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**The Australian HR Institute**

**Submission to the House of Representatives Standing Committee on Employment  
Inquiry into the National Employment Standards**

**February 2026**

**The Australian HR Institute**

The Australian HR Institute (AHRI) is the professional body for Human Resources in Australia, with 18,000 members from Australia and internationally.

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## **1. Summary**

1.1 The Australian HR Institute (AHRI) supports the current inquiry into the National Employment Standards (NES) and welcomes the opportunity to contribute to a review of whether the NES remains fit for purpose in a changing labour market.

1.2 The NES was introduced as a clear and accessible floor of rights for employees, designed to operate alongside modern awards and enterprise agreements. AHRI believes that the NES should be assessed and applied only as lightly as necessary to achieve its objectives at minimum administrative cost.

1.3 However, consistent with the academic literature, soundings from members and survey feedback from HR professionals suggests that the national employment standards are not being applied lightly and are not achieving their objectives at minimum administrative cost. This is largely because the clarity of the standards has diminished since the inception of the NES in 2010 due to their intersection with other additional entitlements, qualifications and rules introduced by modern awards, enterprise agreements and other regulatory instruments. The overall feedback is that this has led to more complexity and a greater need to seek legal advice.

1.4. As a result, AHRI has three key recommendations:

- to broaden the scope of the review to improve the clarity of how the NES interacts with modern awards and enterprise agreements (for example, by reducing duplication and ambiguity in areas such as notice periods, weekly hours, and redundancy entitlements)
- to prioritise simplification and consolidation of NES provisions
- to exercise caution in considering expansion of NES entitlements without first addressing both the complexity and coherence of the system and the cost implications of new entitlements that would weigh on employment growth.

## **2. Operation of the NES in practice and implications for reform**

2.1 AHRI undertook a survey to assess HR professionals' experiences and attitudes towards the National Employment Standards. While respondents affirmed the continuing value of the NES as a universal floor of rights, the poll highlights some concern about how the framework operates in practice. When asked which direction the NES review should take, the most frequently selected option, cited by 46 per cent of respondents, was to focus primarily on



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improving how the NES operates and interacts with modern awards, enterprise agreements and other regulatory instruments.

2.2 Concerns about coherence and interaction were reinforced in a related question on priorities for change. Fifty-seven per cent of respondents identified clearer interaction with awards and agreements as a key priority for the NES, making it the most commonly cited area for improvement. Taken together, these findings suggest that concerns are less about the underlying purpose of the NES and more about the cumulative complexity created by how minimum standards intersect with other layers of the workplace relations system.

2.3 Feedback from AHRI members has identified several practical examples of where the interaction between the NES and modern awards can create uncertainty or duplication or where there is some confusion about the NES. These include:

**NES and notice periods**

2.3a In terms of notice periods, some modern awards contain specific clauses for employee notice, while others refer to employer notice periods under the NES. The additional one week of notice an employer is required to provide if a worker is over 45 and has two years continuous service is often overlooked, and also can be confusing for employees not understanding that when they are giving notice, they don't have to give the extra week's notice.

***Building and Construction General On-site Award 2020***

2.3b This award provides an industry-specific redundancy scheme under which an employee who ceases to be employed by an employer (except for misconduct or refusal of duty) may be entitled to redundancy pay. In practice, this can extend to circumstances where the employee resigns and also may apply to small businesses. These award entitlements are contrary to the requirements under the NES (e.g. as redundancy entitlements would not otherwise apply for an employee who resigns, or for a small business).

This award also has different notice periods for certain categories of employees, such as weekly hire and daily hire employees. Not only does this award create different categories of employees (daily hire/full-time weekly hire/part-time weekly hire/casual), but it also has different notice requirements. For example, weekly hire employees, despite being hired on a weekly basis, still have notice requirements in accordance with the NES as permanent employees would. Daily hire employees, however, only receive/give one day's notice, and that notice can be given at or before the start of the employee's last day of work.

As a result, in one instance, a small business employer was advised that redundancy pay was not required in circumstances where the award in fact imposed an obligation. This required

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further clarification and intervention to ensure compliance. Such provisions create confusion and compliance risk.

**Maximum weekly hours**

2.3c The maximum weekly hours standard (38 hours plus reasonable additional hours) is another example of layered complexity. In practice, some employers assume that “reasonable additional hours” are automatically incorporated into standard working hours, particularly when awards then overlay detailed overtime provisions. This interaction can obscure the distinction between the statutory standard and award-based overtime obligations.

**Annual leave**

2.3d Annual leave provisions relating to shift workers provide a further example of interaction complexity. While the NES establishes a minimum entitlement, some modern awards provide additional leave for shift workers but apply differing or narrowly framed definitions of who qualifies as a shift worker. This variation can create uncertainty in determining eligibility and reduces the clarity of the minimum standard.

2.4 At the same time, AHRI survey findings indicate that, in principle, the NES continues to be regarded by most HR professionals as a relevant and important safety net of minimum employment standards. This reinforces the distinction between support for the role and purpose of the NES, and concern about how effectively it operates within the broader regulatory framework.

2.5 Views were more evenly divided on whether the scope of the NES should extend beyond traditional employment relationships. Around a third of respondents reported that the NES generally works well for employees and should not extend beyond its current scope, while a similar proportion supported adapting or extending the framework to cover some non-traditional work arrangements. The remaining third considered that the NES does not adequately reflect modern work arrangements and requires more fundamental reconsideration of coverage.

