

MINISTER FOR EMPLOYMENT, TRAINING AND INDUSTRIAL RELATIONS

- 1. TITLE:** **Recreation Leave**
- 2. PURPOSE:** To prescribe the entitlements and conditions for recreation leave.
- 3. LEGISLATIVE PROVISION:** Section 34(2) of the *Public Service Act 1996*.
- 4. APPLICATION:** This directive applies to –
 - public service officers; and
 - temporary employees engaged under section 112(2)(a) of the *Public Service Act 1996*.

This directive **does not apply** to –

 - general employees engaged under section 112(2)(a) of the *Public Service Act 1996*; or
 - employees engaged on a casual basis under sections 112(2)(b) and 113(2)(b) of the *Public Service Act 1996*; or
 - teachers employed by the Department of Education and the Arts.
- 5. STANDARD:** The conditions and entitlements prescribed in the Schedule apply.
- 6. EFFECTIVE DATE:** This directive is to operate from **1 November 2004**.
- 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:** Directive 7/01: “*Recreation Leave*”
- 10. PREVIOUS REFERENCES:** Sections 24 and 31 of the *Public Service Management and Employment Regulation 1988* as in force on 24 February 1995.
Administrative Instruction Nos. 1158 and 1161
Directive 9/99: “*Recreation Leave*”
- 11. SEE ALSO:** Directive 6/01: “*Leave without Salary Credited as Service*”
Directive 11/01: “*Higher Duties*”
Circular No. 6/02: “*Accumulating Recreation Leave*”

SCHEDULE

RECREATION LEAVE

GENERAL CONDITIONS

Entitlement

A public service officer or temporary employee engaged under section 113(2)(a) of the *Public Service Act 1996* (referred to as “employee” in this schedule) is entitled to recreation leave as provided in this schedule.

Non-application to teachers

The provisions of this directive do not apply to teachers.

Application for recreation leave

Applications for recreation leave are to be made in writing or some other form determined by the chief executive.

Timely notice

An employee is to give timely notice of the date from which they wish to take leave.

The employer must respond to a request to take leave in a timely manner indicating whether the leave applied for has been approved or not. If the leave has not been approved, the employee is to be advised of the anticipated date from which it is expected that leave may be taken.

Timing of leave

An employee and chief executive may agree when the employee is to take recreation leave.

If the employee and the chief executive cannot agree, the chief executive –

- (a) may decide when the employee is to take leave keeping in mind the needs of the department; and
- (b) must give the employee at least 14 days written notice of the starting date of the leave.

Recall, cancellation or deferral of leave

A chief executive may, if departmental circumstances so require it –

- recall an employee from recreation leave; or
- cancel the approval of any recreation leave; or
- defer the taking of recreation leave.

An employee is to be allowed to take any recreation leave from which he or she has been recalled or which was cancelled or deferred. This leave may be taken at the earliest time that is mutually convenient to the employee and the chief executive having regard to the operational requirements of the employer.

Where an employee has incurred expenses, such as deposit payments, relating to payments for accommodation and/or travel for the employee and/or their immediate family, and those expenses are lost due to a recall, cancellation or deferral of leave by the chief executive, the expenses will be reimbursed by the department. Such reimbursement is conditional upon the employee producing evidence of losses incurred, in the form of receipts or other evidence to the satisfaction of the chief executive.

Deduction from accumulated balance

Recreation leave granted to an employee is to be deducted from the employee’s accumulated balance. The balance of leave not taken is to be taken into account when determining the employee’s next leave entitlement.

Conversion to hourly basis

Leave prescribed in this directive may be converted to hours for the purpose of accrual, approval and recording of leave. Employees are encouraged to use other forms of leave designed for short absences (less than one day) before seeking to take recreation leave for such purposes. In any event a chief executive may require leave to be taken in whole days.

