



Leave Policy

Policy No:	DSSCorp-067
Purpose:	To provide managers and employees with information on the administration of DSS leave provisions.
Category:	Corporate
Applicable to:	This policy applies to all non-SES DSS employees whose terms and conditions of employment are covered by the DSS Enterprise Agreement 2015 to 2018
Relevant Authority:	DSS Enterprise Agreement 2015 to 2018 (DSS EA) <i>Fair Work Act 2009</i> (Fair Work Act) <i>Public Service Act 1999</i> (PS Act) <i>Carer Recognition Act 2010</i> <i>Disability Discrimination Act 1992</i> <i>Maternity Leave (Commonwealth Employees) Act 1973</i> (Maternity Leave Act) <i>Long Service Leave (Commonwealth Employees) Act 1976</i> (LSL Act) <i>Safety, Rehabilitation and Compensation Act 1988</i> (SRC Act)
Related Documents:	Executive Level Employees - Time off in Lieu Policy Review of Employment Actions Policy APSC Workplace Relations Advice 2 of 2010: Natural Disaster Warnings and Agency Leave Arrangements Remote Locality Conditions/Assistance Policy Procedures for Approving Outside Employment Study Assistance Policy Domestic and Family Violence Policy Injury Management Policy (Under Development)
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1. Introduction

1.1 Administrative Principles

Decisions concerning the administration of leave shall be fair, equitable and consistent to ensure both the employee and DSS business requirements and responsibilities are appropriately acknowledged:

- The grant of a particular type of leave should be consistent with the provisions and purpose of that leave; and
- All information on the reasons for an application, DSS operational and employee considerations and the granting (or denial) of the application will be clearly recorded and documented.

1.2 Notification, evidence and recording requirements

Notification

Generally, employees must obtain prior approval for all leave and provide reasonable notice of the intended period of leave.

Where illness, injury or an emergency prevent prior approval of the leave being obtained, employees should notify their manager (or if unavailable, an agreed alternative person) of their intended absence as close as possible to the employee's normal commencement time. The notice by the employee must advise the manager of the period, or expected period of the absence. If the employee is unable to provide prior notification of their intended absence, the employee should contact the manager by phone (and not by email or text message) unless this is not practicable.

Evidence

Where specifically required as a mandatory condition for approving the leave or at the reasonable request of the Secretary (or delegate), evidence (including formal certification from an authorised provider or statutory declaration) that would satisfy a reasonable person will be provided to the employee's manager. See [subsection 21.7](#) of this Policy.

While a manager's knowledge of an employee's circumstances may justify no request to provide formal evidence, the manager needs to ensure that the employee's circumstances and any relevant reasons for the granting of leave are recorded, so the decision is supported if reviewed or audited at a later time.

Recording

Wherever possible, leave should be recorded prior to the taking of the leave (e.g. annual leave). Where illness, injury or emergency prevent prior recording of the leave, managers and employees have a responsibility to ensure the leave is recorded within two days of the employee's return from leave. Where the period of leave is likely to exceed the employee's credits, the manager should notify People Branch to ensure an overpayment does not occur. Essentials should be used to record all leave applications (Refer to [Appendix 2 – Essential Leave Codes](#)).

1.3 Temporary Performance Allowance while on paid leave

Temporary Performance Allowance (TPA) will continue to be paid during paid leave if temporary performance would have continued but for the employee's absence.

1.4 Cancelling leave or recalling an employee to duty

Delegates should only consider cancelling approved leave before it commences or recalling an employee to duty from leave in exceptional circumstances where required for operational reasons. For Example, where there is a specific and necessary task to be completed against an unavoidable operational deadline, and no other employee is available or has the skills necessary to do the work.

1.5 Cancelled leave – reimbursement of costs

Where DSS cancels an employee's leave, or the employee is recalled to duty and will incur additional or unrecoverable costs as a direct result, DSS will reimburse those costs on submission of proof of expenditure. An employee will not be entitled to reimbursement if the costs incurred are otherwise recoverable.

1.6 School Holiday / Family Care Reimbursement

Where an employee with school children has approved leave cancelled or is required to return from leave early because of DSS business requirements during school holidays, the Secretary will reimburse the amount paid by the employee for each child attending approved or registered care for the approved period of leave.

In circumstances described above, where the employee can demonstrate that she or he would otherwise have taken personal responsibility for caring for other family members, the Secretary may reimburse some, or all of the amount paid by the employee for that family care. Please refer to the [DSS EA](#) clauses 6.8 to 6.12.

1.7 Pay slips while on leave

Employees on leave will be provided with printed or emailed pay slips forwarded by mail to the employee's mailing address or email address as recorded on the ESSentials system.

2. Responsibilities

2.1 Employees

When applying for leave, employees are required to:

- provide adequate notice and justification for the application to access leave and ensure the reasons are appropriate to the type of leave being sought;
- ensure all requirements concerning the granting of the leave are adequately met including the provision of satisfactory evidence;
- ensure the leave application is submitted, processed and recorded appropriately and at the earliest opportunity;
- where possible, and in conjunction with their manager, ensure adequate measures have been taken to minimise the impact on the work area caused by the absence (e.g. assisting with a hand-over before taking planned leave); and
- telephone their manager (not email or text) to advise of their absence.

2.2 Managers / Delegates

Managers are responsible for ensuring:

- employees are aware of their entitlements and responsibilities under the leave provisions, including the provision of adequate notice and appropriate evidence if required and the proper recording of leave; and
- proper account is taken of all the circumstances involved in an assessment of the application including:
 - being satisfied that the purpose of the leave is genuine and appropriate to the type of leave being accessed;
 - consideration of any other circumstances including business requirements, previous grants of leave, the amount of leave being sought and the amount of credit available to the employee;
 - strategies to minimise the impact on the work area of the proposed absence such as appropriate handover or provision of personal contact details in case of the need to contact the employee while on leave; and
 - managers should not expect employees to be available for work related contact while on leave, unless there are exceptional and unforeseen circumstances.

2.3 Recognition of Prior Service for Leave Purposes

Recognition of prior service for Personal Leave

Where an employee moves from another Commonwealth agency where they were an ongoing APS employee (including on advancement/promotion or transfer for an agreed period), the employee's unused accrued personal/carer's leave credits (however described) will be recognised, provided there is no break in continuity of service.

Where an employee is engaged as either an ongoing or non-ongoing APS employee immediately following a period of ongoing employment in the Parliamentary Service or the ACT Government Service, the employee's unused accrued personal/carer's leave credits (however described) will be recognised.

For the purposes of this clause:

- 'APS employee' has the same meaning as defined in the *Public Service Act 1999*.
- 'Parliamentary Service' refers to employment under the *Parliamentary Service Act 1999*.

Where a person is engaged as an ongoing employee, and immediately prior to the engagement the person was employed as a non-ongoing APS employee, the Secretary may, at the employee's request, recognise any accrued personal/carer's leave credits (however described), provided there is no break in continuity of service.

Service with non-APS agencies, other than the exceptions outlined above, will not be recognised.

People Branch can provide further information on recognition of prior service.

2.4 Recognition of prior service for Long Service Leave

Periods of prior service with other Commonwealth, State or Territory or local government employers may be recognised as service for Long Service Leave (LSL) purposes with DSS where any break(s) in prior service do not exceed 12 months, in accordance with the LSL Act. A break of exactly 12 months does not break continuity for LSL accrual purposes, but the period of the break is not recognised as service.

Where an employee believes they have prior service that meets these criteria, they should access the [Prior Service Kit](#) to commence the process of formally applying to have the prior service recognised. Refer to the [DSS EA](#), clauses 6.2 to 6.5.

Please note that service recognised for LSL purposes may not necessarily be recognised as service for redundancy benefits. Refer to the DSS EA, clauses 9.23 to 9.26.

Any DSS LSL credit established by the recognition of prior service with other employers will be adjusted for any period/s of LSL taken or paid out during or after that prior service. A break between periods of recognised prior service will not be recognised as service.

3. Annual Leave

3.1 Annual leave principles and good practice

DSS encourages employees to take reasonable and regular breaks from work for rest and recreation. Delegates will not refuse to agree to a reasonable request by an employee to take paid annual leave.

Employees should aim to take annual leave on a regular basis, so that excess credits do not accrue. Managers need to balance business requirements and the need for employees to take breaks from work. Managers are to ensure that employees are given the opportunity to take at least 10 days planned leave each year and, in conjunction with employees, will do their best to ensure that leave is taken as planned.

3.2 Entitlement

A full-time employee is entitled to 20 days paid annual leave accruing daily and credited monthly in arrears. Part-time employees accrue 20 days annual leave per annum calculated on a pro-rata basis accruing daily and credited monthly in arrears.

Where a shiftworker, as defined in the [DSS EA](#), works to a roster including weekend days, the employee will be entitled to an additional half day's annual leave for each Sunday on rostered duty up to a maximum of an additional five days annual leave.

An employees' accrual of annual leave will be reduced on a pro-rata basis where a period or periods of leave without pay that is not to count as service exceeds 30 days in a calendar year. Where leave without pay that is not to count as service covers an entire calendar year, no annual leave accrues for that year.

An employee on workers' compensation leave under the SRC Act will accrue annual leave in accordance with the SRC Act (refer [subsection 6.1](#) for further details).

3.3 Payment for annual leave

Payment for annual leave will be at the employee's hourly salary rate at the time the leave is taken. This includes allowances in the nature of salary such as Workplace Contact Officer Allowance for up to four weeks, and Community Language Allowance and Departmental Liaison Officer allowances for any annual leave period. Annual leave payments do not include allowances which are a reimbursement for expenses incurred.

