birth date.



4) Annual Leave

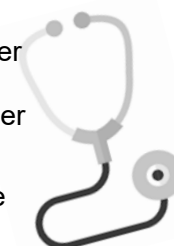
Employees, except casuals, have four weeks leave per year (five weeks for shift workers), or equivalent pro-rata for a part-time employee as defined in awards. The entitlement accrues from year to year. It is unlawful to cash out annual leave, except where an Awards or enterprise agreement provides for it.



5) Personal/Carer's/Compassionate Leave

Employees, except casuals, are entitled to 10 days paid personal leave per year which accrues from year to year. This leave may be taken as either sick leave (where they are unfit for work) or carer's leave – when a member of their immediately family is ill or injured.

Compassionate Leave is a stand-alone entitlement of two days paid leave for each separate occasion where an immediate family has a life threatening condition or dies.



6) Community Service Leave

Employees are entitled to be absent from work if engaged in a voluntary emergency management activity. Jury Service Leave is a paid leave entitlement governed by the relevant state legislation.



7) Long Service Leave

Existing award or State legislated entitlements continue to apply.



8) Public Holidays

Employees may take a day off, without loss of pay on a designated public holiday, unless they have been requested to work. Employers must not unreasonably require work on a public holiday.



9) Notice of Termination and Redundancy Pay

Written notice of termination is required, and there are minimum notice periods or redundancy severance periods, depending on the employee's length of service. Exclusions may apply if the employer is a small business. In the case of serious misconduct (ie. not just 'misconduct') minimum notice periods may not apply, depending on the relevant Award or contract of employment.



10) Fair Work Information Statement

At the beginning of their employment, employers are required to provide employees with an information sheet setting out some basic entitlements. This information sheet has been developed by the Fair Work Commission and is available on the Victorian Chamber website.



The Fair Work Ombudsman provides fact sheets with more detailed information on the National Employment Standards [here](#).

Awards

Each person in Australia may be covered by a modern award or could be 'award-free'. Only one award can apply to each person.

Awards provide minimum pay and conditions for an industry or occupation. A person's employer must provide the relevant award pay and conditions as a minimum by law (or otherwise provide better terms).

Employees under the BAA enterprise agreement are most likely covered by:

Award name (and link)	Who does it cover?
<i>Manufacturing and Associated Industries and Occupations Award 2020</i>	Production employees
<i>Professional Employees Award 2020</i>	Engineers and scientists
<i>Clerks – Private Sector Award 2020</i>	Office staff doing administrative work

Awards set out:

- ▶ Classifications – descriptions of a position or level in the industry/occupation
- ▶ Minimum pay rates for each classification
- ▶ Times of day when normal or 'ordinary' hours can be worked, and times of day when shift penalties or overtime must be paid.
- ▶ The overtime rates and when they apply.
- ▶ Allowances – what they are paid for and how much must be paid.
- ▶ What an employer must do if they want to make a major change – requires notification to employees in writing, and providing an opportunity for employees to provide their view before making a final decision.
- ▶ Redundancy pay arrangements.