Leave entitlement in hours

If an employee's leave entitlement is expressed in working days, the leave entitlement may be read as if it were expressed in working hours using the following formula –

$$LE = WD \times DH$$

Where:

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

WD (working days) means the number of working days set out in the directive.

DH (daily hours) means the employee's daily hours (as defined) or the average number of hours in the relevant industrial instrument (as defined) for an employee during a pay period or other period that is reasonable in the circumstances.

Leave 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 the 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 will be the 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 from the employee's daily hours (as defined).

Example 1

If an employee, working 7.25 hours a day, becomes ill and departs from work after working 4 hours, where such leave is agreed to be debited from recreation leave due to no sick leave accrued, then 3.25 hours is deducted from the employee's recreation leave balance.

Example 2

If an employee is rostered to work five 8 hour days in a particular week (eg. 19 day month under 38 hour week arrangements) and is absent on recreation leave for that week, then 40 hours is deducted from that employee's recreation leave balance. The employee's RDC would still occur within the work cycle.

Example 3

If an employee, working 7.25 hours a day, is granted part-day recreation leave after working 3 hours, then 4.25 hours is deducted from the employee's recreation leave balance.

Variation of ordinary working hours

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

The formula for this conversion is as follows –

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

Where:

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

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

HAC (daily hours after change) means the employee's daily hours (as defined) after the change.

HBC (daily hours before change) means the employee's daily hours (as defined) before the change.

Definitions

“continuous shift work” means work done by employees where the hours of work are regularly rotated in accordance with a shift roster covering a 24 hour per day operation over a seven (7) day week.

“daily hours”, means –

- the number of ordinary daily working hours of an employee as specified in an industrial instrument (as defined).
- in any other case – the number of hours determined from the relevant industrial instrument (as defined) as the average number of hours of an employee during a pay period or other period reasonable in the circumstances.

“industrial instrument” for the purposes of this directive means an award, agreement

(including a certified agreement), contract, former determination of the Governor-in-Council or directive.

“Northern and Western Region” consists of any part of the State not contained within the Southern and Eastern Region.

“Southern and Eastern Region” consists of any part of the State, which is both –

- (i) south of the 22nd parallel of south latitude; and
- (ii) east of 147° east longitude; but excluding the township of Moranbah.

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

RECREATION LEAVE ENTITLEMENT AND OTHER CONDITIONS

Accrual of leave

An employee is entitled to recreation leave in accordance with the following –

- **Southern and Eastern Region –** 20 working days (calculated in hours depending on the hours of duty prescribed) for each completed year of service and a proportionate amount for an incomplete year of service if the employee's headquarters are in the Southern and Eastern Region.
- **Northern and Western Region –** 25 working days (calculated in hours depending on the hours of duty prescribed) for each completed year of service and a proportionate amount for an incomplete year of service if the employee's headquarters are in the Northern and Western Region.
- **Continuous shift workers** are entitled to additional recreation leave at the rate of one (1) week per year in addition to the above entitlements. Provided that nothing shall entitle any continuous shift workers in the Northern and Western Region of the State to recreation leave in excess of five (5) weeks' leave in each year.

Payment of recreation leave and loading

Recreation leave and loading is calculated as follows where an industrial instrument does not provide otherwise. Calculations relating to recreation leave and leave loading for those employees receiving an "annualised" salary are as prescribed in the relevant industrial instrument–

For employees other than shift workers covered by this directive – the rate of wage or salary prescribed in the relevant certified agreement plus a loading calculated at the rate of 17.5% of this amount;

For non-continuous shift workers –

The higher of:

(a) the rate of wage or salary prescribed in the relevant certified agreement and paid to the employee at the ordinary time rate and in accordance with the employee's roster or projected roster including weekend or public

holiday shifts, or

(b) the rate of wage or salary prescribed in the relevant certified agreement excluding ordinary shift, weekend and public holiday penalties ordinarily payable in accordance with the employee's roster or projected roster plus a loading calculated at the rate of 17.5% of this amount.

