

Factsheet Six

Leave

There are many different types of leave that you can take.

Refer to your workplace policies to confirm how you can apply for different types of leave.

Annual leave

Under the NES, permanent full-time workers are entitled to 4 weeks of paid annual leave each year, and permanent part-time workers are entitled to this on a pro-rata basis. Some shift workers are entitled to 1 extra week of annual leave each year. An employer may offer more than 4 weeks paid annual leave. For example, Northern Territory Government employees have an entitlement of 6 weeks annual leave per year.

Annual leave accrues progressively and accumulates from year to year.

Your employer cannot unreasonably refuse your request for annual leave. Your employer can direct you to take annual leave, but only if this is reasonable.

If you are on annual leave and a public holiday occurs this does not count towards your annual leave and should be paid as a public holiday. Also, if you need to take personal leave whilst on annual leave and this is approved, these days do not count towards your annual leave, unless you have no personal leave available, and wish your leave to be applied this way. Personal leave whilst on annual leave usually needs to be supported by a medical certificate. At the finalisation of your employment (whether you are terminated or you resign) you are entitled to be paid out any untaken annual leave including any leave loading entitlement.

You cannot take or accrue any paid or unpaid leave (except parental leave) while on workers' compensation.

Cashing out annual leave

You are entitled to cash out your annual leave, as long you will still have 4 weeks leave

remaining, and a term in your agreement or Modern Award allows this. Your request and your employer's response must be in writing. It is against the law for your employer to influence or pressure you to cash out your annual leave. When annual leave is cashed out, any leave loading applicable on taking the leave is also payable.

Leave loading

Annual leave loading is an additional payment, usually 17.5%, which you may get on top of your ordinary pay while you are on leave if you are covered by a Modern Award or agreement, unless your Modern Award, contract or agreement expressly excludes it.

If you are not covered by a Modern Award or agreement, and are only covered by the NES, you are not automatically entitled to leave loading, although your employer may choose to provide it.

Don't forget if you are entitled to leave loading, it is also payable on termination.

Personal / Carer's Leave (sick leave)

Under the NES, all **permanent** employees are entitled to:

- 10 days of paid personal/carers' leave per year;
- A further 2 days of unpaid carer's leave per occasion if all paid leave has been used up; and
- 2 days of paid compassionate leave per occasion.

Under the NES, **casuals** are entitled to:

- 2 days of unpaid carer's leave per occasion; and
- 2 days of unpaid compassionate leave per occasion.

Personal/carers' leave can be taken if:

- You are not fit to work because of personal illness or injury; or
- You need to provide care or support for a member of your immediate family or household due to personal illness or injury, or an unexpected emergency. The definition of immediate family includes your spouse, de facto partner, child, parent, grandparent, grandchild or sibling, and your spouse or de facto partner's child, parent, grandparent, grandchild or sibling.

If you need to take personal/carers' leave you have to notify your employer as soon as reasonably practicable. Your employer may ask you to provide evidence (e.g. a medical certificate or a statutory declaration). You do not need to do this if there are reasons beyond your control (for example you are suffering a severe mental or physical impairment). Your employer can also ask for evidence for compassionate leave. Your Modern Award, agreement, or workplace policies may also contain requirements about the evidence you need to give.

Cashing out personal/carers' leave

You can request to cash out personal/carers' leave entitlements, as long as a minimum balance of 15 days leave (or pro-rata for part-time workers) is available after cashing out.

However, you can only cash out personal/carer's leave if a term in your agreement or Modern Award allows this. Your request and your employer's response must be in writing. It is unlawful for an employer to influence or pressure you to make you cash out your personal leave. If you are not covered by a Modern Award or agreement you cannot cash out personal/carer's leave.

Compassionate leave

Compassionate leave can be taken if a member of your immediate family or household dies or has an illness or injury that poses a serious threat to their life.

Community service leave

You can take unpaid leave to undertake an eligible community service activity such as jury service or voluntary emergency management. Your employer must provide permanent employees with make up pay for jury duty for up to 10 days. You must give notice as soon as possible, and your employer may require evidence.

Annual 'shut down' period initiated by employer

An employer may temporarily close their business or workplace during slow business periods, like between Christmas and New Year or during school holidays. This is called a shut down.

