Leave entitlements

Annual Leave

Under the Australian Fair Pay and Conditions Standard (‘the Standard’) all employees are entitled to a minimum of 4 weeks annual leave and 10 days of personal leave.

In the Northern Territory, the Annual Leave Act (‘the Act’) provides employees with an annual leave entitlement of 4 weeks annual leave plus leave loading of 17.5% at the time of taking leave.

Work Choices has preserved the Act as a ‘Notional Agreement Preserving State Awards’ (NAPSA). Employees in the Northern Territory are entitled to leave loading of 17.5% when taking leave until 27 March 2011 when the transitional period expires.

The Act will not apply where an award or workplace agreement provides for annual leave.

The Standard also allows employees and employers to agree to cashing in 2 weeks of annual leave per year in some circumstances. This must be recorded in a workplace agreement. This is a decision for you and your employees. It is illegal to force an employee to cash out their leave.

Personal Leave

Personal leave now includes sick leave and carer’s leave. Unless otherwise provided in an award or agreement, employees will be entitled to 10 days of personal leave each year.

If an employee is sick and needs to take personal leave, they must notify you as soon as reasonably practicable that they require leave because of personal illness or injury.

You may require employees to provide documentary evidence of their personal illness or injury. While a medical certificate is preferable, the law provides that an employee can, where it was not reasonably practicable to obtain a medical certificate, provide a statutory declaration stating that they were unfit for duties on the particular day because of personally illness or injury.
Personal leave accrues after each month of service on a pro rata basis. Personal leave is also cumulative which means any unused personal leave will carry through to the next year of service.

Finally, it is important to note that where an employee is entitled to paid personal leave, you must pay the amount the employee would reasonably have been expected to be paid if they had worked during the period of illness. For example, if the employee was rostered to work on a Saturday but due to illness was not able to and took a paid personal day, the employee would be entitled to penalty rates that might have been paid if they had actually worked that Saturday.

Similarly, employees are entitled to use a personal leave day to provide care for a member of their family or household where that person requires support because of personal illness or injury, or an unexpected emergency affecting that member.

As with personal leave relating to the employee’s illness or injury, the employee must notify you as soon as reasonably practicable. You are also entitled to request from the employee documentary evidence to support the need to take personal carers leave.

**Compassionate leave**

Compassionate leave is a form of personal leave, however is dealt with on an occasion by occasion basis. Employees are entitled to 2 days of compassionate leave for each occasion a member of their immediate family (or a member of their household), contracts or develops a personal illness that poses a serious threat to their life; or sustains a personal injury that poses a serious threat to their life; or after the death of such a person.

As an employer, you can reasonably require evidence of the illness, injury or death which gives rise to the compassionate leave.

**Parental leave**

The Australian and Fair Pay Conditions Standard guarantees parental leave in the form of either maternity leave or paternity leave, where the employee has completed 12 months continuous service with an employer.

All employees, other than casuals who are not eligible casuals, are entitled to parental leave. An eligible casual employee is a casual employee who has been employed by an employer on a regular and systematic basis for a sequence of periods during a 12 month period and who would have had a reasonable expectation of continued employment with that employer but for the birth or adoption of a child.

The guarantee gives a right to unpaid maternity leave or paternity leave, or a combination of both for up to 52 weeks, following the birth or adoption of a child.

While the Australian Fair pay and Conditions Standard does not provide for an entitlement to paid maternity leave, the Northern Territory Workplace Advocate encourages employers to adopt policies that do give women the right to some paid maternity leave. Women play
an important role in today’s workforce and a provision for paid maternity leave will be a positive step in attracting and retaining female employees in your business. The Northern Territory Workplace Advocate is happy to discuss how such a policy or entitlement may be implemented in your business.

Women who have been on maternity leave are guaranteed a right to return to work at the conclusion of that leave. It is illegal to terminate a woman because they have been on maternity leave.

**Long Service Leave**

Unless an applicable award or workplace agreement makes specific provision for long service leave, this entitlement will be governed by the *Long Service Leave Act (NT)*. All employees, including casuals, are entitled to long service leave after 10 years of service, and in certain situations, after 7 years.

**Further information**

For further information on leave entitlements contact the Northern Territory Workplace Advocate on 1300 852 899 to speak to an advisor.