

12 August 2026

Standing Committee on Employment, Workplace Relations, Skills and Training
PO Box 6021
Parliament House
Canberra ACT 2600

Via email: employment.reps@aph.gov.au.

Re: Inquiry into the operation and adequacy of the National Employment Standards

Dear Committee Secretariat,

The Association Digital Service Providers Australia New Zealand (DSPANZ) welcomes the opportunity to make a submission to the Standing Committee on Employment, Workplace Relations, Skills and Training's inquiry into the operation and adequacy of the National Employment Standards (NES) under the *Fair Work Act 2009*.

DSPANZ represents providers of payroll, human resources (HR), workforce management, rostering and compliance software. Our members build and maintain the systems that employers of all sizes use to calculate pay, administer leave, roster employees and meet workplace, taxation and superannuation obligations.

Software is now a primary delivery mechanism for the NES and workplace relations entitlements. In practice, most employers and employees experience these statutory entitlements through the outcomes produced by payroll, HR, leave management, rostering and time and attendance systems. The adequacy of the NES, and the broader Fair Work system, therefore depends not only on the design of individual entitlements, but also on whether they can be translated into clear, consistent and reliable software rules.

DSPANZ therefore recommends that software providers be recognised as implementation stakeholders in the workplace relations system, supported by structured engagement with the Department of Employment and Workplace Relations (DEWR), the Fair Work Commission (FWC) and the Fair Work Ombudsman (FWO).

Early and continuing engagement would help ensure that future workplace reforms are capable of being implemented with clarity, consistency and reasonable lead times. When obligations can be accurately translated into the payroll and HR systems employers use every day, compliance becomes easier and more consistent, employees receive their correct entitlements, and regulators can focus their resources on substantive non-compliance rather than resolving avoidable uncertainty about how obligations should be interpreted and administered.

This submission focuses on how establishing structured engagement pathways with Digital Service Providers (DSPs) fosters opportunities to fundamentally improve the way workplace obligations are developed, explained, commenced and maintained in software. This level of engagement with DSPs will be particularly important for introducing any changes to the NES resulting from this inquiry.

DSPANZ makes the following recommendations in our submission:

1. The government should establish structured engagement with DSPANZ and relevant software providers during the development of workplace legislation, FWC reviews and other reforms that affect payroll, HR and workforce management systems to identify implementation issues early and support better compliance.
2. Workplace reform processes should expressly consider software implementation impacts, including affected systems, redevelopment and testing costs, dependencies, cumulative change and realistic deployment timeframes.
3. Workplace reforms should be supported by clear implementation guidance, including worked examples, consistent definitions, transparent calculation methodologies and, where appropriate, machine-readable artefacts.
4. Legislative and regulatory changes affecting payroll, HR and workforce management systems should provide realistic implementation lead times, staged commencement where appropriate and early publication of sufficiently settled guidance and calculation rules.
5. Where employment, taxation and superannuation frameworks regulate the same underlying payroll concepts, all levels of government should seek to adopt consistent definitions and classifications wherever practicable.
6. The FWC and FWO should progressively adopt digital-first approaches to workplace regulation, including machine-readable guidance, structured and version-controlled calculation specifications, and transparent methodology for official tools and datasets.

About DSPANZ

Digital Service Providers Australia New Zealand is the gateway for the government into the dynamic, world-class business software sector in Australia and Aotearoa New Zealand. [Our members](#) range from large, well-established companies to new and nimble innovators working at the cutting edge of business software and app development on both sides of the Tasman.

DSPANZ welcomes the opportunity to provide further feedback on our submission. Please contact Maggie Leese on maggie@dspanz.org for more information.

Yours faithfully,

Signed by:

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Chris Denney,
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1. Introduction

Virtually every NES entitlement is now operationalised through software. Payroll systems calculate pay and leave accruals; rostering and workforce management systems determine ordinary and additional hours; leave management systems track eligibility and balances; and award interpretation engines translate modern awards and enterprise agreements into pay outcomes.

This reliance on software extends beyond the NES. The same systems may need to account for modern awards, enterprise agreements, long service leave (LSL), public holidays, and superannuation or taxation obligations. The movement towards administering obligations through “natural business systems” is embedding compliance into the business events and processes where the relevant information is created. It is also making software implementation an essential part of regulatory design.

The quality of software implementation has a direct bearing on compliance outcomes. Clear requirements that can be implemented consistently allow compliant outcomes to be embedded into employers’ ordinary payroll and HR processes. Where legislation, an award or official guidance is ambiguous, inconsistent with another instrument or difficult to translate into deterministic logic, that difficulty is transferred to software providers and ultimately to employers and employees. Improving implementation at the point of design can therefore support both voluntary compliance and more efficient regulatory administration.

