

DIRECTIVE 09/24

Supersedes: 06/20

Minister for Industrial Relations Directive: Sick Leave

1. Purpose:

To prescribe entitlements and conditions for sick leave.

2. Effective date: 30 September 2024

3. Legislative authority:

3.1 Section 223 of the *Public Sector Act 2022* (PS Act).

3.2 Section 228 of the PS Act outlines the relationship between a directive and an Act or subordinate legislation, including how to deal with inconsistencies.

3.3 Section 229 of the PS Act outlines the relationship between a directive and industrial instrument, including how to deal with inconsistencies.

4. Application:

4.1 This directive applies to industrial instrument employees (i.e. employees who are covered by an award, certified agreement or arbitration determination) who are:

(a) public service employees; or

(b) public sector employees employed under the establishing legislation¹ of the following entities:

(i) Queensland Health;²

(ii) Hospital and Health Services;

(iii) Queensland Building Construction Commission;

(iv) Queensland Building Construction Commission Employing Office;

(v) Residential Tenancies Authority;

(vi) Residential Tenancies Employing Office;

(vii) Trade and Investment Queensland; or

(viii) Office of the Queensland Integrity Commissioner.

4.2 This directive does not apply to casual employees.

¹ For example, the establishing legislation of the Queensland Building and Construction Employing Office is the *Queensland Building and Construction Commission Act 1991*.

² For avoidance of doubt, this includes Health Service Employees employed by Queensland Health (Department of Health) but does not include Queensland Ambulance Service employees appointed under the *Ambulance Service Act 1991*.

5. Entitlement

- 5.1 Entitlements for sick leave are in accordance with Schedule One.
- 5.2 Sick leave without pay may be granted where all sick leave on full pay has been exhausted.
- 5.3 Leave entitlements apply to part-time employees on a pro-rata basis.
- 5.4 Certain parts of this directive apply to public service officers only. Where this occurs, the word 'officer' will be used instead of 'employee'.
- 5.5 Leave prescribed in this directive may be converted to an hourly basis for the purpose of applying, granting and recording of the leave. Leave is based on the number of hours that the employee would have worked. Schedule Two provides conversion formulas.
- 5.6 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 sick leave account is to be reduced by the number of hours that the employee was rostered to work on that day but did not work. This applies even where it means that the employee's sick leave account is debited by a different number of hours than the employee's daily hours (as defined).
 - (a) Sick leave granted to an employee is to be deducted from the employee's accumulated entitlement in the case of ordinary sick leave or from the special war service credit of sick leave for absences attributable to war-caused disabilities.

6. Taking Leave

- 6.1 An employee's entitlement to sick leave is conditional on them promptly notifying the employer of:
 - (a) any illness that will cause them to be absent from work; and
 - (b) the approximate period for which they will be absent.
- 6.2 An employee is to submit a timely application for every absence where sick leave is sought, in a form determined by the chief executive.
- 6.3 An application for sick leave of more than three (3) working days is to be supported by sufficient evidence of the illness to satisfy a reasonable person.
- 6.4 A chief executive may require an employee to furnish sufficient evidence of the illness to satisfy a reasonable person where the illness is for three (3) working days or less if the employee is subject to a process for monitoring performance, conduct or attendance.
- 6.5 Where an industrial instrument specifies a different requirement for the production of acceptable documentation, the industrial instrument requirement prevails.

7. Illness before other leave

- 7.1 Where an employee becomes ill before the start of recreation or long service leave and their illness continues into that leave, they may be granted sick leave on full pay for the period of the illness instead of the leave which had already been approved, provided they submit an application for sick leave supported by sufficient evidence of the illness to satisfy a reasonable person.