If you are not covered by a Modern Award or agreement, your employer can require you to take paid annual leave during a shut down if the requirement to take annual leave is reasonable.

If you are covered by a Modern Award or agreement, the Modern Award or agreement will stipulate whether your employer can temporarily close their business and any conditions that must be fulfilled prior to the shutdown, for example, giving four (4) weeks' notice of the shutdown.

This is not a standard Modern Award feature, and you should check the terms of your Modern Award or agreement.

If you don't have enough leave, or your Modern Award or agreement doesn't allow your employer to require you to take paid annual leave, you can agree to take paid or unpaid leave or annual leave in advance. If you don't agree, then you're entitled to be paid your usual wages.

Long service leave

If your Modern Award, agreement or contract is silent on the issue of long service leave, or if you are not covered by a Modern Award, agreement or contract, then the Long Service Leave Act NT applies. Under this act, all employees, including casuals, are entitled to 1.3 weeks of long service leave for every year of completed service, after 10 years of service, and in some situations, after 7 years. However, if your Modern Award, agreement or contract provides more then it will apply instead of the Act.

In some cases, accrued long service leave will be paid out when your employment terminates. If you are eligible for long service leave, but your employment terminates before taking it, you are entitled to be paid out the amount due to you. If your employment

terminates after 7 years because you are retiring, or because of illness, incapacity or domestic or other pressing necessity, you are entitled to be paid out your long service leave, at 1.3 weeks for every completed year of service. (If you are terminated for serious misconduct this does not apply).

You are entitled to have your Long Service Leave paid out upon termination, but we encourage you to take the leave if you can. You deserve the break!

Public holidays

You are entitled to be absent on prescribed public holidays. Your employer may make a reasonable request for an employee to work on a public holiday. However, an employee may refuse to work if they have reasonable grounds, or if the request is unreasonable.

Parental & pregnancy related leave

There are a range of leave options available to women who are pregnant and parents who are adopting or expecting the birth of a child. Below is a summary of leave options that might be available to you.

Please read factsheet 16 *Parenting and pregnancy* for more details on these and other parenting related entitlements.

Family and Domestic Violence Leave

All employees get 10 days of paid family and domestic violence leave upfront under the National Employment Standards (NES). This includes full-time, parttime and casual employees. The leave isn't pro-rated.

Please read factsheet 17 *Family and Domestic Violence*, for more information.

Other forms of leave

Under your agreement, Modern Award or contract you may be entitled to other forms of leave (paid or unpaid) as well as those discussed above. These may include leave without pay, union training leave, study leave, cultural leave, and even moving or re-location leave. Aboriginal and Torres Strait Islander people working under certain Modern Awards or agreements may be entitled to additional leave, with or without pay, to participate in ceremonial activities and cultural obligations. You should check your conditions carefully. You may also be able to negotiate additional leave entitlements with your boss. Be sure to put any agreement in writing.

Where can I get more help?

NT Working Women's Centre
Ph: 1800 817 055
www.ntwwc.com.au

Your Union
Unions NT
Ph: 8941 0001
www.unionsnt.com.au

NT Anti-Discrimination
Commission
Ph: 1800 813 846
adc.nt.gov.au

Australian Human Rights Commission Ph: 1300 656 419 www.humanrights.gov.au	Fair Work Ombudsman Ph: 13 13 94 www.fairwork.gov.au	Fair Work Commission Ph: 1300 799 675 fwc.gov.au
NT Police Ph: (emergency) 000 If calling from a mobile: 112	Office of the Commissioner of Public Employment (OCPE) Ph: 8999 4129 www.ocpe.nt.gov.au	NT WorkSafe Ph: 1800 019 115 www.worksafe.nt.gov.au
Your HR Department	Aboriginal Interpreter Service Ph: 1800 334 944 www.ais.nt.gov.au	To access an interpreter Interpreting and Translating Service NT Ph: 1800 676 254 www.itsnt.nt.gov.au/

The NT Working Women's Centre (NTWWC) provides free and confidential information, advice and assistance to women about work. The information, opinions and advice contained have been prepared with due care and are believed to be correct at the time of publication. NTWWC expressly disclaim any liability whatsoever to any person who suffers any loss arising from the contents of, errors in, or omissions from this publication. This Factsheet is not intended as a substitute for legal advice. Please seek advice for further information about your situation. August 2024.