3.3.1 Half pay annual leave

A manager (delegate) may approve annual leave at either full or half pay subject to operational requirements.

3.3.2 Remote localities

Details on the additional paid leave for employees working in DSS remote localities are included in the [Remote Locality Conditions/Assistance Policy](#) and Part 8 of the [DSS EA](#).

3.3.3 Payment in lieu when ceasing employment

Where employment with the APS ceases, the employee will be entitled to payment in lieu of annual leave. The employee will be paid the value of any outstanding annual leave entitlements. Payment will be calculated using the employee's final rate of salary, including allowances that would have been payable during annual leave. Remote Locality Assistance Allowance is only included in the calculation for leave accrued in a remote locality.

3.4 Annual leave counts as service

Absence on annual leave counts as service for all purposes.

3.5 Annual leave accruals of more than 40 days

Where an employee has accrued more than 40 days (pro-rata for part time employees) annual leave (or in the case of employees in remote localities who are entitled to additional annual leave, more than two years' credit), the employee may be directed to take a period of leave not more than one quarter of the total leave accrued.

An employee may not be directed to take annual leave where the employee:

- has made an application for annual leave of a period greater than ten (10) days (or pro-rata for part time employees) in the previous six (6) month period and the application was not approved; or
- is following a management strategy to reduce the employee's amount of accrued leave, which has been agreed with their manager.

If an employee's annual leave balance reaches 40 days and they are directed to take leave, the employee can instead choose to cash-out part of their leave, as per [subsection 3.9](#) below.

The relevant manager and the employee will be notified when the employee's annual leave accrual reaches 30 and 40 days.

3.6 Deferring leave

An employee may apply to the Secretary to defer taking the leave defined in the paragraph above for up to one year from an agreed date, where they are:

- returning to work following a long term absence due to illness or injury; or
- resuming duty following a graduated return to work.

The employee will have a period of 12 months to take sufficient leave to reduce the employee's credit down to the equivalent of two years or less.

3.7 Transfer of Annual Leave Balances to DSS

Where an employee commences in DSS and their annual leave credits on transfer to DSS are above 40 days, the employee will have six months to reduce the credit by either taking leave or cashing out leave before their manager may direct them to take annual leave in accordance with the [DSS EA](#). In this situation, the manager and the employee should discuss and agree on a leave management strategy to reduce the amount of accrued annual leave within the six (6) month period.

3.8 Public holiday or designated closedown periods during annual leave

Where any designated public holiday or closedown period for which the employee is entitled to payment occurs during any period of annual leave, the period of the holiday/closedown is not deducted from the annual leave entitlement. Where an employee is on a period of half pay annual leave immediately before, after, or either side of a public holiday/closedown period, the employee will be paid at their normal full rate of pay for the public holiday/closedown period.

3.9 Cash out of annual leave

Employees may cash out any amount of their accrued annual leave entitlement. The cash out is subject to:

- the employee's remaining balance of annual leave credit does not fall below 20 days or an equivalent pro-rata amount for part time employees;
- the cashing out is agreed between the Secretary and the employee in writing; and
- the employee is paid the full amount that would have been paid to the employee had the employee taken the leave that is cashed out.

3.9.1 How do I apply for the cash out?

To apply for cash out of annual leave, an employee should send an email requesting the cash out to their manager, who will forward the approved request to the [HRserviceDesk mailbox](#).

3.10 Recrediting of Annual Leave

Employees are not taken to be on paid annual leave during other periods of leave. If the period during which an employee takes paid annual leave includes a period of personal/carer's leave, or compassionate leave or leave for jury duty or voluntary emergency management activities, the employee will be eligible to have their annual leave re-credited for the relevant period.

The employee is required to provide their manager with medical or other supporting evidence in support of the leave application in these circumstances.

4. Christmas and Easter Closedowns

All DSS workplaces will be closed for business during the period from 12:30pm on the last working day before Christmas Day until and including New Year's Day or the day declared as a public holiday in lieu of New Year's Day. Where Christmas Day falls on a Sunday or Monday, DSS workplaces will close from 12:30pm on the Friday immediately before Christmas Day.

All DSS workplaces will also be closed from 3:00pm on Easter Thursday.

Employees are not required to apply for leave during periods covered by the closedowns. There will be no deduction from leave credits for closedown periods.

Where a DSS employee is directed to work or be available for work during periods covered by the closedowns in order to meet unavoidable business requirements, the closedown periods will be treated as Sunday for the purposes of the overtime and restriction provisions of this agreement.

Executive Level employees required to attend duty during the closedown periods will be eligible for time off in lieu in accordance with the DSS [Executive Level Employees – Time off in Lieu \(TOIL\) Policy](#) and in discussion with their manager.

Where an employee is absent on paid leave, on both sides or on one side of the closedown period, payment for the closedown period will be in accordance with the employee's ordinary hours of work. Employees on leave without pay on either side of the closedown periods will not be paid for the closedown days.

5. Community Volunteering Leave

DSS may grant leave to employees who wish to take short periods of time away from DSS to assist community organisations.

5.1 Principles

DSS promotes and supports community volunteering and will, where possible, facilitate employees' participation in community volunteering. DSS recognises that participation in community volunteering:

- is a matter of choice for employees; and
- can give employees useful skills and knowledge.

If an employee undertakes community volunteering, DSS expects that the employee will behave in a way that upholds the APS Values.

5.2 Related provisions

Leave to undertake emergency service duty (e.g. with a country fire authority or a State or Territory emergency service organisation) is covered by Miscellaneous Leave, and in accordance with the National Employment Standards under the *Fair Work Act 2009*.

Absence from DSS to undertake full time work for a community organisation is covered by the [Miscellaneous Leave section](#) of this policy.

5.3 Definitions

A community organisation is an organisation that operates for the benefit of the community and is not run for profit or personal benefit. DSS employees are encouraged to contribute to community development projects that support the policy work for which the Department has responsibility, as well as Aboriginal and Torres Strait Islander communities or third sector organisations working on Indigenous issues. Organisations listed on www.govolunteer.com.au are among the community organisations that qualify for the purposes of this policy.

If an employee seeks leave to work for an organisation or project not listed on www.govolunteer.com.au, the employee must provide their manager with written advice from the organisation that it meets the criteria or not being run for profit or personal benefit.

Volunteer work must not:

- involve any conflict of interest with the role of DSS or the employee;
- involve any payment in cash or kind for work performed with the exception of reimbursements for expenses incurred;
- replace a paid worker;
- as a general rule, be undertaken solely for direct personal benefit (for instance, in the employee's own home, with their family, or for their own organisation or business);
- involve violence towards people or property;
- be work which does not have a community focus;
- be primarily focused on promoting particular religious or political views;
- be for parental participation related to school activities for their child; or
- be to attend ceremonial functions unless the organisation certifies in writing that the employee is required to attend as part of their duties.

Refer to [subsection 5.9](#) for issues concerning potential conflicts of interest.

5.4 Volunteering in your own time

An employee undertaking community volunteering outside of DSS business or while on other approved leave should consider whether it is appropriate to seek a manager's approval in the case of a real or perceived conflict of interest (See [Procedures for Approving Outside Employment](#)) and refer to [subsection 5.8](#) of this policy.

5.5 Leave for community volunteering

Employees may be granted up to two (2) days paid miscellaneous leave per calendar year and/or any reasonable amount of miscellaneous leave without pay in any calendar year to undertake community volunteering for an approved community organisation. The amount of leave granted will take account of DSS business requirements.

Leave to undertake community volunteering can be granted to cover part days, including in hours and minutes. Leave granted for community volunteering work may be taken in conjunction with approved annual leave, long service leave or flex leave.

Up to 20 days miscellaneous leave without pay per calendar year is considered to be a reasonable maximum period of time that will count as service for all purposes.

5.6 Eligibility for community volunteering leave

Before applying for leave, an employee should address the following:

- Is the community organisation or project an acceptable organisation or project? (see [subsection 5.3](#));
- Will the proposed volunteering activity meet the requirements of volunteer work? (see [subsection 5.3](#));
- Is a real or perceived conflict of interest likely to arise? (see [subsection 5.8](#)).

5.7 Approving a community volunteering leave application

In considering an application for community volunteering leave, the delegate should ensure that those requirements listed in [subsection 5.3](#) have been met and that there is no conflict of interest (see [subsection 5.8](#)).

5.8 Will volunteering involve a conflict of interest?

In undertaking community volunteering work, the employee should exercise commonsense and judgment in avoiding any real or perceived conflict of interest as a DSS employee. The APS Code of Conduct and the considerations below should be used as a guide. Employees should also refer to the [Procedures for Approving Outside Employment](#) - in some instances; approval to work with another organisation in an employee's own time will need to be sought.

A conflict of interest may occur when there is a real or perceived conflict between an employee's personal interest, pecuniary or non-pecuniary, and official duties.

Pecuniary interest is an interest that an employee has in a matter because of the reasonable likelihood or expectation of financial gain or loss to the employee or the community organisation with which the employee is associated.

Non-pecuniary interest is an interest that an employee has in a matter because it may involve family or other relationships, friendships, positions in associations such as child care centres, school committees, religious groups, sporting and social clubs, or other interests that do not involve financial gain or loss. Employees should:

- exercise particular care about undertaking volunteer work in the community/family/child care/aged care/welfare sectors;
- be aware that even when you are not on duty, others may regard you as a DSS employee;
- recognise that activities such as seeking funding sources, preparation of grant applications and advocacy (particularly government lobbying) need to be undertaken with care, and preferably should not be done at all if the organisation is applying for funding from DSS; and
- be aware that even where an employee is not involved directly with a funding program, the employee may find themselves in a conflicting situation if participating in coordinated cross-agency or intra-departmental meetings or work.

