



Government of **Western Australia**
Department of **Commerce**
Labour Relations

Minimum conditions of employment



A guide for employers and employees

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Introduction

Employers and employees in Western Australia are covered by either the state or national industrial relations systems. This booklet focuses on the state industrial relations system.

An employee in the state system can derive their conditions of employment from:

- the *Minimum Conditions of Employment Act 1993*;
- a state award;
- an industrial agreement;
- an employer-employee agreement; and/or
- a common law contract of employment.

This booklet provides information principally on the minimum conditions of employment contained in the *Minimum Conditions of Employment Act 1993*. It also provides some information on minimum conditions of employment contained in other pieces of legislation.

Further information

Wageline, part of the Labour Relations Division of the Department of Commerce, provides advice on state awards, agreements and industrial legislation. Wageline can be contacted on 1300 655 266. Further information is also available from the Labour Relations section of the department's website www.commerce.wa.gov.au.

Information on the national industrial relations system can be obtained from the Fair Work Infoline 13 13 94 or on its website www.fairwork.gov.au.

Minimum Conditions of Employment Act 1993

The *Minimum Conditions of Employment Act 1993* (the MCE Act) applies to all employers and employees covered by the state industrial relations system. However, there are some exclusions, which are detailed in the box below.

The minimum conditions in the MCE Act cannot be undermined by an award, agreement or contract of employment. An award, agreement or contract of employment provision that is less favourable than the MCE Act has no legal effect. Instead, the MCE Act will apply. For example, an employee's contract of employment providing only two weeks annual leave will have no effect as it is less than the MCE Act entitlement of four weeks annual leave.

An award, agreement or contract of employment can provide more favourable pay, leave or employment conditions than the MCE Act. There is a legal requirement to provide the higher entitlements prescribed in an award, agreement or contract of employment. The MCE Act is the safety net of protection underpinning these industrial instruments.

The MCE Act provides minimum conditions for:

- minimum wages;
- hours of work;
- payment of wages;
- casual loading;
- public holidays;
- sick leave;
- carer's leave;
- annual leave;
- parental leave; and
- bereavement leave.

The MCE Act also includes employer obligations about the granting of leave, significant changes, redundancy, and time and wage record keeping requirements.

Who is excluded from the *Minimum Conditions of Employment Act 1993*?

- Volunteers
- People who receive a disability support pension and are supported by a supported employment service
- People paid wholly by commission or piece rates
- People appointed as wardens under the *National Trust of Australia (WA) Act 1964*

Minimum wages

The MCE Act requires an employer to pay a minimum rate of pay to an employee, including to a junior or apprentice (including trainee). Minimum weekly rates of pay are set by the Western Australian Industrial Relations Commission (WAIRC) each year. Current rates of pay are available from Wageline on 1300 655 266 or from the Labour Relations section of the website www.commerce.wa.gov.au.

Minimum hourly rate of pay

An employee's minimum hourly rate of pay is calculated by dividing the minimum weekly rate of pay by 38. This rate applies to all hours worked. Employees are entitled to be paid for each hour they are required to work in a week. The MCE Act does not require the payment of an allowance or loading for working overtime, shift work or on weekends.

Example

An employee is paid \$650.00 per week for working 38 hours each week. This would mean an hourly rate of \$17.11 ($\$650/38$).

Part time employees

A part time employee is entitled to the minimum hourly rate of pay for each hour worked.

Casual employees

A casual employee is an employee who:

- is generally employed on an irregular basis with no standard or routine hours;
- does not expect regular, ongoing work with their employer; and
- is not entitled to paid leave.

Under the MCE Act a casual employee is entitled to the minimum hourly rate of pay plus a loading of 20 per cent for each hour worked.

Apprentices (including trainees)

The MCE Act provides minimum rates of pay for apprentices (including trainees) who are **not** covered by an award or agreement. Apprentices (including trainees) must have a formal training contract registered with the Western Australian Department of Training and Workforce Development.

Junior employees

A junior employee is an employee who is younger than 21 years. A junior employee is entitled to a percentage of the minimum (adult) weekly rate of pay based on their age. These percentages are detailed in the box below.