8. Illness during other leave

- 8.1 An employee who becomes ill after starting recreation leave, long service leave or paid parental leave may be granted sick leave for the period of the illness instead of the recreation leave, long service leave or parental leave that had already been approved provided the employee:
- (a) submits a written application supported by sufficient evidence of the illness to satisfy a reasonable person; and
 - (b) the period of illness is more than three (3) working days.
- 8.2 Where the recreation leave, long service leave or parental leave had been previously approved on half pay, any sick leave granted in lieu shall also be at half pay.
- (a) If an employee is granted sick leave while on half pay recreation leave or long service leave, the employee's sick leave account is to be reduced by half the normal daily hours for that employee.
- 8.3 Paid sick leave is not available to an employee on unpaid parental leave.

9. Public Holidays

- 9.1 Normal salary is to be paid for a public holiday that occurs immediately before, during or after an absence on sick leave where the employee is in receipt of full pay. No debit should be made to the employee's sick leave account.
- 9.2 If a public holiday occurs during an absence on sick leave without pay, the employee is not to be paid for the public holiday and no debit is to be made to the employee's sick leave account.
- 9.3 Normal salary is to be paid for a public holiday that occurs immediately before or after an absence on sick leave without salary. No debit is to be made to the employee's sick leave account.
- 9.4 The above applies to any public holiday (or substituted day) under the *Holidays Act 1983*.

10. Teachers – school vacations

- 10.1 Clause 10.2 of this directive **applies only to officers**.
- 10.2 An officer who is a teacher, who is absent on sick leave immediately before the start of a school vacation, is not taken to be on sick leave during that vacation, except where the teacher:
- (a) was, immediately before the start of the corresponding vacation in the previous year, absent on sick leave; and
 - (b) has, since the end of that corresponding vacation in the previous year, been absent on sick leave on every day that the teacher would otherwise have been required to be on duty.

11. Definitions

Except where otherwise defined, terms in this directive are consistent with their meanings in the *Industrial Relations Act 2016* and/or the *Public Sector Act 2022*.

Daily hours means:

- the number of ordinary daily working hours of an employee as specified in the relevant industrial instrument; or

- in any other case – the number of hours specified in the relevant industrial instrument as the average number of hours per working day of an employee during a pay period or other period that is reasonable in the circumstances.

Employee means an employee to whom this directive applies.

Industrial instrument for the purposes of this directive, except for clause 3 (Legislative Authority) and clause 4 (Application), means an award, certified agreement, contract, directive or determination made under section 180 of the *Industrial Relations Act 2016*.

Officer means a public service officer, and has the meaning given to it under section 14 of the *Public Sector Act 2022*.

Service disease has the meaning ascribed to it under the *Military Rehabilitation and Compensation Act 2004 (Cth)*.

Service injury has the meaning ascribed to it under the *Military Rehabilitation and Compensation Act 2004 (Cth)*.

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

War-caused disability includes war-caused injury, war-caused disease, defence-caused injury or defence-caused disease as referred to in the *Veterans' Entitlements Act 1986 (Cth)*.