A real or perceived conflict of interest may arise if an employee seeks to volunteer to serve as an office holder with an organisation that has been funded by a program developed, approved or managed by the employee, the work unit or any other area of DSS that the employee works closely with.

Alternatively, the employee may seek to volunteer to serve as an office holder of an organisation that is funded by DSS, but from a separate part of DSS. In this case, there may be no real conflict of interest, but there could be a perception of conflict.

If an employee is uncertain about the possibility of a real or perceived conflict of interest, the employee should discuss the circumstances with their manager.

5.9 Workers' compensation while Volunteering

Comcare has advised that workers compensation cover is not provided where:

- *“the activity remains truly voluntary and any employer encouragement is not of such a degree that it brings the activity within the course of the employment.”*

The delegate's approval of community volunteering is not to be taken as meaning it is in connection with your employment.

5.10 Public liability and personal accident insurance while Volunteering

If an employee is not going to be covered by Commonwealth workers' compensation, the employee should, for their own benefit, check to see what level of cover the community organisation or project has. It is the employee's responsibility to ensure that the community organisation or project has adequate public liability and personal accident insurance. Public liability insurance covers a volunteer against injury to another person, and personal accident insurance covers a volunteer against personal injury.

6. Compensation Leave

An employee who has been injured or suffered an illness as a result of their employment may be eligible for leave under the *Safety, Rehabilitation and Compensation Act 1988* (the SRC Act).

An employee can find out how to claim workers' compensation from [Comcare](#) for an injury or illness by contacting People Branch or your State Business Support Team.

Where Comcare finds DSS liable for an employee's injury or illness, the SRC Act provides leave for that injury or illness without deduction from the employee's personal leave credits.

6.1 Interaction with annual leave

An employee on workers' compensation leave under the SRC Act will accrue annual leave in accordance with the SRC Act.

In the first 45 weeks of compensation leave, where an employee on a graduated rehabilitation program takes annual leave, the entire period of leave taken will be recorded as annual leave.

After 45 weeks of compensation leave where, an employee on a graduated rehabilitation program takes annual leave, only the period that is non-compensable will be recorded as annual leave – the remainder of the period will be claimed from Comcare in the usual manner.

6.2 Interaction with personal leave

An employee on workers' compensation leave under the SRC Act will accrue personal leave in accordance with the SRC Act.

In the first 45 weeks of compensation leave, where an employee on compensation leave takes personal/carer's leave that is unrelated to their compensable condition that leave will be recorded as personal/carer's leave for the entire period.

After 45 weeks of compensation leave, where an employee on a graduated rehabilitation program takes personal/carer's leave that is unrelated to their compensable condition, only the period that is non-compensable will be recorded as personal/carer's leave – the remainder of the period will be claimed from Comcare in the usual manner.

7. Cultural and Ceremonial leave

All Aboriginal and Torres Strait Islander employees are eligible to seek up to three (3) days paid leave to take part in activities associated with their culture, including NAIDOC week celebrations.

Delegates may approve up to one day paid miscellaneous leave for non-Indigenous employees who wish to attend NAIDOC week celebrations.

7.1 Principles

- DSS is committed to diversity and to supporting its culturally diverse employees.
- DSS recognises that employees may need to meet cultural obligations, or otherwise wish to participate in culturally based occasions, ceremonies or activities that require time away from work.
- Delegates considering cultural leave applications will take account of DSS' operational requirements.
- Employees wishing to take part in activities associated with their culture, religion or ethnicity may apply for other forms of leave (annual leave, flex, TOIL or leave without pay) or consider the substitution provisions in the [DSS EA](#) clause 5.52.

8. Long Service Leave (LSL)

8.1 Entitlement

An employee is eligible for Long Service Leave (LSL) in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*. An employee accrues three (3) months LSL after 10 years of service, and nine (9) calendar days each year thereafter.

Part time employees should be aware that LSL is accrued pro-rata according to hours worked.

8.2 Giving notice about applications for long service leave

Employees wishing to take extended periods of LSL are advised to give their manager reasonable notice of their intention wherever possible. Managers/delegates must consider applications as quickly as possible and advise employees promptly about their decisions.

8.3 Rate of pay on long service leave

Leave may be taken at full pay or half pay.

8.4 Minimum period of long service leave

The minimum period of LSL that may be approved is seven (7) calendar days at full pay or 14 days at half pay.

8.5 Debiting long service leave

Where an employee takes LSL from Monday to Friday in the same week, this will be treated as seven (7) calendar days of LSL.

Where LSL is granted for a period of more than one working week, but less than a month, the leave to be debited is to be expressed in fractions of a month and is calculated by counting the actual calendar days absent and dividing that number by 30. For example, where an employee takes leave from Monday to Friday equivalent to two (2) working weeks, the amount of leave to be debited will be 0.38 months (12/30) as only one weekend is counted.

Where LSL is granted in excess of a month, the leave will be debited in months and calendar days. For example, if one month's LSL commenced on 6 August, it would end on 5 September. Variation in the number of calendar days in any month is disregarded.

Where an employee takes LSL over a period that includes a public holiday, LSL will be deducted for that public holiday. Annual leave and purchased leave cannot be used to break periods of LSL, but can be used to supplement LSL.

8.6 Leave without pay not counting as service for long service leave purposes

Leave without pay of one (1) calendar day or more in an accrual year, which does not count as service for LSL purposes, defers the accrual date for LSL by the number of calendar days leave without pay, unless the delegate determines otherwise. Any periods of unauthorised absence do not count as service for LSL purposes.

8.7 Long service leave and Remote Locality Assistance Allowance (RLAA)

Employees stationed in DSS remote localities, who take LSL, will continue to receive RLAA payments while they or their eligible dependants continue to reside in the remote locality. For more information refer to the [Remote Locality Conditions/Assistance Policy](#).

9. Maternity Leave

9.1 Purpose

Maternity leave provides a measure of employment protection to employees who become pregnant; helps to safeguard the health of the mother in the period before and after confinement; and enables an employee to be absent for child care.

9.2 Eligibility for paid maternity leave

To be eligible to receive pay for the first 12 weeks of Maternity Leave, an employee must have 12 months continuous service defined under the *Maternity Leave (Commonwealth Employees) Act 1973* and the *Maternity Leave (Commonwealth Employees) Regulations 1982*.

Employees who complete the continuous qualifying service during the first 12 weeks of their Maternity Leave are entitled to payment for the period between the completion of their 12 months continuous qualifying service and the end of the first 12 weeks Maternity Leave.

Employees eligible for Maternity Leave with pay will also receive an additional two (2) weeks paid leave to be taken immediately following the first 12 weeks of maternity leave.

Paid Maternity Leave is not extended by public holidays or any closedown period occurring during the initial 12 week mandatory period or 24 week period where Maternity Leave is taken at half pay. Leave during the additional two (2) week period (or four (4) week period where taken at half pay) will be extended by public holidays and/or any closedown occurring during this period.

9.3 Maximum period of leave

An employee is entitled to a maximum of 52 weeks leave of absence (including the period of mandatory absence and public holidays) for each confinement.

9.4 Confinement – mandatory absence

Confinement is defined, in relation to a female employee who has become pregnant, as the birth of a child or other termination of the pregnancy that occurs not earlier than 20 weeks before the expected date of birth of the child.

An employee who is pregnant is required to be absent from duty from six (6) weeks before the expected date of birth of the child until six (6) weeks after the actual date of confinement. Where an employees' date of confinement is earlier than six (6) weeks before the expected date of birth, the employee is required to be absent from duty for a period of six (6) weeks after that date.

Where an employee provides a doctor's certificate declaring that the employee is fit to either continue or return to duty, and DSS gives permission in writing, the employee may work up to the date of fitness specified in the certificate.

During the mandatory absence period where an employee has provided a doctor's certificate declaring that the employee is fit to either continue or return to duty, personal leave may only be approved for reasons not related to the confinement.

Where the employee is confined earlier than six (6) weeks before the expected date of birth, the 52 week period of Maternity Leave absence commences from the date of birth.

9.5 Leave during Maternity Leave, and what counts as service

Where an employee applies for paid leave at any time after the expiration of the required absence and before the expiration of the Maternity Leave and is eligible for that leave, the application will be granted, subject to the usual documentary evidence requirements.

Periods of paid leave during Maternity Leave will count as service for all purposes.

For employees with less than 12 months qualifying service, the first 12 weeks of Maternity Leave will count as service for all purposes, whether or not the leave is with pay. Otherwise, periods of unpaid Maternity Leave will not count as service, but do not break an employee's continuity of service.

9.6 Extending a period of unpaid maternity leave

An employee with 12 months continuous service in the APS and who has taken their maximum entitlement under the provisions of the *Maternity Leave (Commonwealth Employees) Act 1973* may apply to take up to 12 months unpaid parental leave. The period of parental leave will be reduced by the amount of parental leave taken by the employee's spouse or de facto partner.

The request must be in writing, and must be given to the manager at least four (4) weeks before they wish to commence the leave. The manager must give the employee a written response to the request stating whether he/she grants or refuses the request. The response must be given as soon as practicable and not later than 21 days after the request is made.