Junior rates of pay – percentages	
Age	Percentage of adult weekly rate
20 years	90%
19 years	80%
18 years	70%
17 years	60%
16 years	50%
Under 16 years	40%



Payment of wages

An employee cannot be forced to accept goods, services or accommodation instead of money as any part of their pay, unless this is allowed by an award, agreement, contract of employment or written law.

An employee must be paid:

- in cash;
- by cheque, postal order or money order;
- by payment into an account, specified by the employee, with a bank or financial institution; or
- in any other way that is authorised or required by an award, agreement or contract of employment.

Deductions from wages

An employer may only deduct money from an employee's pay if authorised by:

- the employee in writing;
- an award, agreement or contract of employment; or
- a law or court order.

An employer may agree to deduct money from an employee's pay and make payments to a third party if authorised by the employee in writing. However, an employer is not required to make deductions on an employee's behalf unless required by law or a court order.

Example

An employer creates a social club and employees can join for \$3.00 per week, with the money being deducted from wages each fortnight. Employees who want to join the social club sign an authorisation allowing the employer to deduct \$6.00 per fortnight from wages which is paid to the social club. This is an authorised deduction.

Hours of work

An employer cannot request or require an employee to work more than:

- the ordinary hours of work stated in the employee's award or agreement; or
- 38 hours per week if there is no award or agreement; **plus**
- reasonable additional hours of work.

What are reasonable additional hours of work?

The following questions may help determine whether the additional hours of work are reasonable:

- Will there be any risk to the employee's health and safety?
- What are the employee's personal circumstances, including family responsibilities?
- What is the conduct/nature of the business?
- Has the employer provided the employee with notice about working additional hours?
- Has the employee provided the employer with notice about their intention to refuse to work the additional hours?
- Are the additional hours on a public holiday?
- How many hours has the employee worked over the previous four weeks?

These are not the only factors that may be considered in determining if an employer's request to work additional hours of work is unreasonable, or if an employee's refusal is unreasonable.

Annual leave

An employee is entitled to four weeks of paid annual leave each year, based on the number of hours worked, up to a maximum of 152 hours per year.

Annual leave accrues on a pro rata basis each week. A full time employee working 38 hours per week accrues 2.923 hours of annual leave for each completed week of service ($152/52 = 2.923$).

Part time employees

A part time employee accrues annual leave pro rata on a weekly basis. The accrual of annual leave will vary with the number of hours that a part time employee works.

Refer to Appendix 1: *A guide to calculating annual leave*

Casual employees

A casual employee is **not** entitled to paid annual leave.

When can an employee take annual leave?

Generally annual leave is taken by agreement between the employer and employee. Subject to the employer's agreement, an employee does not have to complete 12 months of service before they may take annual leave.

Where there is no agreement about when to take annual leave, an employer cannot refuse an employee's request to take annual leave that has been accrued for **more** than 12 months, provided the employee gives two weeks of notice of their intention to take annual leave.

Payment for annual leave

An employee must be paid their **current** rate of pay at the time annual leave is taken. There is no requirement under the MCE Act for employers to pay overtime, shift penalties, weekend penalties or any kind of allowances while an employee is on annual leave.

An employer must pay an employee before they take their annual leave, if the employee requests this in writing.

Annual leave loading

The MCE Act does **not** require an employer to pay an employee 17.5 per cent annual leave loading (or any other amount of leave loading) while the employee is on annual leave. However, many awards and agreements require the payment of leave loading.

Unused annual leave

Unused annual leave accumulates from year to year. For example, a full time employee who has taken 38 hours of annual leave in one year is entitled to carry over the remaining 114 hours of leave to the next year (152 hours – 38 hours = 114 hours).

Unused annual leave must generally be paid out to an employee when their employment ends, including pro rata annual leave for a partially completed year of service. However, pro rata annual leave is **not** required to be paid out if an employee:

- leaves their employment **unlawfully** (eg fails to give a required period of notice); or
- is dismissed due to their own fault (eg misconduct).

Unused annual leave that relates to a **completed** year of service must be paid out unless:

- the employee is dismissed for misconduct; and
- the year of service was completed **after** the misconduct occurred.

Cashing out annual leave

An employer and employee may agree in writing to cash out annual leave.

