

MINISTER FOR EMPLOYMENT, TRAINING AND INDUSTRIAL RELATIONS

- 1. TITLE:** Long Service Leave
- 2. PURPOSE:** To prescribe the entitlements for long service leave.
- 3. LEGISLATIVE PROVISION:** Section 34(2) of the *Public Service Act 1996* and section 686 of the *Industrial Relations Act 1999*.
- 4. APPLICATION:** This directive applies to –
- public service officers; and
 - temporary employees engaged under sections 112(2)(a) and 113(2)(a) of the *Public Service Act 1996*;
 - general employees engaged under section 112(2)(a) of the *Public Service Act 1996*; and
 - employees engaged on a casual basis under sections 112(2)(b) and 113(2)(b) of the *Public Service Act 1996*.
- 5. STANDARD:** The conditions and entitlements prescribed in the Schedule apply.
- 6. EFFECTIVE DATE:** This directive is to operate from **1 July 1999**.
- 7. VARIATION:** The provisions in the Schedule may be varied in accordance with certified agreements made under Chapter 6, Part 1 of the *Industrial Relations Act 1999* or decisions of an industrial tribunal of competent jurisdiction.
- 8. INCONSISTENCY:** Sections 34 and 117 of the *Public Service Act 1996* and sections 686 and 687 of the *Industrial Relations Act 1999* apply if there is a conflict with an act, regulation or industrial instrument.
- 9. SUPERSEDES:** Sections 24 and 33 of the *Public Service Management and Employment Regulation 1988*
Administrative Instruction No. 1 | 59

SCHEDULE

LONG SERVICE LEAVE

GENERAL CONDITIONS

Entitlement

Public service employees including public service officers, temporary employees, general employees and casual employees (**referred to as "employees" in this schedule**) shall be entitled to long service leave on full salary as provided in this schedule.

Conversion to hourly basis

Leave prescribed in this directive may be converted to an hourly basis for the purpose of accrual, granting and recording of leave on the following basis:

If an employee's long service leave entitlement is expressed in weeks or days, it may be read as if it were expressed in hours using the following formula:

a) $LE=W \times WH$

Where:

LE (leave entitlement) means the amount of leave entitlement expressed in working hours to which the employee is entitled.

W (weeks) means the entitlement accrued in calendar weeks under this directive.

WH (weekly hours) means the employee's weekly hours of work or notional hours worked per week.

b) $LE=D \times DH$

Where:

LE (leave entitlement) means the amount of leave entitlement expressed in working hours to which the employee is entitled.

D (days) means the entitlement accrued in calendar days under this directive.

DH (daily hours) means the employee's daily hours or notional hours worked per day.

Where an employee's existing entitlement is expressed in weeks and days the conversion from weeks to hours and days to hours should be calculated separately and then added to give the new entitlement. For example, to convert an entitlement for a public servant whose weekly hours are 36.25 and who currently has a leave balance of 5 weeks and 3 days:

$$LE \text{ (weeks)} = 5 \times 36.25 = 181.25$$

$$LE \text{ (days)} = 3 \times 7.25 = \underline{21.75}$$

$$\text{Total entitlement (in hours)} = 203 \text{ hours}$$

Departmental convenience

Even though an employee has an entitlement to leave in this schedule the leave shall, subject always to the exigencies of any particular situation, be taken at departmental convenience.

Recall or cancellation of leave

A chief executive may, if departmental circumstances require it:

- recall an employee from long service leave;
- cancel the approval or granting of any long service leave or defer the taking of that leave.

An employee shall be allowed to take any long service leave from which he or she is recalled or which is cancelled at the earliest opportunity mutually convenient to the employee and the chief executive.

Definitions

"continuous service" shall include service and periods of leave which have been recognised for long service leave purposes under the relevant directive.

"daily hours or notional hours", means –

- the number of ordinary daily working hours of an employee as specified in an award, industrial agreement (including a certified agreement), contract, former determination of the Governor-in-Council or directive;
- in any other case – the number of hours ascertainable from the relevant award, industrial agreement (including a certified agreement), contract, former determination of the Governor-in-Council or directive as the average number of hours per working day of an employee during a pay period or other period reasonable in the circumstances.

"dependant" for the purposes of payment of a cash equivalent of long service leave upon death, shall mean any person who, in the opinion of the chief executive, was being wholly or substantially maintained or supported (otherwise than for full valuable consideration) by the deceased employee at the date of the employee's death.

"teacher" means an employee determined by the chief executive to be a teacher for the purpose of this directive.

"weekly hours or notional weekly hours", means –

- the number of ordinary weekly working hours of an employee as specified in an award, industrial agreement (including a certified agreement), contract, former determination of the Governor-in-Council or directive;
- in any other case – the number of hours ascertainable from the relevant award, industrial agreement (including certified agreement), contract, former determination of the Governor-in-Council or directive as the average number of hours per working week of an employee during a pay period or other period reasonable in the circumstances.

LONG SERVICE LEAVE

Accrual of leave

An employee who completes 10 years continuous service is entitled to -

- long service leave at the rate of 1.3 weeks on full pay for each year of continuous service; or
- at the discretion of the chief executive, 6.5 working days on full pay for each year of continuous service; and
- a proportionate amount for an incomplete year of service.