The manager may refuse the request only on reasonable business grounds. Some examples of business grounds are found in the *Fair Work Act 2009* subsections 65(5A). If the manager refuses the request, the written response must include details of the reasons for the refusal.

10. Adoption / Foster / Permanent Care Leave

The Secretary (or delegate) will grant 14 weeks adoption/foster/permanent care leave to an employee who adopts/fosters or is granted permanent care of a child and is that child's primary carer. This includes arrangements involving long term kinship care.

An employee who has at least 12 months of continuous service (as defined under the *Maternity Leave (Commonwealth Employees) Act 1973*) is entitled to access 14 weeks paid leave for this purpose. If the employee reaches 12 months' qualifying service during the period of adoption/foster/permanent care leave, that part of the leave that falls after that date will be paid.

The first 14 weeks of any adoption/foster/permanent care leave period counts as service for all purposes. Unpaid adoption/foster/permanent care leave does not count as service.

Where the employee elects, the Secretary (or delegate) will approve the payment of adoption/foster/permanent care leave at half pay over a maximum of 28 weeks; however, only the first 14 weeks of paid leave counts as service.

Adoption/foster/permanent care leave is available from the date one (1) week before the date of placement of the child, but must commence no later than the day of placement of the child.

An employee, regardless of qualifying service, is eligible for up to two (2) days of unpaid pre-adoption leave to attend any interviews or examinations required for the adoption of a child. This leave may be taken as annual leave, or purchased leave.

Applications for adoption/foster/permanent care leave must be supported by official documentary evidence from the relevant person/organisation with statutory responsibility for the long-term placement of the child. Where a fostered child is subsequently adopted by the employee and the employee has been granted adoption/foster/permanent care leave, further adoption/foster/permanent care leave will not be approved.

An employee may be entitled to adoption/foster/permanent care leave where:

- the child was placed into the care of the employee or their partner; and
- neither the employee or their partner is a parent of the child; and
- the child is, or will be, under 16 as at the day of placement or expected day of placement; and
- the child has not been in the care of the employee or their partner for a significant period prior to the child being permanently placed into their care.

An employee on unpaid adoption/foster/permanent care leave is not entitled to take paid personal/carer's leave.

10.1 Long term casual employees

Long term casual employees (i.e. an employee that has been employed on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months) are also entitled to 14 weeks unpaid adoption/foster/permanent care and a further period of unpaid parental leave (up to a maximum of 12 months in total) if, but for the placement of the child, the employee would have a reasonable expectation of continuing employment.

11. Parental Leave

The Secretary (or delegate) will grant up to 12 months unpaid parental leave to an employee who has completed at least 12 months of continuous service in the APS, and in accordance with the National Employment Standards (NES); subject to the conditions outlined below.

Parental leave may be granted:

- to an employee immediately following the 14 weeks paid/unpaid period of adoption, foster or permanent care leave that he/she had approved as the primary carer of a child that was placed with them; or
- where the employee's partner or de facto spouse has applied for and been granted maternity or adoption/foster/permanent care leave, and the employee wishes to take a period of unpaid leave associated with the birth or placement of the child; or
- where an employee who has taken 52 weeks Maternity Leave applies for an extension of the Maternity Leave (the extension if approved will be granted as parental leave without pay).

Periods of parental leave will not count as service for any purpose.

An employee on parental leave is not entitled to take paid personal/carer's leave.

11.1 The period of leave—other than for members of an employee couple who each intend to take leave

The *Fair Work Act 2009* (Fair Work Act) defines an employee couple as where two employees (not necessarily of the same employer) are in a spousal or de facto relationship. A de facto partner is also defined in the Fair Work Act as a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and includes a former de facto partner of the employee.

11.2 The period of leave—members of an employee couple who each intend to take leave

The following conditions will apply to an employee couple (see definition above) if each of the employees intend to take a period of maternity, adoption/foster/permanent care and/or parental leave:

- In the first instance, the employee giving birth or the employee who will be the primary carer of a child who has been placed with them will generally take leave in accordance with the relevant maternity/adoption/foster/permanent care provisions.
- Either parent has a separate entitlement to a single continuous period of maternity/adoption/foster/permanent care/parental leave for up to a maximum period of 12 months. If both parents intend to take leave, one period of leave must immediately follow the other, with the one exception being where both parents have the option of taking up to three (3) weeks leave concurrently from the time of the birth or day of placement of the child (delegates can approve a greater period of concurrent leave where requested by the employee/s).
- The total period of maternity/adoption/foster/permanent care leave/parental leave that may be taken between the couple cannot exceed 24 months after the date of birth or date of placement of the child.

Note: Where an employee applies for a period of paid leave while on unpaid maternity/parental leave (e.g. annual or Long Service Leave) this leave does not break the continuity of the unpaid leave for the purposes of having to take a single continuous period of leave.

12. Other Matters Associated with maternity leave, Adoption / Foster / Permanent Care Leave and Parental Leave

12.1 Eligibility for unpaid maternity leave

All employees are entitled to 52 weeks Maternity Leave without pay. The period is reduced by any period of paid maternity/additional leave taken by the employee. Long term casual employees are also entitled to 12 months unpaid Maternity Leave if, but for the pregnancy, the employee would have a reasonable expectation of continuing employment.

12.2 Salary payments during maternity, adoption/foster/permanent care or parental leave

An employee may elect to have the payment for the first 12 weeks of maternity, adoption/foster/permanent care or parental leave and the additional two (2) weeks to be paid at half the employee's normal rate of pay spread over a period of up to 28 weeks, provided that only the first 14 weeks of paid leave shall count as service.

Employees taking paid maternity leave will be paid according to their agreed regular or part time hours prior to taking leave. Delegates should not approve applications from part time employees to revert to full time hours to take advantage of the higher (full time) paid Maternity Leave benefit.

Where an employee is absent on paid Maternity Leave and has been directed to perform duties at a higher classification, payment of temporary performance allowance (TPA) will continue during the absence as if the employee was still at work, to the extent of the continued operation of the direction. The payment of TPA will be appropriately adjusted if the period of leave is on half pay.

12.3 Superannuation

For an employee who takes unpaid parental leave (which includes maternity, parental, adoption and foster and permanent care leave) employer contributions will be made for a period equal to a maximum of 52 weeks, as if the entire period of leave was paid leave, in accordance with the rules of the appropriate superannuation scheme.

Contributions will be based on the employer contribution amount in the full pay period immediately prior to commencing leave.

The 52 week period will be reduced by any period of paid maternity, adoption, foster care or supporting partner leave where employer contributions have been made in accordance with the rules of the appropriate superannuation scheme.

12.4 Consultation with employee on maternity, adoption/foster/ permanent care or parental leave

Where an employee is on maternity, adoption/foster/permanent care or parental leave DSS will take all reasonable steps to give the employee information about, and an opportunity to discuss, the impact of any decision that will have a significant effect on the status, pay or location of the employee's pre-Maternity Leave position.

12.5 Extending a period of maternity/adoption/foster/permanent care/parental leave by up to a further 12 months

An employee who has taken a total period of 12 months maternity/adoption/foster/permanent care/parental leave may request his or her employer to agree to an extension of unpaid parental leave for a further period of up to 12 months immediately following the end of initial period. The period of the extension will be reduced by the amount of unpaid maternity/adoption/foster/permanent care/parental leave taken by the employee's spouse or de facto partner.

- The request must be in writing, and must be given to the manager at least 4 weeks before the end of the initial 12 month parental leave without pay period.
- The manager must give the employee a written response to the request stating whether he/she grants or refuses the request. The response must be given as soon as practicable, and not later than 21 days, after the request is made.
- The manager may refuse the request only on reasonable business grounds.
- If the manager refuses the request, the written response must include details of the reasons for the refusal.

12.6 Return to work from maternity, adoption/foster/permanent care or parental leave

Employees are encouraged to confirm their intention to return to work from maternity, adoption/foster/permanent care or parental leave at least four weeks prior to their intended date of return.

An employee is entitled to return to:

- a) the employee's pre-leave position; or
- b) if that position no longer exists—an available position for which the employee is qualified and suited nearest in status and pay to the pre-leave position.

If the employee was transferred to other, "safe" duties because of her pregnancy before taking leave, she will be assigned to the duties she performed immediately before the transfer as above. Employees returning to duty from maternity, adoption/foster/permanent care or parental leave will, on application, have access to part time employment (PTE) for up to three years. After three years PTE, an employee may apply to extend PTE for the purpose of continued child care until the child reaches school age. Any application to extend PTE under these circumstances will be considered favourably and in accordance with the requirements of the Fair Work Act, as outlined below:

Under the Fair Work Act, an employee who is a parent, or has responsibility for the care of a child, may request to work part-time. This request may be made by an employee to assist them to care for their child if the child is:

- under school age (i.e. the age at which the child is required by the applicable State or Territory law to start attending school); or
- under 18 and has a disability.

The request must be made in writing and set out details of the change sought and reasons for the change.

Delegates must give employees a written response to the request within 21 days, stating whether they grant or refuse the request. Delegates may refuse the request only on reasonable business grounds. Some examples of business grounds are found in the Fair Work Act subsections 65(5A).

If the manager refuses the request, the written response must include the reasons for the refusal.

Reasonable business grounds can include:

- the requested arrangements are too costly;
- other employees' working arrangements can't be changed to accommodate the request;
- it's impractical to change other employees' working arrangements or hire new employees to accommodate the request; or
- the request would result in a significant loss of productivity or have a significant negative impact on customer service.