For continuous shift workers – the rate of wage or salary prescribed in the relevant certified agreement excluding ordinary shift, weekend and public holiday penalties ordinarily payable in accordance with the employee's roster or projected roster plus a loading calculated at the rate of 27.5% of this amount.

The payment of the loading applies only to five (5) weeks recreation leave per annum in the case of employees employed on continuous shift work and four (4) weeks per annum in any other case. For those employees (other than continuous shift workers) accruing 25 working days in the Northern and Western Region, the chief executive may choose to pay 14% leave loading on 25 days accrual in lieu of 17.5% loading on 20 days accrual.

Where leave loading is paid once a year in December, payment is calculated on the substantive rate as at 1st December. Provided that where the employee is relieving in a higher position as at 1st December, the employee is to be paid leave loading calculated at the salary rate normally payable under the Ministerial Directive on Higher Duties as if the employee had actually taken recreation leave commencing on 1st December.

Advance on leave

An employee and the chief executive may agree that the employee takes all or any part of the employee's annual leave before becoming entitled to it.

However, the employee is only entitled, at the end of the completed year of employment, to the balance of the leave that would be due at the end of the year.

The chief executive should only agree to an advance on leave where the employee agrees to authorise, that in the event of termination of employment prior to the accrual of any leave advanced, such cash equivalent

amount equal to advanced leave not accrued shall be withheld from any monies owing, including salary, paid leave, public holidays or redundancy payments.

Movement of Employees Across/Within Departments (Excluding Machinery of Government Changes)

Public Service Officers –

Where an officer moves between/within departments due to a promotion or transfer at level, the recreation leave accrual shall automatically transfer with no movement of funds between the former and new departments/work areas. However, for a movement between departments where the recreation leave balance exceeds 2 years accrual, funds representing the total recreation leave balance shall be paid by the former department to the new department.

Temporary Employees –

Between Departments - Where a temporary employee appointed under section 113 of the Public Service Act 1996 obtains either another temporary position or a permanent public service officer position in a different department, all recreation leave accrued up to date of ceasing employment with the former department shall be paid out by the former department to the temporary employee.

However, with the consent of the employee concerned, and where the former and new department agree, the total recreation leave balance may be transferred from the former department to the new department together with a transfer of funds representing the leave transferred.

Within Departments - Where a temporary employee appointed under section 113 of the Public Service Act 1996 obtains

- another temporary position; or
- a permanent public service officer position, or
- a new temporary contract of employment in the same temporary position,

within the same department and without any break in service, all recreation leave accrued shall automatically transfer with the employee.

Compulsory closure of Government establishments during the Christmas/New Year period

During each Christmas/New Year period, a compulsory closure of Government establishments, or restricted staffing as determined by a chief executive, shall occur.

During the Christmas/New Year closure period, leave will be granted on the basis of one (1) working day on full pay without debit to any leave account.

All remaining working days shall be debited to either –

- recreation leave; or
- accrued time-for-leave of overtime (TOIL); or
- accrued hours under departmental hours of work arrangements; or
- leave without pay.

Specific arrangements for the Christmas/New Year closure period are contained in a Circular issued each year by the department responsible for industrial relations.

Payment upon departure from the service

Recreation leave and/or leave loading payable as a lump sum amount as at the date of termination of employment shall be payable at the rate prescribed for the employee's substantive position. However, where the employee is acting in a higher position on the last day of employment (ie. date of termination), and has accrued recreation leave and/or leave loading that is to be paid out on termination, payment is at the ordinary rate of pay the employee receives immediately before termination (ie. the higher duties rate) in accordance with section 14(5) of the *Industrial Relations Act 1999*.

Additionally, the person is to be paid for any public holiday, special holiday or substituted day under the *Holidays Act 1983*, to which they would have been entitled if they had still been an employee and had actually taken the leave.

If the person also has an entitlement to a cash equivalent of long service leave, the additional payment for public or special holidays shall only be made for the one type of leave.