

DIRECTIVE No. 10/13

Supersedes:01/11 & 02/11

Directive of the Minister Assisting the Premier: Recreation and Long Service Leave**1. Purpose:**

To prescribe entitlements and conditions for recreation leave and long service leave.

2. Effective date: 30 August 2013**3. Legislative provisions:**

Section 54(1)(a) of the *Public Service Act 2008* (PSA) and section 686 of the *Industrial Relations Act 1999* (IRA).

The provisions in the Schedules may be varied in accordance with certified agreements made under Chapter 6, Part 1 of the IRA or decisions of an industrial tribunal of competent jurisdiction. Sections 51, 52 and/or 54 of the PSA and sections 686 and/or 687 of the IRA if there is a conflict with an act, regulation or industrial instrument.

4. Application:

Unless otherwise specified, this directive applies to public service employees as defined in s9 of the PSA.

In relation to recreation leave, this directive does not apply to:

- employees engaged on a casual basis under sections 147(2)(b) and 148(2)(b) of the PSA ; or
- teachers (as defined in this directive), employed by the Department of Education, Training and Employment.

5. Previous references

- Ministerial Directives 9/99, 7/01, 8/04: Recreation Leave
- Circular No. 6/02: Accumulating Recreation Leave
- Ministerial Directives 5/07, 21/05, 3/05, 1/01 and 11/99: Long Service Leave
- Administrative Instructions Nos 1 | 58, 1 | 59 and 1 | 61
- Section 24, 31, and 33 of the *Public Service Management and Employment Regulation 1988* as in force on 24 February 1995

6. Related information:

- Chapter 2, Part 1, Division 3 of the IRA (Annual Leave)
- Chapter 2, Part 3 of the IRA (Long Service Leave)
- Directive relating to leave without salary credited as service
- Directive relating to higher duties
- Circular 4/01: Long Service Leave
- Circular: Christmas/New Year Compulsory Closure

Directive

7. Leave entitlements

- 7.1. Entitlements for recreation leave and long service leave are in accordance with Schedule One.
- 7.2. Leave entitlements apply to part-time employees on a pro-rata basis.
- 7.3. 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 Four provides conversion formulas.
- 7.4. Where an employee is rostered to work a specific number of hours, the debit from their leave account for an absence is equivalent to the number of hours they were rostered to but did not work, even where this is different from their ordinary daily hours (as defined by an Award or Agreement)¹.
- 7.5. Additional conditions are set out in Schedule Two for recreation leave and Schedule Three for long service leave.

8. Taking leave

- 8.1. An employee is to submit a timely application for every absence where leave is sought, in a form determined by the chief executive. Leave may be taken up to the total amount of leave accrued as at the date of commencement of the leave.
 - (a) Notwithstanding clause 8.1, at the discretion of the chief executive an employee may be granted long service leave that accrues up to the end date of a period of long service leave.
- 8.2. The chief executive must respond to a request to take leave in a timely manner indicating whether the leave applied for has been approved or not. If an application for leave has been refused, the employee is to be advised of the reason for refusal, and the anticipated date from which it is expected that leave may be taken.
- 8.3. If the employee and the chief executive cannot agree on the timing for the employee to take leave, the chief executive may decide when the employee is to take leave keeping in mind the needs of the department and
 - (a) for recreation leave: provide the employee at least 14 days written notice of the start and end date of recreation leave;
 - (b) for long service leave: provide the employee at least three (3) months written notice of the date on which the employee must take at least four (4) weeks long service leave.

9. Recall from or cancellation of leave

- 9.1. This clause does not apply to general employees taking recreation leave.
- 9.2. If departmental circumstances require it, a chief executive may:
 - (a) recall an employee from recreation or long service leave; or
 - (b) cancel the approval of any recreation or long service leave; or
 - (c) defer the taking of any recreation or long service leave.
- 9.3. An employee to whom clause 9.2 applies will be allowed to take leave at the earliest opportunity that is mutually convenient for the employee and the chief executive.