12.7 Government Paid Parental Leave Scheme

DSS is registered as an employer with the Department of Human Services (DHS) to facilitate the payment of Paid Parental Leave (PPL). PPL is administered by DHS who assess an employee's eligibility to receive payments and provide information, guidance and advice about the scheme. PPL can be paid either directly by DHS or through the employer.

You can apply for PPL online directly with DHS and in doing so; nominate to have your payment made by the department in the same way as your normal salary is paid.

If you have any questions regarding PPL these should be directed to DHS.

PPL payments do not count as service for any purpose. Superannuation payments will not be made on PPL payments.

For information and access to Dad and Partner Pay please contact DHS directly, as DSS does not administer these payments.

13. Supporting Partner Leave

The Secretary (or delegate) will grant 20 days paid supporting partner leave to an employee where the employee's spouse, de facto or partner has given, or is giving birth, to a child/ren or whose spouse, de facto or partner is the primary caregiver for an adopted, fostered or permanent care child/ren. This leave may also be available to employees whose former partner has given birth and the employee is the parent of the child/ren, if the employee intends to assist with caring for the child/ren.

Supporting partner leave is available from one week prior to the expected due date or placement of the child/ren and must be taken within 12 months of the birth of the child/ren or in the case of adoption/fostering/permanent care, within 12 months from the date when the adoption/fostering/permanent care commences.

An employee may be required to provide evidence in support of their application for leave. For example, evidence of the birth of a child/ren, or the placement of an adopted/fostered or permanent care child/ren.

An employee who is eligible for maternity or adoption/fostering/permanent care leave is not eligible for supporting partner leave.

The Secretary (or delegate) may approve an application from an employee to take supporting partner leave at half pay. An application to take the leave at half pay will only be approved where the employee applies for the full four (4) week entitlement to be taken in one continuous period of eight weeks.

Where the employee has approval to take leave at half pay, only the first four (4) weeks of paid leave will count as service.

Subject to balancing DSS business requirements with the employee's personal requirements, supporting partner leave at full pay may be granted in a single period or in broken periods, usually of not less than one week.

13.1 Supporting documentation

A manager may require an employee to provide information or evidence in support of an application for supporting partner leave. This may be in the form of a medical certificate or another form that would satisfy a reasonable person.

14. War Service Sick Leave

Employees may be eligible to be granted war service sick leave while unfit for duty because of a war-caused condition. A war-caused condition is an injury or disease of an employee that has been determined under the *Veterans' Entitlements Act 1986* and/or the *Military Rehabilitation and Compensation Act 2004* to be war-caused or defence-caused.

Employees are allotted a nine (9) week special credit of war service sick leave on commencement of employment in the APS. If the employee was eligible for war service sick leave during a previous period of APS employment, on re-joining the APS the special credit allotted will be any special credit that remained unused on the final day of the previous APS employment.

In addition to the special credit, employees are allotted a three (3) week credit (annual credits) of war service sick leave on commencement and after each subsequent 12 months service. Unused annual credits will accumulate, subject to a maximum annual credit balance of nine (9) weeks. If the employee was eligible for war service sick leave during a previous period of APS employment, on re-joining the APS any unused accrued annual credits can be brought forward, subject to the maximum annual credit of nine (9) weeks.

Approval of war service sick leave will be subject to the provision of a medical certificate stating the nature of the medical condition and a statement from the Department of Veterans' Affairs stating the medical condition is a war-caused condition.

Leave from annual credits may not be granted until the special credit has expired.

Where an employee's war service sick leave credits have been exhausted, the employee may apply for personal leave in respect of a war caused injury or illness.

War service sick leave counts as service for all purposes.

War service sick leave accruals will be deferred by any periods where an employee has been absent on leave without pay which does not count as service.

Leave that counts as service for personal/carer's leave purposes will be deemed to count as service for war service sick leave purposes.

15. Miscellaneous Leave

15.1 General

Miscellaneous leave is available to provide additional flexibility for DSS employees and managers in relation to approved absences that are not covered by other leave types in the [DSS EA](#). Miscellaneous leave may be approved by the delegate:

- for the period requested by the employee; for another period agreed by the employee and the delegate; or for a period determined by the delegate; or
- with or without pay, in line with this policy (below).

Where miscellaneous leave is approved without pay, the manager will decide whether the period of leave is to count as service with DSS for the purposes of other employee entitlements under the DSS EA, or not to count as service for those purposes – in line with this policy (see [subsection 16.2](#)) and subject to conditions determined by agreement between the employee and their manager, or by the delegate.

15.2 Paid miscellaneous leave

In applying for and considering applications for paid miscellaneous leave, employees and their managers should take account of operational requirements, the purpose of the leave, the reasonable needs of the employee and their family, and the benefit to DSS, the APS and/or the Australian community. Examples of situations where paid leave may be approved include:

- to donate blood (counts as service for all purposes);
- jury service (as a minimum an employee is entitled to 'make up' pay for the first ten (10) days that the employee is absent for a period of jury duty in accordance with section 111 of the Fair Work Act) (counts as service for all purposes); or Jury Duty with provision of evidence with attendance and any payment made (counts as service for all purposes);
- to engage in voluntary emergency management activities (with a recognised emergency management body) in accordance with section 109 of Fair Work Act - including for training or ceremonial duties (counts as service for all purposes);
- where a catastrophic emergency and/or natural disaster event has occurred or an official warning or alert has been issued (see below);
- attendance at NAIDOC ceremonies/events (up to one day for non-Indigenous employees) (counts as service for all purposes);
- attendance at recognised international sporting (e.g. Olympics) and other events as a competitor or accredited official (counts as service for all purposes);
- industrial relations training (counts as service for all purposes);

- short term personal emergency situations or other exceptional personal or family circumstances not covered by the personal leave provisions of the [DSS EA](#) (counts as service for all purposes); and
- domestic and family violence (please refer to the [Domestic and Family Violence Policy](#)).

Note: Paid miscellaneous leave is not to be used for moving house purposes.

16. Miscellaneous Leave without Pay (LWOP)

Applications for leave without pay will be considered for the following reasons:

- to work for a state/territory or local government organisation;
- to work in the private sector, or for community and welfare organisations, when it is in the interests of the Department;
- to undertake research work in academic or other research institutions;
- to undertake full time study (see also DSS [Study Assistance Policy](#));
- to accompany a spouse/partner on an interstate or overseas posting (see below);
- for rest and recreation;
- to undertake jury duty or voluntary emergency management activities which has not been approved with pay;
- for cultural or ceremonial purposes for Indigenous employees, and to attend NAIDOC week celebrations for all employees;
- for community volunteering purposes (refer [subsection 5.5](#) for further details); and
- for personal reasons.

16.1 Considering the merits of applications for LWOP

The manager should consider the following factors when assessing the application:

- the reason for the leave;
- the period of leave requested;
- the operational effects of granting the leave;
- the employee's performance and length of service with DSS;
- any potential cost to DSS, including the cost of approving the leave to count as service;
- any benefit or relevance of the purpose of the leave to DSS, the APS or the Australian community;
- the primary responsibility that the manager's branch or state/territory office will have for placing the employee on their return to DSS; and
- the benefit to the employee.

16.2 Limits on periods of LWOP

Unless otherwise specified, and unless there is a clear expectation that the purpose of the LWOP will prove to be beneficial to DSS, the APS or the Australian community, an initial grant of LWOP should not usually exceed 12 months.

Applications for LWOP to accompany a spouse/partner on an interstate or overseas posting for the period of an initial posting will usually be supported. Applications for further LWOP, or an extension of LWOP should be considered against the criteria set out in [subsection 16.1](#) above.

Applications for an extension of LWOP should also be considered on their merits as outlined in [subsection 16.1](#) above.

16.3 Reviewing approved LWOP

Where LWOP is granted for more than three (3) months, the manager should review continued approval for the leave if there is a change in the circumstances or conditions of the initial approval.

16.4 LWOP to count / not count as service

Miscellaneous LWOP will normally be granted on the basis that the leave will not count as service with DSS for any purpose. Approved miscellaneous LWOP cannot be broken by periods of other leave except where provided for elsewhere.

Where LWOP is approved on the basis that the leave will be beneficial to DSS, the APS or the Australian community, leave should normally be approved to count as service with DSS for all purposes. Approval for the period of any leave without pay to count as service is conditional on the employee returning to duty with DSS or elsewhere in the APS at the end of the period of leave.

On return to duty, leave credits will be calculated based on the period that is recognised as service. In the case of personal/carers leave, an assumed usage of five (5) days per year for the period of absence will be applied.

17. Catastrophic and natural disaster emergencies (including warnings and alerts)

It can be expected that DSS employees and workplaces will, from time to time, be affected by catastrophic and natural disaster emergencies.

A severe natural or human initiated disaster (critical incident) is defined as one potentially resulting in loss of life, loss of income and devastation or destruction of property on a large scale. In terms of the Department's business it is one where the incident is so widespread it impacts on multiple programs or state/territory jurisdictions, or so severe that it overwhelms the capabilities of a single jurisdiction.

Specific catastrophic and natural disaster emergencies include:

- bushfire emergencies;
- severe thunderstorms;
- major floods;
- tropical cyclones;
- tsunamis; and
- other severe weather events.

The declaration of 'catastrophic' emergency and disaster alerts in 'at risk' localities is administered by the Bureau of Meteorology (BOM) and individual State and Territory Governments. DSS employees should refer to BOM and relevant State or Territory Government emergency management information for further detail on the emergency alert ratings in that jurisdiction.