This even distribution of views underscores the absence of a clear consensus on scope and highlights the importance of addressing issues of structure, clarity and interaction within the existing framework before pursuing any expansion of coverage.

Increasing regulation for non-traditional work arrangements may also lead to the labour market becoming less flexible. From an economic perspective, this reduction in labour market flexibility may lead to a reduction in employment and productivity.



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**3. The risks and benefits of further NES expansion**

3.1 Survey respondents were asked about the likely impact of increasing minimum annual leave entitlements (for example four to five weeks) as part of the NES. The survey data suggest strong perceived benefits for employee engagement. However, respondents' views on the potential impact on productivity were mixed and negative about the cost implications.

**Figure 1: Likely impact of increasing annual leave on organisations or clients**



Base: all employers n = 61

It is worth highlighting that recent AHRI research suggests that many of the legislative workplace reforms that have taken place over the past three years have had a positive impact on productivity<sup>1</sup>.

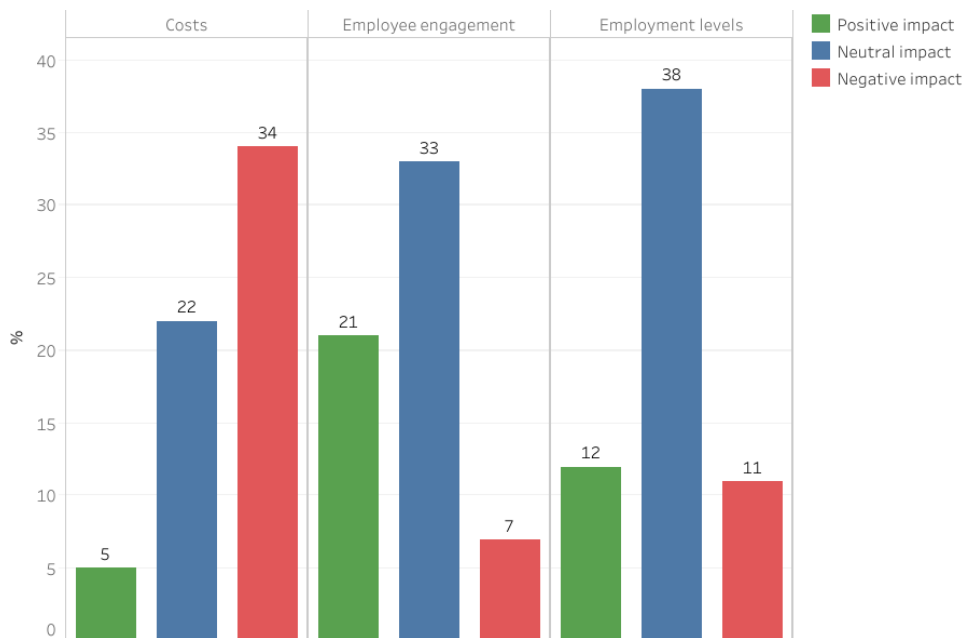
3.2 Similarly, any potential changes to redundancy provisions, (such as removing small business exemptions, increasing redundancy at 10 years' service, or expanding obligations for technology-related job losses, are commonly viewed by respondents as having either a neutral or negative impact on employment levels and costs. These findings point to the need to consider unintended consequences for workforce planning, especially in circumstances requiring rapid adjustment to structural change or a weaker business environment where it may be necessary to make workforce reductions.

<sup>1</sup> [Employment-Regulation-Report-2025\\_digital.pdf](#)



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Figure 2: Likely impact of making changes to redundancy provisions on organisations



Base: all employers n = 61

3.3 AHRI therefore believes that any expansion of the NES risks increasing compliance complexity and undermining the role of the NES as a clear and intelligible safety net. From a regulatory design perspective, these findings reinforce the value of prioritising simplification and consolidation before considering expansion. Where the compliance burden is driven by procedural and interpretive complexity, additional layers of regulation can increase cost and risk without improving employee understanding of entitlements.

3.4 Additionally, the poll and related AHRI evidence also suggest a degree of implementation fatigue among HR professionals, reflecting the administrative burden and costs that many HR professionals say they have incurred in meeting recent regulatory requirements<sup>2</sup>. The same AHRI research indicates that while employers report that many of these reforms have had a positive impact on their organisation, they would welcome a period of respite due to both the administrative burden and the urgent imperative to address the demographic and skills challenges through workforce development and strategic workforce planning.

<sup>2</sup> [Employment-Regulation-Report-2025\\_digital.pdf](#)

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#### **4. Conclusion**

4.1 AHRI does not support the expansion of NES entitlements or coverage. Following a sustained period of legislative workplace reform, many HR professionals report the need for greater stability and time to embed recent changes. Concerns have also been raised about costs and, to a lesser extent, the potential for expanded NES entitlements to constrain productivity improvements at a time when borrowing costs are rising and productivity growth remains relatively weak. It should be added that the labour market remains one of the success stories of the Australian economy, which is reflected by low structural unemployment and strong job creation potential.

4.2 AHRI supports the continued evolution of minimum standards where there is clear evidence of need. However, any changes should be proportionate, workable, well understood, and should not intersect with modern awards and enterprise agreements. AHRI believes that the NES's interaction with modern awards and enterprise agreements should be a key part of the review.

Prepared by:

Australian HR Institute  
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