Cashing out arrangements must comply with the following conditions:

- only 50 per cent of an employee's annual leave entitlement can be cashed out in any one year of service and it can only be cashed out at the end of that year. This means that an employee can only cash out two weeks of the four weeks annual leave entitlement each year;
- the employee must be given a benefit instead of and equal to their annual leave entitlement (eg cash);
- an agreement to cash out annual leave cannot be a condition of a person's employment;
- an employer cannot require an employee to cash out annual leave or apply undue pressure or influence on the employee to cash out their annual leave;
- pro rata annual leave entitlements cannot be cashed out; and
- each agreement to cash out annual leave must be in writing.

The provisions relating to the contracting out of annual leave only apply to employers and employees who are **not** covered by an award or agreement. An employer and employee who **are** covered by an award or agreement can only cash out annual leave if the award or agreement expressly allows it.

Sick leave

An employee is entitled to two weeks of paid sick leave each year, based on the number of hours worked, up to a maximum of 76 hours per year. Sick leave can be taken in part days.

Sick leave accrues on a pro rata basis each week. A full time employee working 38 hours per week accrues 1.461 hours of sick leave for each completed week of service ($76/52 = 1.461$).

Part time employees

A part time employee accrues sick leave pro rata on a weekly basis. The accrual of sick leave will vary with the number of hours that a part time employee works.

Refer to Appendix 2: *A guide to calculating sick leave*

Casual employees

A casual employee is **not** entitled to paid sick leave.

Uses for sick leave

Paid sick leave can be used by an employee who is unable to work due to their own illness or injury.

An employee who is ill or injured because of their own serious and wilful misconduct at work, or gross and wilful neglect at work, is not entitled to paid sick leave for any resulting absence from work.

Evidence

An employee who claims paid sick leave must give their employer evidence that would satisfy a reasonable person that they are entitled to sick leave. This does not mean that an employee has to necessarily produce a medical certificate. If required, they may produce other evidence, such as a statutory declaration or verbal clarification from a medical practitioner.

Unused sick leave

Unused sick leave accumulates from year to year. For example, a full time employee who has taken 38 hours of sick leave in one year is entitled to carry over the remaining 38 hours of leave to the next year ($76 \text{ hours} - 38 \text{ hours} = 38 \text{ hours}$).

Under the MCE Act unused sick leave does **not** have to be paid out to an employee when their employment ends.

Carer's leave

An employee is able to use up to two weeks each year of their sick leave entitlement, based on the number of hours worked, up to a maximum of 76 hours, as paid carer's leave under the MCE Act. Carer's leave can be taken in part days. An employee cannot take more than two weeks of paid carer's leave in any given year under the MCE Act.

Unpaid carer's leave

If an employee cannot take paid carer's leave (eg because they have already taken two weeks of paid carer's leave in 12 months, or they are a casual employee) they are entitled to up to two days of **unpaid** carer's leave for each permissible occasion.

Casual employees

A casual employee is not entitled to **paid** carer's leave. However, a casual employee is entitled to **unpaid** carer's leave.

Permissible occasion

A permissible occasion is an occasion on which a member of the employee's family or household requires care or support because of an illness or injury of the member, or an unexpected emergency affecting the member.

A member of the employee's family or household means any of the following:

- the employee's spouse or de facto partner;
- a child, step-child or grandchild of the employee (including an adult child, step-child or grandchild);
- a parent, step-parent or grandparent of the employee;
- a sibling of the employee; and
- any other person who, at or immediately before the relevant time for assessing the employee's eligibility for taking leave, lived with the employee as a member of the employee's household.

Evidence

An employee who takes paid or unpaid carer's leave must give their employer evidence that would satisfy a reasonable person that they are entitled to carer's leave. This does not mean that an employee has to necessarily produce a medical certificate. They may produce other evidence, such as a statutory declaration or verbal clarification from a medical practitioner.

Unused carer's leave

Carer's leave does not accumulate from year to year.

Unpaid parental leave

An employee's entitlement to unpaid parental leave in Western Australia is provided by both the MCE Act and the national *Fair Work Act 2009*.

Comprehensive details regarding parental leave entitlements are available in the Department of Commerce publication *Unpaid parental leave*. This is available online at www.commerce.wa.gov.au/labourrelations under publications, or from Wageline by calling 1300 655 266.