For severe disasters that require a coordinated departmental response, the Department's Critical Incident Response Team (CIRT) is activated.

In situations where a natural or human initiated disaster event prevents a DSS employee from attending work on the basis of their home or workplace being affected employees may be entitled to a reasonable period of paid miscellaneous leave that counts as service for all purposes in accordance with the scale and nature of the disaster. Leave may be approved retrospectively depending on the nature of the disaster and the individual circumstances of employees.

Where an employee is already on pre-approved leave when a severe disaster occurs, the employee shall remain absent from work in accordance with that pre-approved leave.

Further information is contained in the [APSC Workplace Relations Advice 2 of 2010: Natural disaster warnings and agency leave arrangements](#).

18. Defence Service Leave

Delegates should note that it is Government policy to support leave for employees who are members of the Defence reserves.

The Secretary may grant an employee leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CTFS) or Cadet Force obligations.

An employee is entitled to leave with pay, for up to four (4) weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required.

During the employee's first year of ADF Reserve service a further two (2) weeks paid leave may be granted to facilitate participation in additional ADF Reserve training, including induction requirements.

An employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to three (3) weeks each financial year to perform duties as an officer or instructor of Cadets. For these purposes 'Cadet Force' means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.

With the exception of the additional two (2) weeks in the first year of service, leave can be accumulated and taken over a period of two (2) years, to enable the employee to undertake training as a member of the ADF Reserves.

Employees are not required to pay their tax free ADF Reserve salary to the Department in any circumstances.

Defence Reserve leave counts as service for all purposes, except for unpaid leave to undertake CFTS. Unpaid leave for the purpose of CFTS counts for all purposes except annual leave.

Eligible employees may also apply for annual leave, Long Service Leave, leave without pay, top-up pay or they may use flex time or make up time for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.

Employees are to notify managers at the earliest opportunity once the dates for ADF Reserve, CFTS or Cadet Force activities are known and/or changed. Applications for Defence service leave should be supported by documentation provided to the employee by the Department of Defence, i.e. Training Notice.

18.1 Additional Defence Service leave on an unpaid basis

Defence Service Leave granted in accordance with [Section 18](#) above, either with or without pay, would count as service for all purposes.

A Reservist undertaking defence service on leave without pay (other than a Reservist undertaking CFTS) who is a member of the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme may make arrangements with People Branch to maintain the employee's entitlement to employer contributions to the scheme while on leave.

Further information can be obtained from the [Defence Reserves website](#).

19. Compassionate Leave

19.1 What does compassionate leave cover?

Compassionate leave covers the following two circumstances:

- on the death of an employee's immediate family or household member; and
- when a member of the employee's immediate family or household contracts a personal injury or illness that poses a serious threat to their life.

19.2 Death of an employee's immediate family or household member

An employee (other than a casual employee) is entitled to three (3) days paid leave on each occasion of the death of an immediate family or household member. This means three (3) days must be approved if applied for by the employee, on each occasion.

Delegates do not have any discretion to approve compassionate leave in excess of three (3) days for this purpose; however other leave can be applied for in conjunction with this leave, such as annual or miscellaneous leave with and/or without pay – where appropriate.

19.3 A member of the employee's immediate family or household contracts a personal injury or illness that poses a serious threat to their life

Employees are entitled to three (3) days paid leave on each occasion where an immediate family or household member contracts or develops a personal illness or injury that poses a serious threat to their life.

19.4 How can the leave be taken?

A period of compassionate leave may be taken:

- in a single unbroken period of three (3) days; or
- any separate periods agreed between the employee and their manager.

19.5 Supporting documentation

A manager may require an employee to provide information or evidence in support of an application for compassionate leave. The employee must give the manager evidence, where it is requested, that would satisfy a reasonable person that the leave is taken for the purpose applied for – i.e. injury, illness or death (see [subsection 21.7](#) for further information).

20. Employees employed on an intermittent or irregular basis (casuals)

Where a non-ongoing employee is engaged to do work that is intermittent or irregular in nature, the employee will be paid a 20 per cent loading on salary in lieu of any paid leave including compassionate leave and personal/carer's leave. Notwithstanding this, employees employed on an intermittent and irregular basis (casuals) are entitled to two (2) days of unpaid personal/carer's leave for each occasion when a member of the employee's immediate family, or a member of the employee's household, requires care or support because of:

- a personal illness, or personal injury, affecting the member; or
- an unexpected emergency affecting the member.

These employees are also entitled to three (3) days of unpaid compassionate leave for each occasion when a member of the employee's immediate family or a member of the employee's household:

- contracts or develops a personal illness that poses a serious threat to his or her life; or
- sustains a personal injury that poses a serious threat to his or her life; or
- dies.

21. Personal/Carer's Leave

21.1 Accrual of personal/carer's leave

Ongoing employees' accrual

Ongoing employees will accrue 18 days for each year of service accruing daily (pro-rata for part time employees) and credited at the completion of each month.

New ongoing employees will receive a credit of ten (10) days personal/carer's leave (pro-rata for part time employees) on engagement in the APS and then be entitled to accrue eight (8) days personal/carer's leave (pro-rata for part time employees) in their first year of employment.

An employee's accrual of personal/carer's leave will be reduced where a period or periods of leave without pay that is not to count as service exceeds 30 days in a calendar year. Where leave without pay not to count as service covers an entire calendar year, no personal/carer's leave credit accrues for that year.

All accrued leave entitlements will be expressed and deducted in hours and minutes.

Non-ongoing employees' accrual

Non-ongoing employees are entitled to a credit of 18 days personal leave per year, accruing daily and credited at the completion of each month.

Part time non-ongoing employees will accrue 18 days personal leave per year calculated on a pro-rata basis.

Interaction Compensation leave and personal leave

An employee on workers' compensation leave under the SRC Act will accrue personal leave in accordance with the SRC Act.

In the first 45 weeks of compensation leave, where an employee on compensation leave takes personal/carer's leave that is unrelated to their compensable condition that leave will be recorded as personal/carer's leave for the entire period.

After 45 weeks of compensation leave, where an employee on a graduated rehabilitation program takes personal/carer's leave that is unrelated to their compensable condition, only the period that is non-compensable will be recorded as personal/carer's leave – the remainder of the period will be claimed from Comcare in the usual manner.

21.2 Notifying your manager of an absence

Employees must notify their manager if they are absent on leave. Refer to [subsection 1.2](#) and [subsection 2.1](#) of this policy for advice on appropriate notification.

21.3 Personal/Carer's Leave for Illness or Injury

An employee is entitled to paid personal/carer's leave for an absence if the delegate is satisfied that the absence is for genuine non-work related personal illness or injury, or to attend preventative health appointments, and the employee has available credits.

21.4 Approving Personal/Carer's Leave for Caring Purposes

Personal/carer's Leave for caring purposes may be approved for an employee to care for a member of their immediate family or household who is ill or injured and/or requires care or support because of an unexpected emergency affecting the member.

Personal/carer's leave is not designed to be used to care for dependent children during scheduled school holidays - although it is recognised that care arrangements can fall through, and other emergency situations may arise. If the employee's manager is satisfied that the need arises from unforeseen or emergency reasons, personal/carer's leave may be applied for, subject to the normal limits.

21.5 Limits on leave without medical or other supporting documentation

An employee must provide evidence for personal/carer's leave associated with illness, injury or caring purposes for:

- absences in excess of three (3) consecutive working days and/or;
- for any absence taken in excess of eight (8) days (pro-rata for part time employees) paid personal/carer's leave without supporting evidence per calendar year.

See [subsection 21.7](#) for further information in relation to this subject.

In addition to the above, employees are also required to provide managers, where requested, with evidence that would satisfy a reasonable person that the leave is for legitimate personal/carer's leave purposes. Information similar to that required for application for leave in excess of 20 days may be requested (see [subsection 21.6](#) for more detail).

21.6 Applying for paid Personal/Carer's Leave for caring purposes where the period is in excess of 20 consecutive days

Where an employee is requesting a period of personal/carers' leave that is in excess of 20 consecutive days the request for approval should be sent to the Branch Manager, People Branch.

The application seeking approval must:

- be made in writing;
- provide details of the circumstances for which approval is requested;
- include a medical certificate and/or other appropriate supporting documentation stating that the employee's family or household member requires full time or part time care;
- include confirmation that no other family member, friend or community organisation can provide the relevant care and/or support needed or, alternatively, any share arrangements that are in place; and
- provide details of the other flexible working arrangements that have been considered to address the need for additional leave for caring purposes and the reasons why these provisions would not be appropriate, for example:
 - redesigning the employee's attendance pattern;
 - part time employment, home based work; and
 - using other family members, or community or welfare services to help with caring responsibilities.

Applications must be endorsed by the employee's Branch Manager / Delivery SES Manager.

In considering whether or not to approve the personal/carers' leave the delegate will consider the details contained in the employee's application and may, where it is reasonable, request the employee to provide a statutory declaration confirming one or more of the above statements or any other matter they deem appropriate.

21.7 Medical or Other Supporting Documentation – Personal, Carer's and Compassionate Leave

21.7.1 When must an employee provide medical or other supporting documentation?

An employee must provide evidence that would satisfy a reasonable person to substantiate the need for personal or carers' leave, in the form of medical or other supporting documentation, as outlined below, for:

- a period in excess of three (3) consecutive work days; and/or
- any absence taken in excess of eight (8) days (pro-rata for part time employees) paid personal/carers' leave without supporting evidence per calendar year.

