

Managing Leave



It is encouraged employees and employers to work together to find the most beneficial and workable solutions that suit their individual workplaces and staff.

What paid leave can an employee use?

An employer should explore all options that allows an employee to take their accrued leave entitlements during the COVID-19 outbreak. Options include:

- Taking accrued annual leave, including taking annual leave in advance
- Taking any other paid leave (such as long service leave or paid leave available under an award, enterprise agreement or employment contract)
- Directing employees to take accrued annual leave in certain circumstances (see below)
- Taking any other paid leave by agreement between the employee and the employer

When can I direct an employee to take annual leave?

Fair Work advises the ability to direct annual leave in circumstances relating to COVID-19 usually depends on what the relevant award or enterprise agreement says.

If your organisation has an enterprise agreement please refer to the agreement to see if there is anything about annual leave. Below is a snapshot of some relevant awards.

Aboriginal Community Controlled Health Services Award 2010 – subclause 26.3 Closedown - “An employer may required an employee to take annual leave as part of a close-down of its operations by giving at least four weeks’ notice”.

Aged Care Award 2010 - provisions to direct an employee to take leave if there is an excessive leave balance otherwise the award is silent.

Children Services Award 2010 – provisions to direct an employee to take leave if there is an excessive leave balance. Limited provisions for directing an employee to take annual leave – Christmas or for centres operating for more than 48 weeks.

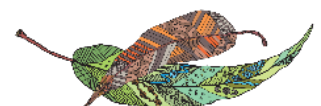
Health Professional and Support Services Award 2010 – Sub-clause 31.4 Close down periods – dental and medical practices. Where an employer temporarily closes a dental or medical practice, an employee may be directed to take paid annual leave during part or all of this period provided such direction is reasonable. Where an employee does not have sufficient accrued annual leave for this period, they may be required to take annual leave in advance where such a requirement is reasonable.

Medical Practitioners Award 2010 – provisions to direct an employee to take leave if there is an excessive leave balance otherwise the award is silent.

Nurses Award 2010 – sub-clause 31.9 Close down periods – Medical Practices “Where an employer temporarily closes a medical practice, an employee may be directed to take paid leave during part or off this period. Where an employee does not have sufficient accrued annual leave for this period, they may be required to take annual leave in advance

Social, Community, Home Care and Disability Award 2010 – provision to direct an employee to take leave if there is an excessive leave balance otherwise the award is silent.

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What happens if my employee does not have any paid leave?

If you have an employee who has used all their accrued leave entitlements, you can make an agreement with them to take unpaid leave or if the relevant award allows, you may wish to consider taking some annual leave in advance.

Can my employee take Long Service Leave in advance?

The Victorian Long Service Leave Act 2018 allows an employee to take leave before an entitlement is due by agreement with an employer. *Note: for each year of service a full-time employee accrues .8663 weeks.* If the employment ends before the long service leave is accrued, you can deduct the outstanding balance from monies owed to the employee of termination.

Can I direct an employee to take Long Service Leave?

In Victoria you can direct an employee to take their long service leave by giving at least 12 weeks' notice.

<https://www.business.vic.gov.au/hiring-and-managing-staff/long-service-leave-victoria/long-service-leave-an-overview>

If you have an employee who falls under the NSW Long Service Leave Act please see the link below:

<https://www.industrialrelations.nsw.gov.au/employers/nsw-employer-essentials/covic-19-frequently-asked-questions/>

Can an employee use personal/sick leave if they are required to self-isolate?

Personal leave should only be paid when an employee is sick. If they are required to self-isolate it is advised to explore other options, for example, working from home and the utilisation of other leave.

The website advises employers to consider whether their obligations are impacted by any enterprise agreement, award, employment contracts or workplace policies which may be more generous.

For more information please refer to <https://coronavirus.fairwork.gov.au/>

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