¹ E.g. if an employee has ordinary daily hours under an Award of 7.25 hours, but is rostered for eight (8) hours, a full day absence will result in a debit of eight (8) hours to the employee's leave account.

- 9.4. 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 the application of clause 9.2, 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.

10. Extension of leave on half-pay basis

- 10.1. Recreation or long service leave may be granted on half-pay at the discretion of the chief executive. Requests should not, however, be unreasonably refused.
- 10.2. Where leave on half-pay is approved the following provisions will apply:
- leave will continue to accrue in accordance at the employee's usual rate
 - leave will count towards service for increments at the employee's usual rate
 - leave will be debited on a full-time equivalent basis (e.g. for example, half-pay for a period of eight (8) weeks will attract a debit of four (4) weeks from full-pay credits).

11. Public holiday falling within a period of leave

- 11.1. Leave is exclusive of any public holiday that falls during the period of the leave.
- 11.2. Provided the public holiday is either preceded or followed (or both) by a period of paid leave (whether half-pay or full-pay) the public holiday will be paid at the employee's normal full-time or part-time rate.
- 11.3. The above applies to any public holiday (or substituted day) under the *Holidays Act 1983*.

12. Compulsory closure

- 12.1. During each Christmas/New Year period, a compulsory closure of Government establishments, or restricted staffing as determined by a chief executive, shall occur.
- 12.2. Employees are required to take leave during the compulsory closure period.
- 12.3. During the compulsory closure period, employees (excluding casual employees) will be granted one (1) day's leave on full-pay without debit to a leave account ('the concessional day') on the conditions set out in a circular issued by the department responsible for public sector industrial relations.

13. Movement across / within departments (excluding machinery of government changes)

- 13.1. This clause applies to casual employees only in relation to long service leave.
- 13.2. Transfer of accruals
- Where an officer or permanent general employee moves within or between departments their recreation leave and long service leave accrual will automatically transfer with them.
 - Where an employee engaged on a temporary basis obtains a new role (permanent or new temporary role) or a new contract for the same role, within the same department, their recreation leave and long service leave accrual will automatically remain/transfer with them.
 - Subject to clause 13.2(d), where an employee engaged on a temporary basis obtains a role in a new department their accrued recreation leave and long service leave will be paid out by the former department in accordance with clause 14.
 - Where an employee engaged on a temporary basis, the former department and the new department all agree, the recreation leave and long service leave accrual of the employee will transfer to the new department.

13.3. Transfer of funds for recreation leave

- (a) Where the former and new departments both participate in the central recreation leave scheme, no transfer of funds will occur when the recreation leave accrual transfers between departments.
- (b) Where either (or both) the former and new department do not participate in the central recreation leave scheme, a transfer of funds will only occur where the recreation leave balance exceeds two (2) years accrual or the long service leave balance exceeds seven (7) years accrual. Such a transfer will represent the total leave accrual.

14. Payment of leave upon departure or death

- 14.1. Employees will be paid out all accrued recreation leave (including leave loading) on departure from the public service or death.
- 14.2. Employees will be paid out accrued long service leave on departure from the public service or death based on the following periods of service:
 - (a) At least 10 years continuous service – departure for any reason.
 - (b) At least seven (7) years but less than 10 years continuous service – a proportionate payment only if the employee terminates their service because of ill health or incapacity that is significant but does not qualify for ill health retirement or a domestic or other pressing necessity.
 - (c) At least five (5) years continuous service – a proportionate payment in the following circumstances:
 - (i) an employee who voluntarily retires in accordance with section 136 of the PSA
 - (ii) an employee who is retired as a result of mental or physical incapacity in accordance with section 178 of the PSA
 - (iii) on the death of an employee.
 - (d) At least one (1) year of continuous service - a proportionate payment in following circumstances:
 - (i) where a chief executive terminates the employment of a person engaged on a contract of employment under section 122 of the PSA and the termination is for reasons other than disciplinary action or retirement in accordance with section 178 of the PSA
 - (ii) where a chief executive determines the employee is surplus to the department's needs because the department employs more persons than it needs for the effective, efficient and appropriate performance of its functions, or the duties performed by the person are no longer required.
- 14.3. Subject to clause 14.4 recreation leave and/or leave loading and long service leave 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.
- 14.4. Where the employee is acting in a higher position on the last day of employment (i.e. date of termination), and has accrued recreation leave that is to be paid out on termination, payment is at the ordinary rate of pay the person received immediately before termination (i.e. the higher duties rate) in accordance with section 14(5) of the *Industrial Relations Act 1999*. The payment of accrued long service leave is in accordance with the directive relating to higher duties.
- 14.5. An employee 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 employed and actually taken the leave, provided payment shall be received only once in relation to each holiday.

