

## 38. CULTURAL LEAVE FOR ABORIGINAL AND TORRES STRAIT ISLANDERS

38.1 Employees who identify as Aboriginal or Torres Strait Islanders (ATSI) are entitled to paid cultural leave which can be accessed to participate in any of the following:

- (a) cultural and ceremonial obligations under ATSI lore, customs or traditional law; and
- (b) community cultural events such as NAIDOC Week activities, Reconciliation Week or Coming of the Light festivals.

This new leave type is available to Aboriginal Australian and Torres Strait Islander Employees.

Application of this clause is not limited to those Employees who self-identify as ATSI through a HR process or system. If the Employer has a genuine concern about the legitimacy of a request, reasonable evidence can be requested from the Employee.

This list of cultural and ceremonial obligations/events is not exhaustive. Employers should use their discretion when Employees apply to access the leave.

38.2 Up to five days of paid cultural leave per calendar year will be available under this clause. The leave need not be taken in one continuous period. Paid cultural leave will not accrue from year to year and will not be paid out on termination.

Up to five days is available irrespective of whether the eligible Employee is part time or full time. The leave can also be taken as part-days where required.

38.3 The Employer will assess each application for cultural leave on its merits and give consideration to the personal circumstances of the Employee seeking the leave.

38.4 The Employer may request reasonable evidence of the legitimate need for the Employee to be allowed time off.

The requirements for 'reasonable evidence' should be applied in the same manner as for existing leave types.

38.5 If an Employer requires an Employee to attend to business associated with an ATSI organisation, or an organisation that works to facilitate ATSI interests, the attendance is considered to be a part of the Employee's normal duties and the Employee need not access leave under this or any other clause to enable it.

38.6 Cultural leave granted under this clause is in addition to the leave provided by clause 37 – Bereavement Leave of this Agreement and clause 33 – Cultural/Ceremonial Leave of the Applicable Award.

The leave should not be substituted in situations where another paid leave type may be suitable, such as bereavement or personal leave.