For this reason, the Committee should assess the NES (and the broader workplace relations system) through a software-mediated delivery lens.

2. Structured engagement with software developers

Workplace law consultation and review processes appropriately involve unions, employer representatives and industrial relations specialists. However, software providers are not recognised as implementation stakeholders, despite being responsible for translating workplace obligations into the systems used by Australian employers.

DSPANZ supports the establishment of a structured engagement pathway between DSPs, DEWR, the FWC and the FWO. This pathway should complement, rather than replace existing statutory and public consultation processes. Engagement should occur early enough to influence implementation design and continue through drafting, guidance development, commencement and post-implementation review. For example, structured engagement could involve the following:

- Regular technical implementation forums
- A dedicated channel for raising interpretation or implementation questions
- Engagement during FWC award review processes
- Implementation working groups for major reforms.

Early technical engagement would help to:

- identify and query existing clauses or proposed drafting that cannot be translated consistently into software rules;
- support compliance by ensuring obligations can be accurately embedded into the systems employers use to administer workplace entitlements, reducing downstream clarifications and remediation;
- develop worked examples, calculation specifications and machine-readable rules;
- understand the systems affected, the scale and cost of redevelopment, and the practical time needed to design, test and deploy compliant changes;
- coordinate commencement and implementation activity across related reform; and
- identify implementation, privacy, security and data handling issues before policy settings or decisions are finalised.

This collaborative approach is established in other areas of Commonwealth administration that depend on software delivery. The Australian Taxation Office (ATO), for example, maintains ongoing strategic and technical engagement with the DSP community and has used program-specific implementation forums for reforms such as Single Touch Payroll (STP) and Payday Super.

There is also a broader regulatory benefit from this engagement. Software can support compliance at scale by embedding clear legislative requirements into the systems employers use as part of their ordinary business processes. Resolving implementation questions with DSPs before changes are deployed can therefore reduce the number of employers independently confronting the same uncertainty, and reduce the downstream need for the FWO to clarify requirements or address inadvertent non-compliance.

Without an equivalent pathway in the workplace relations space, software providers often need to obtain legal advice and derive technical requirements from legislation, awards, decisions and guidance that were not developed with software implementation in mind. This increases cost and creates risk that implementation questions are discovered only after the relevant policy or legal settings have been settled.

Recommendation 1:

The government should establish structured engagement with DSPANZ and relevant software providers during the development of workplace legislation, FWC reviews and other reforms that affect payroll, HR and workforce management systems to identify implementation issues early and support better compliance.

3. Implementation should inform policy and decision making

Implementation issues are often identified only after exposure drafts or explanatory materials are released, after legislation has received Royal Assent, or after the FWC has issued a decision. By that stage, there may be little practical opportunity to address drafting or design issues before employers are expected to comply.

FWC decisions can present a particular implementation challenge where they take effect immediately or within a short period. Even what may seem as limited wording changes can require legal analysis, data updates, regression testing, customer communication and deployment across multiple products and customer environments. The publication of the necessary technical detail required to update payroll and award interpretation systems would streamline the process for DSPs.

The implementation of paid family and domestic violence leave illustrates the value of earlier software engagement. The initial regulations permitted the entitlement to be described on a pay slip using leave labels such as "special leave", "miscellaneous leave" or "leave-other". DSPANZ members identified that recording absences as ordinary hours would provide better privacy protection where pay slip information may be visible to another person. Following engagement involving DEWR, the FWC, the FWO and the ATO, the regulations were amended shortly after commencement to recognise ordinary hours as an accepted presentation on a pay slip. However, some providers had already implemented the original settings and were required to rework their systems to better protect this information on employee pay slips.

This example is not raised to revisit the entitlement. It demonstrates the broader implementation lesson: software providers can identify practical consequences that may not be apparent from legal or policy analysis alone, but their input is most useful before requirements are finalised and deployed.

Implementation analysis should also account for the full cost and delivery pathway of change. This includes interpreting the legal requirement, identifying affected products and customer cohorts, changing calculation logic and data structures, testing interactions with awards and agreements, updating documentation, supporting customers and managing deployment. These activities take time even where the final change appears narrow.

Recommendation 2:

Workplace reform processes should expressly consider software implementation impacts, including affected systems, redevelopment and testing costs, dependencies, cumulative change and realistic deployment timeframes.

4. Clear and digital implementable requirements

Many workplace concepts depend on context and judgement. Relevant examples include ordinary hours, averaging arrangements, continuous service, breaks in service, the interaction of unpaid leave with other entitlements, part-day leave, rostered days off, shift work and public holiday substitution.