In determining an entitlement under this provision, the projection is based on the greater of the leave accrual for long service leave or recreation leave (not the combined accrual).

- 14.6. Where a leave entitlement is payable to an employee who has died, the payment will be made to the employee's legal personal representative.

15. Dictionary

Unless otherwise provided, the terms in this directive have the meanings prescribed under the *Public Service Act 2008* (PSA).

casual employee includes both long term casual employees and short term casual employees.

continuous service includes service and periods of leave that have been recognised for long service leave purposes under the relevant directive.

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 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's legal personal representative means the executor or administrator of an employee's estate.

full-pay means the employee's ordinary rate of pay and is inclusive of any fixed allowances that are part of the regular fortnightly pay.

half-pay means half of the rate of full pay.

industrial instrument means an award, certified agreement, contract, directive or determination made under section 149 of the *Industrial Relations Act 1999*.

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

ordinary rate means the rate that the relevant industrial instrument states is payable for ordinary time.

Southern and Eastern Region consists of any part of the State, which is both south of the 22nd parallel of south latitude and east of 147° east longitude but excluding the township of Moranbah.

teacher means an employee determined by the chief executive of the Department of Education, Training and Employment to be a teacher for the purpose of this directive.

SCHEDULE ONE – LEAVE ENTITLEMENTS

Leave Type	Accrual	Minimum Period	Special Conditions
<p>Recreation Leave</p>	<p>20 working days for each completed year of service and a proportionate amount for an incomplete year of service</p> <p><i>Additional entitlement for officers or temporary employees</i> In addition to the above entitlements, continuous shift workers in the Southern and Eastern Region OR officers and temporary employees in the Northern and Western Region (including continuous shift workers) are entitled to an additional five (5) working days for each completed year of service and a proportionate amount for an incomplete year of service per year</p> <p>The additional entitlement does not apply to general employees.</p> <p>NOTE: the maximum accrual is 25 days per year.</p>	<p>No minimum for full pay recreation leave unless agency policy specifies a minimum of one day.</p> <p>Minimum of one day for half-pay recreation leave.</p> <p>The use of accrued time leave should be encouraged for absences of less than one day.</p>	<p>Continuing employees may access their recreation leave as it accrues.</p> <p>See also Schedule Two</p>
<p>Long Service Leave</p>	<p>An employee who completes 10 years continuous service is entitled to 6.5 working days for each year of continuous service and a proportionate amount for an incomplete year of service.</p> <p><i>Part-time employees</i> The qualifying period for long service leave purposes for part-time employees is 10 calendar years of continuous service worked on a part-time basis, or a combination of full-time, part-time and/or casual service.</p> <p><i>Casual employees</i> A casual employee's entitlement to long service leave is to be calculated as follows:</p> <p>Number of hours x rate of pay</p> <p>Where number of hours is (total hours of work ÷ 52) × 1.3</p>	<p>One (1) calendar week (exclusive of public holidays) except:</p> <ul style="list-style-type: none"> • 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; or • where the employer gives an employee at least three (3) months written notice for the employee to take long service leave in the event the employer and employee are unable to agree on the timing of the leave (where the minimum is four (4) weeks); or • where the chief executive determines that an employee may take long service leave for a period of less than one (1) week (but not less than one (1) day). <p>The minimum period exemptions apply whether on full-pay or half-pay.</p>	<p>Continuing employees may access their accrued long service leave on a pro-rata basis after a minimum of 7 years continuous service.</p> <p>See also Schedule Three</p>