All employees are eligible for unpaid parental leave if they have completed at least 12 months of continuous service with their employer.

Parental leave provisions include unpaid leave for the birth or adoption of a child. The provisions of unpaid parental leave extend to current and former spouses and de facto partners, and to same sex de facto relationships.

Unpaid parental leave entitlement

An employee who has completed 12 months of continuous service with their employer is entitled to 12 months of unpaid parental leave for the birth or adoption of their child.

Each eligible member of an employee couple is entitled to take up to 12 months of unpaid parental leave. The total amount of parental leave that can be taken by an employee couple is 24 months.

Two employees are an 'employee couple' if they are married or are in a de facto relationship.

Parental leave must be taken in a single continuous period, with the exception of concurrent parental leave.

Concurrent parental leave

An employee is able to take up to **three weeks** of unpaid parental leave at the same time as their spouse or partner takes a period of unpaid parental leave immediately after the birth or adoption of their child.

An employee may also ask their employer for additional concurrent parental leave of up to **five weeks** (a maximum of eight weeks of concurrent parental leave). This request must be in writing and can be made any time before the end of the first week of concurrent parental leave.

Concurrent parental leave taken by one parent does not reduce the amount of unpaid parental leave that is available to the other parent. For example, if the father takes eight weeks of concurrent parental leave, this does not reduce the

mother's entitlement to 12 months of unpaid parental leave. However, if the father takes eight weeks of concurrent unpaid parental leave and a later period of unpaid parental leave (for example after the mother has taken leave), the father's amount of parental leave will be reduced by the eight weeks of concurrent parental leave he took immediately after his child's birth or placement.

Extended unpaid parental leave entitlement

Where only one parent is taking unpaid parental leave, or where one member of an employee couple wants to take **more than** 12 months of leave, they may request a further period of up to 12 months leave. Where one member of an employee couple takes more than 12 months of leave, the other parent's period of leave is reduced. For example, where a mother takes 18 months of leave, her partner is only entitled to 6 months of leave (a total of 24 months).

The employer must provide a written response to the employee's request within 21 days.

An employer may only refuse such a request on reasonable business grounds. If the request is refused, the employer must provide the reasons for this in writing to the employee.

Requesting unpaid parental leave

An employee must give their employer ten weeks of written notice of their intention to take parental leave or, if that is not possible, as soon as practicable. The employee must also specify the start and finish dates for the leave.

Requesting extended unpaid parental leave

If an employee wishes to extend their unpaid parental leave, the request must be in writing and be given to the employer at least four weeks before the end of the initial 12 months of parental leave.



Casual employees

Casual employees are entitled to unpaid parental leave if they:

- have regularly worked for their employer for a sequence of periods totalling at least 12 months; and
- would reasonably expect that they would have kept working for their employer had they not been expecting a child.

This includes casual employees who have had a break in their employment of up to three months, provided the break was initiated by the employer.

Detailed information on unpaid parental leave

The Department of Commerce publication *Unpaid parental leave* contains additional information regarding:

- pre-adoption leave;
- unpaid special maternity leave;
- transfer of a pregnant employee to a safe job;
- no safe job paid leave;
- evidence;
- commencement of leave;
- extending unpaid parental leave;
- returning to work after parental leave;
- returning to work after parental leave on a modified basis; and
- reverting to previous working arrangements.

This is available online at www.commerce.wa.gov.au/labourrelations under publications, or from Wageline by calling 1300 655 266.

Bereavement leave

Full time, part time and casual employees are able to take up to two days of paid bereavement leave following the death of a member of the employee's family or household. The two days of leave does not have to be consecutive.

Bereavement leave cannot be taken during any other period of leave.

Definition of family or household member

A member of the employee's family or household means any of the following:

- the employee's spouse or de facto partner;
- a child, step-child or grandchild of the employee (including an adult child, step-child or grandchild);
- a parent, step-parent or grandparent of the employee;
- a sibling of the employee; and
- any other person who, at or immediately before the relevant time for assessing the employee's eligibility for taking leave, lived with the employee as a member of the employee's household.