Flexibility can be appropriate where the law must accommodate varied employment arrangements. However, every concept that reaches a payroll or workforce management system must ultimately be expressed as a deterministic rule. Where legislation, an award, a

decision or official guidance does not specify the rule, software providers must interpret the requirement or rely on legal advice.

Existing FWC processes are not designed as a technical clarification channel. One DSPANZ member previously sought to resolve an ambiguity in the Fast Food Industry Award 2010 to improve software implementation outcomes. Across two attempts, the process required approximately one month of one employee's time, and the parties ultimately determined that the clauses were not ambiguous. Irrespective of the substantive outcome, the experience demonstrates that formal proceedings are not an efficient mechanism for software providers to raise implementation questions or seek timely clarification.

A more effective approach would combine clear drafting with implementation artefacts that can be used by employers, advisers and software providers. Depending on the nature of the requirement, these could include:

- worked examples covering common and edge-case scenarios;
- consistent definitions and reference periods;
- explicit calculation order, precision and rounding conventions;
- clear treatment of interactions between the NES, awards and agreements;
- version-controlled calculation specifications; and
- machine-readable guidance or rules where this can improve consistency.

The objective should not be to remove all judgement from workplace law. It should be to identify where consistent administration at scale requires a clear calculation or decision rules and to publish that rule in a form that can be reliably implemented.

Recommendation 3:

Workplace reforms should be supported by clear implementation guidance, including worked examples, consistent definitions, transparent calculation methodologies and, where appropriate, machine-readable artefacts.

5. Commencement and implementation readiness

DSPANZ has often observed reforms commencing before regulations, guidance, specifications and associated implementation materials are sufficiently settled for software development and testing. In the workplace relations space, commencement planning often focuses on the direct obligation on employers without fully considering the systems through which those employers will comply.

This creates avoidable compliance risk. Employers may be legally required to apply a new entitlement or calculation before their software provider has had a reasonable opportunity to interpret the final requirements, implement the change, test interactions with existing rules and deploy the update. Where a decision has immediate effect, this risk is more acute.

Reasonable lead time should be measured from the point at which the requirements and implementation materials are sufficiently settled to build against, not merely from the date legislation is introduced or passed. Material late changes to regulations, awards or guidance can reset the practical implementation timeframe and should be recognised in commencement planning.

A useful example of implementation-focused sequencing is the proposed replacement of Aotearoa New Zealand's Holidays Act 2003 with the Employment Leave Act 2026. The implementation approach includes a two year period between legislative passage and commencement, supported by a dedicated payroll software provider working group. This recognises that changes to leave calculation rules require coordinated work by government, payroll providers, payroll professionals and employers.

The implementation challenge is compounded by cumulative regulatory change. Payroll and HR software providers do not experience each reform in isolation. Changes arising from workplace legislation, FWC decisions, modern award reviews, taxation and superannuation programs may need to be implemented concurrently across the same software products and development teams.

Coordination does not require all reforms to commence within a fixed specified timeframe. It requires the government to understand the aggregate implementation pipeline for DSPs, avoid unnecessary clustering, publish forward plans and engage with providers about dependencies and feasible sequencing.

Recommendation 4:

Legislative and regulatory changes affecting payroll, HR and workforce management systems should provide realistic implementation lead times, staged commencement where appropriate and early publication of sufficiently settled guidance and calculation rules. Relevant agencies should coordinate forward implementation plans and account for the cumulative burden of concurrent reforms.

6. Interaction with other workplace and statutory obligations

The Committee's terms of reference include the interaction between the NES and other workplace instruments. From a software implementation perspective, that interaction extends across modern awards, enterprise agreements, contracts and related statutory obligations that must be administered through the same employee record and payroll workflows.

Payroll systems may need to apply the NES, modern awards, enterprise agreements, state and territory LSL laws, public holiday legislation and workers' compensation requirements to the same employee. In addition to the Fair Work requirements, DSPs must also comply with ATO reporting requirements under STP and SuperStream to support employers in meeting their payroll and superannuation guarantee contribution obligations.

These frameworks have been developed separately and do not consistently use the same definitions, service concepts, accrual methodologies or record keeping requirements. Software providers must therefore build and maintain separate logic for each entitlement, jurisdiction or reporting process, increasing implementation complexity, and ongoing compliance burdens that are ultimately borne by employers.

Recommendation 5:

Where employment, taxation and superannuation frameworks regulate the same underlying payroll concepts, all levels of government should seek to adopt consistent definitions and classifications wherever practicable. Where differences are necessary to support distinct policy objectives, the relevant body should publish clear mappings between frameworks and consult payroll software providers before introducing new payroll concepts or classifications.