Notwithstanding the above, in certain circumstances a manager may also require an employee to provide reasonable supporting medical or other documentary evidence in support of an application for personal/carers' leave irrespective of the length of the proposed absence. Examples of circumstances when the manager might require an employee to provide evidence may include:

- repeated and frequent single day or short term absences; or
- where the employee has a pattern of taking a particular day off (such as Mondays).

If the employee does not provide the required evidence within a reasonable period, the absence will be treated as unauthorised leave.

21.7.2 What constitutes medical or other documentary evidence?

Medical or other documentary evidence may be:

- a medical certificate from registered health practitioner or registered health provider; or
- a statutory declaration made by the employee. A statutory declaration will only be accepted where it is not reasonably practicable for the employee to provide a medical certificate. It must set out why it was not reasonably practical for them to obtain a medical certificate; or
- other evidence that would satisfy a reasonable person.

21.7.3 Medical certificates

Medical certificates from Registered Medical Practitioners are the preferred source of medical evidence, but certificates may be accepted from other registered health providers, including, but not limited to the following:

<ul style="list-style-type: none">• Acupuncturist• Chiropractor• Clinical psychologist• Psychologist• Dentist• Dietician• Eye therapist	<ul style="list-style-type: none">• Nurse• Occupational therapist• Optician/optometrist/ophthalmologist• Physiotherapist• Podiatrist• Radiographer• Speech therapist
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Registered Health providers may only issue a medical certificate in relation to the area in which they are registered or licensed.

Where an employee applies for leave to attend a preventative medical appointment, a manager may require a medical certificate or other supporting documentation (for example a receipt showing the date of the consultation) to satisfy them that the appointment is of a genuine preventative nature.

An employee must remain away from work during any period that a certificate states that the employee is unfit for work. The Department may in some cases require a *fitness to return to duty certificate* prior to the employee returning to duty.

21.7.4 Statutory declarations

Where an employee provides a statutory declaration to support an application for personal/carer's leave, the statutory declaration must include a statement:

- to the effect that the employee is, was or will be unfit for work due to personal illness or injury; or
- to the effect that the employee required leave to provide care or support to a member of the employee's immediate family or household member because of illness or injury or unexpected emergency; and
- outlining reasons why it was impracticable for the employee to obtain medical documentary evidence from a registered medical/health practitioner. The reasons provided must be strong enough to satisfy a reasonable person that it was impracticable for the employee to obtain a medical certificate.

Delegates would not normally accept a statutory declaration in relation to absences of more than three (3) consecutive days or where an employee is taking:

- repeated and frequent single day or short term absences in excess of the eight (8) days; or
- where the employee has a pattern of taking a particular day off (such as Mondays).

The [Commonwealth Statutory Declaration](#) form can be accessed free of charge on the Attorney-General's website.

Some of the things employees should remember when making a statutory declaration are:

- it is a written statement declared to be true;
- it must be in the prescribed form and made before a prescribed witness;
- a person who wilfully makes a false statement in a statutory declaration is guilty of an offence and may be fined or jailed, or both. Action may also be taken under the procedures for determining breaches under the APS Code of Conduct;
- the form for making a statutory declaration and the persons who can witness a statutory declaration are prescribed under the Regulations; and
- it may be invalid if it is made using an incorrect form, is witnessed by a person not prescribed by the Regulations as an authorised witness, or if it is incomplete.

In witnessing a statutory declaration the authorised witness is agreeing that the employee has made the declaration. The onus is on the employee to declare that their statement is true.

More comprehensive information about the making of statutory declarations is also available on the [Attorney-General's website](#).

21.7.5 Ongoing or intermittent treatment and medical conditions

Where an employee has:

- a personal illness or injury which requires ongoing treatment, and/or may result in the employee taking personal leave on a regular or intermittent basis; and
- provided their manager with medical evidence confirming the ongoing condition;

the manager in these circumstances has the option of approving future leave based on the initial medical evidence. This means the leave is approved on the basis that medical evidence has been provided to support the future absence without the employee having to provide medical or other supporting evidence on each occasion. Approval of leave in accordance with this arrangement is at the discretion of the manager.

Any absence must relate to the specific condition otherwise medical or other supporting documentation as per normal provisions will need to be provided.

This exception does not apply where an employee has taken more than three (3) consecutive days without medical or other supporting documentation in the last 12 months.

21.7.6 What information/evidence must an employee provide in this situation?

A manager needs to be able to make an informed decision in relation to the illness or injury. Therefore the employee will need to provide information that states what the injury and illness is and how it may impact on future attendance. This information may be provided in the form of a letter or medical certificate from the employees General Practitioner or treating specialist (where appropriate). Any information provided to the manager must be treated in strictest confidence and in accordance with the [Australian Privacy Principles](#). Managers will forward the information to People Branch for placement on the employee's personnel file.

Where someone else is acting in the manager's position on a short term basis (i.e. three (3) months or less) the nominal occupant of the position will confirm that the employee is covered by this arrangement but is not required to provide specific information about the illness or injury to the acting manager – unless the employee provides their consent. Where there is a longer term acting arrangement or a change of manager, the employee will decide whether they wish to advise the new manager of the specific illness or injury or elect to no longer be covered by this arrangement.

The employee may provide the relevant medical evidence to their manager at any time (i.e. they do not have to wait until they have reached the eight (8) day limit).

21.7.7 Reviewing the arrangement

Managers should review the arrangement at regular intervals and, where appropriate, request the employee to provide fresh documentation to support that the personal illness or injury which required ongoing treatment still exists and the continuation of the arrangement. Where a manager believes an employee is not acting appropriately under this arrangement, they may immediately withdraw approval for the agreement and the employee will be required to provide medical certificates or other supporting documentation for all future absences which are in excess of the eight (8) day limit.

21.8 Approving Leave where an employee has insufficient Personal Leave credits

Where an employee has no or insufficient personal leave credits, the delegate may:

- approve conversion of leave from full pay to half pay;
- grant personal leave without pay; or
- in exceptional circumstances and on application from the employee, approve a specified period or periods of additional paid leave (see details below).

Additional paid leave will only be approved for personal illness, injury or caring purposes and the leave must be supported by a medical certificate. If the delegate decides to approve additional paid leave he/she may approve the leave on half pay or full pay.

21.9 Application for additional paid personal/carer's leave where credits have been exhausted

Where an employee has exhausted his or her own personal/carer's leave credits and exceptional circumstances exist, the employee may make an application to the delegate in People Branch for approval of additional paid leave. Granting additional personal/carer's leave will be the exception and not the rule and will only be granted where an employee or the person the employee needs to care for has a serious and/or life threatening illness or injury. Additional paid leave for caring purposes will only be approved to a maximum of 15 days per calendar year. The 15 day limit for personal/carer's leave for caring purposes will be reduced by the amount of personal/carer's leave the employee has already utilised in the calendar year for caring purposes.

The application for additional leave must:

- be made in writing;
- be supported by a medical certificate;
- provide details of the exceptional circumstances;
- provide reasons why other available paid leave (e.g. Annual and Long Service Leave) cannot be used;
- where the leave is for caring purposes, provide details of the other flexible working arrangements that have been considered to address the need for additional leave and the reasons why these provisions would not be appropriate, for example:
 - redesigning the employee's attendance pattern;
 - part time employment, home based work, flex time, other paid leave available to the employee; and
 - using other family members, or community or welfare services to help with caring responsibilities; and
- be endorsed by the employee's Branch Manager / Delivery SES Manager and Group Manager.

Applications must be forwarded to People Branch for submission to the delegate.

Where the illness/injury relates to the employee and there is a likelihood of recovery, the employee will have to demonstrate a willingness to participate in a rehabilitation and return to work program.

In considering whether or not to approve the additional personal/carer's leave the delegate will consider the information contained in the employee's application and the:

- period of leave requested;
- reason/s for the leave;
- employee's length of service;
- employee's leave history;
- whether the employee has had previous applications approved;
- whether the employee should utilise other leave credits; and
- any other matter they deem relevant/appropriate.

Where an application for additional paid leave has been rejected a further application in relation to the same illness/injury or caring circumstance will not be considered, unless new evidence can be provided, which may include a change in circumstances. Where additional leave is not approved, employees will be able to apply for personal/carer's leave without pay which may or may not count as service.

21.10 Application to convert personal/carer's leave from full to half pay

Where an employee applies, the delegate may, in exceptional circumstances, approve the conversion of as much of the employee's personal/carer's leave credits to half pay as is necessary to cover a period of absence. An example of exceptional circumstances may be where an employee is facing the prospect of a long term absence on personal/carer's leave, the employee may choose to be paid at half pay for all or part of the period, rather than be without pay for part of the period or exhaust all of his or her personal/carer's leave credits.

Application for conversion of leave to half pay should be forwarded to People Branch with approval from the delegate. The application should include the period and the reasons for the request.

21.11 Personal /Carer's leave without pay

The delegate may approve personal/carer's leave to count as service, or not to count as service. Where the delegate has approved personal/carer's leave without pay for an employee, and that employee has been on continuous personal leave without pay for a period of 78 weeks or more, any subsequent period of personal/carer's leave without pay taken by the employee will not count as service for any purpose.

Where an employee on personal/carer's leave who has exhausted their paid personal leave credits applies for a grant of either annual leave or Long Service Leave, the period of leave will not break continuity for the purpose of determining the 78 week period. Likewise, a grant of compensation or war service sick leave during a continuous absence of personal leave does not break continuity for the purpose of determining the 78 week period.