Evidence

An employer may require an employee to provide evidence of the death, and of the relationship between the employee and the deceased person, which would satisfy a reasonable person that they are entitled to bereavement leave.

Public holidays

Permanent employees

A full time or part time employee must be paid their normal rate of pay for any day they are not required to work because their employer's business is closed for a public holiday. This only applies if the employee would have normally worked on that day.

Example

A part time employee who normally works from Tuesday to Thursday would not be entitled to be paid for a public holiday falling on a Monday, as this is not a day the employee would normally work.

Casual employees

A casual employee does not have to be paid for a public holiday if they do not work on that day.

Penalty rates

The MCE Act does not require the payment of penalty rates to an employee who works on a public holiday. However, many awards and agreements prescribe penalty rates for work performed on a public holiday.

What are the public holidays?

The public holidays under the MCE Act are:

- New Year's Day;
- Australia Day;
- Labour Day;
- Good Friday;
- Easter Monday;
- Anzac Day;
- Foundation Day;
- Queen's Birthday;
- Christmas Day; and
- Boxing Day.

The MCE Act does **not** substitute days where a public holiday falls on a weekend (for example, to the next following Monday). The actual day of the holiday is the public holiday. However, awards and agreements may provide for substitute days.



Long service leave

An employee's entitlement to long service leave is generally provided by the *Long Service Leave Act 1958* (LSL Act).

An employee is entitled to take $8\frac{2}{3}$ weeks of paid leave after 10 years of continuous service. For every five years of continuous service after this initial 10 years, employees are entitled to another $4\frac{1}{3}$ weeks of paid leave. Employees are entitled to a proportionate entitlement on termination after seven years of continuous service.

Part time employees

A part time employee accrues long service leave pro rata on a weekly basis. The accrual of long service leave will vary with the number of hours that a part time employee works.

Casual employees

A casual employee is entitled to long service leave on a pro rata basis.

Detailed information on long service leave

The Department of Commerce publication *Long service leave* contains additional information regarding:

- long service leave entitlements;
- continuous service;
- commencement of long service leave;
- payment for long service leave;
- the effect of public holidays on long service leave;
- prohibition of employment during long service leave;
- pro rata leave on termination;
- record keeping requirements;
- buying a business; and
- long service leave in the construction industry.

Redundancy

An employee is redundant when their employer has made a definite decision that the employee's job will no longer be done by anyone.

Consultation

An employer who has decided to make an employee redundant must inform the employee and discuss the likely effects of the redundancy. This must happen as soon as practicable after the employer decides to make the employee redundant.

Paid leave for job interviews

A redundant employee may take up to eight hours of paid leave to attend interviews for a new job. The eight hours do not have to be taken consecutively.

An employee must give their employer evidence that would satisfy a reasonable person of their entitlement to this leave.

Casual employees and apprentices (including trainees)

The redundancy provisions do not apply to casual employees or apprentices (including trainees).

Entitlements

Employers covered by the state industrial relations system may be required to pay severance pay and provide other entitlements to redundant employees. Additional information on redundancy can be found in the Department of Commerce publication *Termination, dismissal and redundancy*. This is available from Wageline on 1300 655 266 or on the Labour Relations section of the website www.commerce.wa.gov.au.

Termination of employment

The Department of Commerce publication *Termination, dismissal and redundancy* provides information on:

- unfair dismissal;
- unlawful termination;
- termination entitlements;
- notice provisions;
- payment in lieu of notice; and
- redundancy.

Notification of change

An employer who has decided to make changes that are likely to have a significant effect on an employee must inform the employee as soon as practicable after making this decision.

A change that is likely to have a significant effect on an employee is one where:

- there will be a major change in the composition, operation, size of, or skills required in an employer's workforce;
- job opportunities, promotion opportunities or job security for the employee will be reduced or lost;
- the employee's hours of work will significantly increase or decrease;
- the employee will need to be retrained;
- the employee will have to transfer to another job or work location; or
- the employee's job is to be restructured.

The employer must discuss with the employee the likely effects of the change and the steps that may be taken to avoid or minimise the effects.

An employer does not have to provide the employee with information that may seriously harm the employer's business.

Casual employees and apprentices (including trainees)

These provisions do not apply to casual employees or apprentices (including trainees).