SCHEDULE TWO – SPECIAL CONDITIONS FOR RECREATION LEAVE

1. Recreation Leave Loading

- 1.1. This clause does not apply to general employees.
- 1.2. Calculations relating to recreation leave and leave loading for those employees receiving an “annualised” salary are as prescribed in the relevant industrial instrument.
- 1.3. For employees other than shift workers covered by this directive – the rate of wage or salary prescribed in the relevant certified agreement (or directive), plus a loading calculated at the rate of 17.5% of this amount, is payable.
- 1.4. 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.
- 1.5. For non-continuous shift workers the higher of the following is payable:
 - (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.
- 1.6. For continuous shift workers:
 - (a) 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 is payable.
- 1.7. Where leave loading is paid once a year in December, payment is calculated on the substantive rate as at 1 December as if the employee is actually taking recreation leave commencing on that date. Provided that where the employee is relieving in a higher position as at 1 December, the employee is to be paid leave loading calculated at the salary rate applicable under the directive relating to higher duties.

2. Advance on Leave

- 2.1. An employee and their chief executive may agree that the employee takes all or any part of the employee’s annual leave before becoming entitled to it.
- 2.2. The chief executive may advance recreation leave to an employee up to a maximum equivalent to one (1) year’s accrual from the time of the employee’s request for an advance on recreation leave.
- 2.3. 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.

SCHEDULE THREE – SPECIAL CONDITIONS FOR LONG SERVICE LEAVE

1. Payment of long service leave following redeployment

- 1.1. Where an officer or tenured general employee voluntarily reverts to a lower classification level (redeploys) the following provisions apply:
- (a) the officer or tenured general employee will be entitled to long service leave accrued as at the date of the reversion at the employee's substantive classification and pay-point immediately preceding the reversion
 - (b) the officer or tenured general employee is not compelled to take accrued long service leave at the date of voluntary reversion to a lower classification.
 - (c) long service leave accrued after reversion to a lower classification is payable at the officer or tenured general employee's classification and pay-point at the relevant time.
 - (d) should the officer or tenured general employee subsequently attain a substantive classification and pay-point higher than the substantive classification and pay-point immediately preceding reversion to a lower classification, all long service leave accrued will become payable at the higher classification and pay-point.

2. Teachers and vacation periods

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

3. Payment instead of long service leave to a continuing employee

- 3.1. Payment instead of taking long service leave may only be made to a continuing employee in accordance with the provisions of the *Industrial Relations Act 1999*.

SCHEDULE FOUR – LEAVE CONVERSION FORMULAS

1. Conversion of entitlements

- 1.1. This schedule sets out the formulas to be utilised when converting recreation leave or long service leave accruals to an alternative accrual basis.

2. Recreation Leave

- 2.1. Converting recreation 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)

- 2.2. If a department'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.

3. Long Service Leave

- 3.1. Converting long service leave from calendar days to hours

$$LE = D \times DH$$

Where:

LE = Leave Entitlement

D = Calendar Days (accrual)

DH = Daily Hours – being

- the employee's daily hours of work; or
- the average number of hours per day in the relevant industrial instrument for the employee during a pay period or other period that is reasonable in the circumstances.

3.2. Converting long service leave from weeks to hours

$$LE = W \times WH$$

Where:

LE = Leave Entitlement

W = Weeks (accrual)

WH = Weekly Hours – being:

- The ordinary weekly working hours of an employee as specified in the relevant industrial instrument; or
- The average number of hours per working week in the relevant industrial instrument for the employee during a pay period or other period that is reasonable in the circumstances.

Superseded by
Directives 02/16
and 03/16