6.1. LSL harmonisation

LSL provides a practical example of the fragmented legislative environment in which the NES are implemented.

To support LSL entitlements in software, DSPs must accommodate multiple jurisdictional frameworks, each with different eligibility rules, accrual methodologies, qualifying service requirements and record keeping obligations. Software providers must therefore build and maintain multiple jurisdiction-specific calculation engines and decision rules to support employers that operate across several states and territories. Each jurisdictional variation must be separately designed, tested, maintained and supported throughout the software lifecycle, even when the underlying policy intent is broadly similar.

DSPANZ supports any efforts to harmonise LSL arrangements across jurisdictions. At a minimum, greater consistency in key definitions and calculation methodologies would significantly reduce implementation complexity for software providers and help employers operating across multiple jurisdictions administer their obligations more consistently.

6.2. ATO classification and definition alignment

The complexity in the broader payroll reporting ecosystem is where a single payroll payment must be characterised differently depending on the regulatory purpose. For example, an allowance may need to be assessed separately to determine:

- how it is treated under a modern award or enterprise agreement;
- whether it forms part of an employee's ordinary hourly rate for Fair Work purposes;;
- how it should be classified for STP reporting; and
- whether it forms part of the earnings base for superannuation guarantee purposes.

The FWC's Modern Awards Pay Database itself demonstrates that Fair Work classifications are designed around different concepts, distinguishing between wage-related and expense-related allowances, penalty rates and whether an allowance is "all purpose". These

classifications do not necessarily align with payroll reporting classifications, such as those used by the ATO for STP and SuperStream reporting.

Consequently, when the government introduces or amends an employment-related concept, the implementation impact is rarely confined to a single legislative framework. Existing payroll pay items must be reviewed, mapped and, where necessary, reconfigured by employers and their software providers to ensure they continue to meet obligations across Fair Work, taxation and superannuation systems.

DSPANZ members recently experienced this impact during the transition from reporting Ordinary Time Earnings to Qualifying Earnings in STP to support Payday Super, which required widespread review and remapping of payroll classifications despite many of the underlying payroll transactions remaining unchanged.

DSPANZ considers there is significant opportunity for greater alignment of definitions and payroll classifications across employment, tax and superannuation frameworks. Where the same underlying employment or payment concept is being regulated, governments should seek to adopt common definitions or, where differences are necessary, provide clear mappings between frameworks. This would reduce implementation complexity, improve consistency for employers and minimise the need for software providers to independently interpret how the same payroll transaction should be treated across multiple regulatory regimes.

7. Digital delivery of workplace regulation

The Fair Work framework increasingly relies on digital administration but does not consistently reflect that reliance in the way that obligations are designed, published and maintained. Traditional written legislation and guidance will remain necessary, but they should be complemented by implementation resources suited to software-mediated compliance.

There is an opportunity for DEWR, the FWC and the FWO to progressively develop a more digital-first regulatory model. This could include machine-readable legislative and award artefacts, rules-as-code pilots, structured datasets, version-controlled calculation specifications and clearer change logs. These tools would improve traceability and reduce the need for each provider to independently translate the same written requirements into system rules.

Any such approach should be developed collaboratively and should not assume that machine-readable artefacts can replace legal instruments or professional judgement. Their value is in making specified calculations and decision rules easier to implement consistently, test and update.

Recommendation 6:

The FWC and FWO should progressively adopt digital-first approaches to workplace regulation, including machine-readable guidance, structured and version-controlled calculation specifications, and transparent methodology for official tools and datasets.

8. Conclusion

This Inquiry provides an opportunity not only to consider the content of the NES, but also to improve how workplace obligations are implemented in practice. As employment regulation is increasingly administered through payroll, HR and workforce management software, implementation capability should be treated as an essential component of an effective safety net.

Recognising software providers as implementation stakeholders, engaging them early, publishing clear and digitally implementable requirements, and allowing realistic time for development and testing would support more consistent outcomes for employers and employees. Importantly, these measures can also strengthen compliance with the workplace relations framework itself. When obligations are clear and can be accurately embedded into payroll and HR systems, employers are better able to comply through their ordinary business processes and employees receive their entitlements as intended.

Better implementation can also reduce avoidable regulatory activity. Resolving ambiguities and implementation issues before requirements are deployed at scale should reduce the need for subsequent clarification, correction and remediation by employers, software providers and regulators, allowing the FWO and FWC to focus their respective resources on matters that genuinely require regulatory or Commission intervention.

DSPANZ would welcome the opportunity to provide the Committee with further evidence, worked examples or a technical briefing on the matters raised in this submission.