Employment records

An employer must keep employment records for their employees. The obligations set out in the MCE Act apply to employees who are **not** covered by an award or agreement. The *Industrial Relations Act 1979* contains record keeping requirements for employees who **are** covered by an award or agreement. These differ from the MCE Act requirements.

An employer must keep a record of the following employment details under the MCE Act:

- employee name;
- date of birth if the employee is under 21 years;
- gross and net amounts paid under the contract of employment;
- all deductions including tax, superannuation and child support;
- all leave taken whether paid, unpaid or partly paid;
- the date the employee started employment; and
- the total number of hours worked each week for an employee with a salary of \$45,000 per year or less (in 2010 at time of publication).

A record must be made within 14 days of each payment to the employee.

How long must employment records be kept for?

A record must be kept for at least seven years after it is made. In the case of a record relating to long service leave, it must be kept for the duration of the employment and for seven years after the employment has ended.

Who has access to employment records?

Employment records can be accessed by the employee, anyone authorised in writing by the employee and state industrial inspectors. This right continues for as long as the records are required to be kept, and is not affected by the fact that the employee may no longer be employed by the employer.

Employers must allow access to records no later than the end of the next pay period after the request for access was received.

Employees covered by an award or agreement

The *Industrial Relations Act 1979* requires that an employer of an employee who is covered by an award or agreement must keep a record of the following employment details:

- employee name;
- date of birth if the employee is under 21 years;
- name of the award or agreement that applies to the employee;
- employee status (full time, part time or casual);
- daily start and finish times, and meal breaks;
- employee classification, gross and net pay and all deductions including tax, superannuation and child support for each pay period;
- all leave taken whether paid, unpaid or partly paid;
- the date the employee started employment;
- any other information required by the award or agreement (eg employee address, hourly rate of pay); and
- any other information that is necessary to show that the employee's pay and conditions comply with the award or agreement.

The employer must make sure employment records are kept for not less than seven years. For long service leave, the record is to be retained during the employment of the employee and for not less than seven years after the employment terminates.

Need more information?

If you require more information about the minimum conditions of employment, state awards or agreements, contact Wageline.

Wageline - 1300 655 266

8.30 am – 5.00 pm weekdays
except Wednesdays 9.00 am – 5.00 pm



Appendix 1: A guide to calculating annual leave

An employee, other than a casual employee, is generally entitled to four weeks of paid annual leave each year, up to a maximum of 152 hours per year.

Guide to calculating annual leave for full time employees - 38 hour week

Full time employees working a 38 hour week accrue annual leave at the rate of 2.923 hours per completed week of service ($152/52 = 2.923$).

To determine how much annual leave a full time employee has accrued refer to the calculation below.

Step 1

Calculate the total number of hours of annual leave the employee has accrued.

Number of completed weeks of service
X (multiplied by)
2.923
= (equals)
Total hours of annual leave accrued

Step 2

Reduce the total hours accrued by the number of hours of annual leave already taken.

Total hours of annual leave accrued
- (minus)
Annual leave already taken
= (equals)
Annual leave hours owed

Step 3

Only to be used if employment is ending.

Annual leave hours owed
X
Current hourly rate of pay
+ (plus)
Leave loading if applicable
= (equals)
Total monies owed

Note: 38 is the number of ordinary hours generally worked by a full time employee under the relevant award, agreement or contract. If you are unsure of the appropriate full time hours for your business contact Wageline on 1300 655 266.

Guide to calculating annual leave for part time employees – pro rata hours of work

Part time employees also receive four weeks of annual leave per year but it is paid based on their part time weekly wage.

For example, an employee working 10 hours per week would be entitled to four weeks of annual leave per year paid at a rate of 10 hours per week (ie 40 hours).

To determine how much annual leave a part time employee has accrued refer to the calculation below.

Step 1

If the employee's hours differ each week, first work out the average hours worked per week.

$$\begin{array}{l} \text{Total hours worked} \\ / \text{ (divided by)} \\ \text{Number of completed weeks of service} \\ = \text{ (equals)} \\ \text{Average hours worked per week} \end{array}$$

Step 2

Use the average number of hours to calculate how much annual leave the employee accrues per week.

$$\begin{array}{l} \text{Average hours worked per week} \\ / 38^* \\ \times \text{ (multiplied by) } 2.923 \\ = \text{ (equals)} \\ \text{Number of hours of annual leave accrued} \\ \text{per week of service} \end{array}$$

Step 3

Calculate the total number of hours of annual leave the employee has accrued.