SCHEDULE ONE – SICK LEAVE ENTITLEMENTS

Type	Entitlement	Special Conditions
Sick Leave	10 working days sick leave for each completed year of service and a proportionate amount for an incomplete year of service.	<p>Fixed term temporary employees and general employees are limited to their actual sick leave accrual. The following applies to officers only:</p> <ul style="list-style-type: none"> Officers in their first year of service with the Queensland public service who are absent from duty because of illness, and who have not accumulated the necessary sick leave on full pay, may have up to 10 working days sick leave on full pay advanced to them. Where an officer resigns during the first year of service, after having been advanced sick leave on full pay in excess of the accumulated entitlement, no action should be taken to recover any overpayments resulting from the sick leave granted.
Meritorious Sick Leave	<p>13 weeks (65 working days) sick leave on full pay may be added to the employee's sick leave account (on one occasion only) where they have completed 26 years meritorious service within the Queensland Public Sector (excluding Government Owned Corporations) including:</p> <ul style="list-style-type: none"> a Queensland government entity, as defined in section 276 of the <i>Public Sector Act 2022</i>; the Queensland Parliamentary Service; and the Queensland Police Service. <p>Service in the Australian Defence Force will be included for the purposes of calculating service for meritorious sick leave.</p>	<p>Service length will be based on service during which long service leave was accruing under the directives relating to long service leave and leave without salary credited as service (or the <i>Industrial Relations Act 2016</i> and its predecessors where the directives did not apply) in operation at the relevant time the service is accrued. The service does not need to be continuous.</p> <p>An employee seeking meritorious sick leave credit must submit a written application. The application may be refused in the case of an employee who, in the opinion of the chief executive, does not warrant the granting of this leave i.e. has not completed 26 years meritorious service.</p> <p>If an application is approved, meritorious sick leave will be credited based on the preceding 26 years of employment from the time the application is submitted for consideration. If that 26 years includes periods of part time or casual employment, the leave will be credited on a pro rata basis.</p>
Special War Service Credit of Sick Leave	<p>65 working days sick leave on full pay for absences from duty which are attributable to:</p> <ul style="list-style-type: none"> a war-caused disability arising from Service within Operational Areas, as defined within Schedule 2 of the <i>Commonwealth Veterans' Entitlements Act 1986</i>, as amended from time to time; a war-caused disability arising from service with Peacekeeping Forces, as defined within Schedule 3 of the <i>Commonwealth Veterans' Entitlements Act 1986</i>, as amended from time to time. a service injury or service disease arising from Warlike or Non-Warlike Service as defined under the <i>Military Rehabilitation and Compensation Act 2004</i>, as amended from time to time. 	<p>Employees awarded the special war service credit of sick leave need not exhaust their ordinary sick leave before being eligible to draw upon the special credit of sick leave for war-caused disability, service injury or service disease.</p> <p>Upon written authority from the employee, particulars are to be obtained from the Department of Veterans' Affairs showing the disability, injury or disease that has been accepted by that department as being attributable to war service.</p> <p>For each absence from duty due to a disability, injury or disease that has been accepted by that department as being attributable to war service, the employee is required to furnish acceptable documentation to the chief executive.</p>

	The special war service credit of sick leave is in addition to meritorious sick leave after 26 years. Sick leave charged to the special war service credit of sick leave should be recorded separately from ordinary sick leave.	Acceptable documentation is to be checked against the particulars obtained from the Department of Veterans' Affairs to ensure that the absence resulted from a disability, injury or disease that has been accepted by that department as being attributable to war service.
Special sick leave	<p>Applies to officers only</p> <p>Where an officer:</p> <ul style="list-style-type: none"> • is injured in the course of performing official duties; or • becomes ill because of performing official duties; <p>the chief executive may grant that officer such special sick leave as the chief executive determines to be warranted in the circumstances.</p>	Special sick leave is not to be charged against an officer's entitlement to ordinary sick leave on full pay.

SCHEDULE TWO – CONVERSION FORMULAS

1. Conversion of entitlements

- 1.1. This schedule sets out the formulas to be utilised when converting sick leave accruals to an alternative accrual basis.
- 1.2. Converting sick leave from working days to hours

$$LE = WD \times DH$$

Where:

LE = Leave Entitlement

WD = Working Days

DH = Daily Hours (as defined by an industrial instrument)

- 1.3. If an entity's system for recording particulars of leave granted to an employee is based on hours and the daily hours (as defined by an industrial instrument) of an employee change, the leave entitlements accumulated by the employee are also to be recorded in hours.

$$LAC = LBC \times \frac{HAC}{HBC}$$

Where:

LAC (leave entitlement after change) = the hours of leave to which the employee is entitled after the change.

LBC (leave entitlement before change) = the employee's leave entitlement expressed in hours before the change.

HAC (daily hours after change) = the employee's daily hours (as defined by an industrial instrument) after the change.

HBC (daily hours before change) = the employee's daily hours (as defined by an industrial instrument) before the change.