Additional considerations - part time employees

Part time employees are entitled to pro rata leave in accordance with the permanent part time employment arrangements contained in the *Personnel Management Handbook Volume 2* or a relevant industrial instrument.

Additional considerations - Casual employees

The service of a casual employee is regarded as continuous for the purpose of this directive, if the employee has service for which recognition for long service leave purposes has been granted, extending over a period of 10 years or longer.

A casual employee's entitlement to long service leave shall be calculated as follows:

Number of hours x rate of pay

Where:

$$\text{Number of hours} = \frac{\text{total hours of work} \times 13}{52 \times 10}$$

Application for long service leave

Applications for leave shall be made in writing, in a form determined by the chief executive.

Timely notice

An employee shall give timely notice of the date from which long service leave is to take effect.

The employee shall be given timely notice as to whether the leave applied for has been approved.

If the employer and employee cannot agree, the employer may decide when the employee is to take leave by giving the employee at least 3 months written notice of the date on which the employee must take at least 4 weeks long service leave.

Leave to be granted on an hourly basis

If an employee applies for leave on a basis other than an hourly basis, the leave may be granted on an hourly basis.

Leave based on the number of hours that employee would have worked

If an employee is rostered to work a specific number of hours on a day and the employee is absent from duty on that day or for part of it, the employee's leave account is to be reduced. This reduction is to be the same number of hours that the employee was rostered to work on that day but did not work.

This applies even though the employee's leave account is debited by a different number of hours than the employee's daily hours or notional daily hours.

Statutory holidays occurring during long service leave

Long service leave granted shall be exclusive of statutory holidays occurring during the currency of the leave. Where the minimum period of 2 weeks long service leave is applied for, the statutory holidays should be added to the leave approved to comply with the minimum period requirement.

Extensions to long service leave, by virtue of statutory holidays, are to be inclusive of non-working days such as Saturdays and Sundays.

Teachers and vacation periods

A vacation to which a teacher is entitled shall not be counted as forming part of any period of long service leave taken by that teacher.

Calculation of leave available

Leave may be taken up to the total amount of long service leave due as at the date of commencement of the leave. Long service leave shall be calculated by -

- determining the total period of the employee's continuous service, including leave credited for service; and
- determining the total amount of long service leave entitlement appropriate to that period of continuous service; and
- deducting from the total entitlement, long service leave previously taken and any entitlement forfeited because of disciplinary action.

Minimum period

The minimum period of long service leave which may be taken at any one time is 2 weeks except in the following situations -

- Where an employee is recalled from long service leave; or
- Where an employee becomes ill and is granted sick leave instead of the long service leave already approved.

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Sick leave instead of long service leave

Sick leave may be granted instead of long service leave already approved where-

- (i) an employee becomes ill before the start of the long service leave and submits a written application supported by a medical certificate or other evidence of the illness acceptable to the chief executive before starting the leave; or
- (ii) an employee becomes ill after starting the long service leave and submits a written application supported by a medical certificate or other evidence of the illness acceptable to the chief executive, and the period of illness is at least 1 week.

Cash equivalent of long service leave

A person who ceases to be an employee and who, at the date of ceasing to be an employee, has an entitlement to long service leave under this schedule, shall receive a payment instead of long service leave not taken.

The calculation of the amount of the payment shall be based on –

- the employee's entitlement to long service leave as at the date of cessation;
- less any long service leave previously taken; and
- the rate of pay which the person was receiving at the date of ceasing to be an employee.

Minimum periods of service applying to cash equivalent of Long service leave

In determining the long service leave entitlement of employees for cash equivalent purposes, the number of years of continuous service required to have been completed by the employee shall be as follows –

Upon termination of contract

Where the employment of an officer on a contract of employment under section 70 of the *Public Service Act 1996* is terminated by the competent authority, other than by disciplinary action or retirement by reason of mental or physical incapacity, - **1 year continuous service.**

Upon resignation

An officer who resigns under section 74 of the *Public Service Act 1996* or an employee who terminates his or her employment – **10 years continuous service.**

Upon action because of surplus

A person referred to in section 81 of the *Public Service Act 1996* - **1 year continuous service.**

Ill health retirement

A person referred to in section 85 of the *Public Service Act 1996* who is retired on the grounds of mental or physical incapacity – **5 years continuous service.**

Voluntary retirement

A person referred to in section 86 of the *Public Service Act 1996* who retires - **5 years continuous service.**

Upon marriage

A female officer who was employed under the former *Public Service Act 1922* and was appointed before 18 July 1988, resigns to be married - **5 years continuous service.**

Payment under this section is dependent upon -

- a certified copy or certified extract of the certificate of marriage or a statutory declaration by both parties to the marriage giving the place and date of marriage, being furnished to the chief executive; and
- the marriage happening within 3 months of the date of resignation.

This clause expires on 18 July 2005.

Upon death

An employee who dies - **5 years continuous service.**

Payment on an employee's death

The long service leave amount payable shall be made to the employee's dependants (if any) or, if there is no dependant, to the employee's personal representative.

Statutory holidays in relation to cash equivalents of Long Service Leave

Cash equivalents of long service leave also attract the benefit of statutory holidays that would occur during the long service leave if it were granted immediately upon cessation of duty.

Where cash payments are being made for both recreation leave and long service leave, only one type of leave is to be adjusted for statutory holidays. The longer period of leave should therefore be used for this purpose.