Continued on following page

$$\begin{array}{l} \text{Number of hours of annual leave accrued} \\ \text{per week of service} \\ \times \text{ (multiplied by)} \\ \text{Number of completed weeks of service} \\ = \text{ (equals)} \\ \text{Total hours of annual leave accrued} \end{array}$$

*38 is the number of ordinary hours generally worked by a full time employee under the relevant award, agreement or contract. If you are unsure of the appropriate full time hours for your business contact Wageline on 1300 655 266.

Step 4

Reduce the total hours owed by the number of hours leave already taken.

Total annual leave hours owed
- (minus)
Annual leave hours already taken
= (equals)
Annual leave hours available to be used

Step 5

Only to be used if employment is ending.

Annual leave hours owed
X (multiplied by)
Current hourly rate of pay
+ (plus)
Leave loading if applicable
= (equals)
Total monies owed

Appendix 2: A guide to calculating sick leave

An employee, other than a casual employee, is generally entitled to be paid two weeks of sick leave each year, up to a maximum of 76 hours per year. Sick leave can be taken in part days.

Guide to calculating sick leave for full time employees - 38 hour week

Full time employees working a 38 hour week accrue sick leave at the rate of 1.461 hours per completed week of service ($76/52 = 1.461$).

To determine how much sick leave a full time employee has accrued refer to the calculation below.

Step 1

Calculate the total number of hours of sick leave the employee has accrued.

Number of completed weeks of service
X (multiplied by)
1.461
= (equals)
Total hours of sick leave accrued

Step 2

Reduce the total hours accrued by the number of hours of sick leave already taken to determine the number of hours of paid sick leave owed.

Total hours of sick leave accrued
- (minus)
Sick leave already taken
= (equals)
Sick leave hours owed

Note: 38 is the number of ordinary hours generally worked by a full time employee under the relevant award, agreement or contract. If you are unsure of the appropriate full time hours for your business contact Wageline on 1300 655 266.

Guide to calculating sick leave for part time employees - 38 hour week

Part time employees also receive two weeks of sick leave per year but it is paid based on their part time weekly wage.

For example, an employee working 10 hours per week would be entitled to two weeks of sick leave per year paid at a rate of 10 hours per week (ie 20 hours).

To determine how much sick leave a part time employee has accrued refer to the calculation below.

Step 1

If the employee's hours differ each week, first work out the average hours worked per week.

$$\begin{array}{l} \text{Total hours worked} \\ / \text{ (divided by)} \\ \text{Number of completed weeks of service} \\ = \text{ (equals)} \\ \text{Average hours worked per week} \end{array}$$

Step 2

Use the average number of hours to calculate how much sick leave the employee accrues per week.

$$\begin{array}{l} \text{Average hours worked per week} \\ / 38^* \\ \times \text{ (multiplied by) } 1.461 \\ = \text{ (equals)} \\ \text{Number of hours of sick leave accrued} \\ \text{per week of service} \end{array}$$

Step 3

Calculate the total number of hours of sick leave the employee has accrued.

$$\begin{array}{l} \text{Number of hours of sick leave accrued} \\ \text{per week of service} \\ \times \text{ (multiplied by)} \\ \text{Number of completed weeks of service} \\ = \text{ (equals)} \\ \text{Total hours of sick leave accrued} \end{array}$$

*38 is the number of ordinary hours generally worked by a full time employee under the relevant award, agreement or contract. If you are unsure of the appropriate full time hours for your business contact Wageline on 1300 655 266.

Step 4

Reduce the total hours owed by the number of hours of sick leave already taken to determine the final number of hours of paid sick leave the employee has available.

Total sick leave hours owed
- (minus)
Sick leave hours already taken
= (equals)
Sick leave hours available to be used

Department of Commerce

Labour Relations Division

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8.30 am – 5.00 pm weekdays
except Wednesdays 9.00 am – 5.00 pm
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