21.12 Other Matters Associated with Personal/Carer's Leave

21.12.1 Impact of leave not to count as service on accrual of personal leave credits

An employee's accrual of personal/carer's leave will be reduced where a period or periods of leave without pay that is not to count as service exceeds 30 days in a calendar year. Where leave without pay not to count as service covers an entire calendar year, no personal/carer's leave credit accrues for that year.

21.12.2 Interaction with Other leave

Annual leave

An employee on annual or purchased leave can, on production of medical or other supporting documentation, apply to take personal/carer's leave or compassionate leave and have the other leave re-credited.

Long Service Leave

An employee on Long Service Leave can, on production of medical or other supporting documentation, apply to take a minimum of a whole day's personal/carer's leave or compassionate leave and have the other leave re-credited.

Maternity Leave

Employees who are medically unfit for one or more days while on a period of Maternity Leave without pay may be granted paid personal/carer's leave on the production of evidence. This only applies to a period of unpaid Maternity Leave approved under the *Maternity Leave (Commonwealth Employees) Act 1976* and does not include periods where the employee has applied for parental leave without pay under section 76 of the Fair Work Act.

Compensation leave

Personal/carer's leave cannot be granted in relation to leave for an illness or injury that has been recognised for the purposes of the SRC Act. Personal/carer's leave can be granted where an employee is waiting to have a compensation claim determined or has had a compensation claim rejected.

21.12.3 Independent medical examination

An employee may be directed to attend an appropriate independent medical practitioner for medical examination for personal illness or injury, including confirming the nature of the illness or injury where:

- the employee's health is affecting his or her work performance; or
- the employee's health is affecting his or her conduct; or
- due to the employee's health, he or she may be a danger to themselves or others; or
- assistance is required in establishing a safe and productive return to work; or
- the employer and employee agree to an application for invalidity retirement; or
- there has been a long absence (i.e. the employee has been/will be on personal leave for four (4) weeks or more).

Where a manager believes that an employee should be referred for an independent medical examination, the manager must consult People Branch in National Office. Where an employee has been absent on personal leave for a continuous period of more than two (2) weeks the manager must contact People Branch, who will assess whether support or rehabilitation intervention is necessary.

The independent medical assessment will be conducted by a registered medical practitioner or specialist deemed by the delegate within People Branch to be appropriate to examine the employee in relation to the employee's illness or injury. The employee will be provided with a copy of the information provided to the health practitioner, unless there are medical reasons for why the information should not be provided directly to the employee.

21.12.4 Return to work following long-term personal leave

In all cases where an employee has been on long term leave due to illness or injury, their return to work will be managed in accordance with DSS Injury Management Policy (Under Development) for compensable and non-compensable injury or illness.

21.12.5 Termination of employment on invalidity grounds

An employee will not, without their consent, have their employment terminated on invalidity grounds before their paid personal leave credits are exhausted.

22. Purchased Leave

Ongoing employees and non-ongoing employees (with more than 12 months' service) may elect to purchase up to eight (8) weeks of unpaid leave, funded by salary deductions spread evenly over a maximum period of 12 months. This allows the employee to continue to be paid during such leave.

Employees on temporary transfer from another agency may purchase leave, subject to approval of their manager. In these circumstances, the salary deductions will be spread over a maximum period which is equivalent to the remaining period of the temporary transfer from when the application for purchased leave is made. All applications for purchased leave are subject to the employee's ability to repay the cost of the purchase leave.

An eligible employee may only make one election to purchase leave in a calendar year. Purchased leave must be used in the 12 month period in which it is purchased. The minimum period of purchased leave that can be taken at any one time will be one day, and purchased leave cannot be taken at half pay. Purchased leave cannot be used to substitute for part time work arrangements.

Grants of purchased leave that were made under the provisions in the DEEWR Enterprise Agreement 2012-2014 will be grandfathered for the period of that remaining purchased leave.

Purchased leave counts as service for all purposes. Public holidays and closedown periods occurring during a period of purchased leave will be treated in the same way as if they had occurred during a period of annual leave.

A manager's approval of purchased leave will be based on operational requirements. Once a period of purchased leave has been approved, the manager may only revoke it where exceptional circumstances exist. If leave is revoked, the employee may be eligible for the reimbursement of reasonable costs incurred in accordance with the [DSS EA](#).

Purchased leave and salary deductions will be based on the ordinary/regular hours of the employee.

Salary deductions will have regard to an employee's actual salary (including temporary performance allowance and other allowances in the nature of salary). The purchased leave cost will be reconciled every six (6) pay periods with a final reconciliation of purchase leave arrangements occurring at the end of the purchase leave arrangement. If an employee has salary advancement, is promoted or permanently transferred on reduction, deductions may be adjusted at the time of the reconciliations to help minimise any outstanding monies to be repaid at the end of the purchased leave arrangement.

Where an employee applies for periods of unpaid leave during a purchased leave arrangement that results in insufficient entitlement to cover the fortnightly purchased leave repayment amount, any amounts of unpaid purchased leave will need to be recovered in full. Employees should negotiate a repayment agreement with People Branch or any overpayment will be recovered from subsequent pays.

Where, due to exceptional circumstances, an employee requests cancellation of purchased leave before the leave has been taken, and this is agreed by the manager, any salary deductions already made will be refunded as a lump sum as soon as possible and within two (2) pay periods.

Where an employee leaves DSS employment during the 12 month period in which purchased leave has been approved, the final payment will be adjusted to take account of deductions not yet made or for deductions made and leave not taken. Where the employee is moving to another APS agency, any available paid annual leave credits can be used to offset any unrecovered purchased leave on the employee's request.

23. Sabbatical Leave and Extended Purchase Leave

The Sabbatical and Extended Purchase Leave Scheme/s are designed to provide employees with a flexible arrangement whereby they can self-fund an extended period of leave which would ordinarily be leave without pay.

23.1 General Principles

The following general principles apply to employees who are successful in joining the scheme/s. The employee acknowledges:

- they are entering into an agreement with DSS;
- both the work and sabbatical leave periods will commence at a date agreed to by the Branch Manager/Delivery SES Manager at the time the employee joins the scheme/s; and
- the relevant delegate will be responsible for approving this agreement.

The employee will formally authorise DSS to reduce by 20 per cent the annual base salary, noting that this can be increased or reduced over time for example by working part time, pay rises, salary advancement or promotions, to which the employee would otherwise be entitled to over the two (2) or four (4) year period (deduction period) and to receive 80 per cent of that base salary during the deduction period. Following the completion of the deduction period, the employee will be granted either six (6) months or one year "leave of absence" (referred to as the "sabbatical/purchased leave period"). The payment the employee will receive during the sabbatical/purchased leave period will be determined by the amount of deductions paid during the deduction period. The gross amount will be converted to a fortnightly amount using the formula in the [DSS EA](#). At the end of the sabbatical/purchased leave period a reconciliation will be undertaken and to determine any outstanding monies to be repaid either to the employee or to the Department.

An employee who joins the scheme/s will be taxed only on actual salary received in respect of the deduction period and the sabbatical/purchased leave period. Employees are advised to contact their own tax advisers directly before agreeing to join the scheme. Employees need to consider the tax implications if they leave the scheme/s without using the leave and receive a lump sum payment.

23.2 Eligibility

In order to be considered for the scheme/s, an employee must currently have a reasonable expectation of being employed by DSS for the next five (5) years from the date of commencement of the arrangement. An employee with three (3) years continuous employment with the Department may apply for access to a period of up to six (6) months extended purchased leave period and take this leave subject to approval after five (5) years continuous employment with the Department.

The number of applicants entering the scheme/s may need to be restricted in an individual Branch/State, or may need to be phased in accordance with the Branch/State's operating requirements. An employee's participation in the schemes will be cost neutral for the Branch/State in which the employee is employed.

Participants who leave the scheme/s early will not normally be eligible to reapply until two (2) years later. Where exceptional circumstances exist, this restriction may be waived.

23.3 Application procedure

Employees need to complete the agreement form ([DSS Employee Sabbatical/Extended Purchased Leave Agreement Form](#)) available on STAFFnet and forward to the delegate for consideration. Approved application forms must be forwarded to People Branch for salary action.

23.4 Replacement arrangements

During the sabbatical/purchased leave period, employees will be replaced in accordance with the resource needs of the Branch/State in which they are working.

23.5 Deferment of sabbatical leave period

The sabbatical/purchased leave period may be deferred for 52 weeks at the instigation of the employee, provided that a request is made in writing at least three (3) months prior to the commencement of the sabbatical/purchased leave period. The Branch Manager/ Delivery SES Manager may accept a lesser period of notice in exceptional circumstances.

The sabbatical/purchased leave period may be deferred for up to 52 weeks at the instigation of the Branch Manager/ Delivery SES Manager, provided:

- the employee is given notice in writing at least six (6) months prior to the scheduled commencement of the sabbatical/purchased leave period; and
- the employee is considered to be essential for the operational needs of the Branch/State during the scheduled sabbatical/purchased leave period.

Salary arrangements during the deferral period will be agreed with the employee.

The sabbatical/purchased leave period may also be deferred for up to 52 weeks for supporting partner/parental/maternity/adoption/foster/permanent care leave, maternity, personal and/or Comcare leave as set out below.

Where leave is deferred the period covered by the agreement will automatically be extended by an equivalent period.

23.6 Resumption at the end of the sabbatical leave/purchased periods

Subject to the normal employment conditions in place at the time, the employee is expected to resume duty at the end of the sabbatical/purchased leave period in the Branch/State where they worked prior to the commencement of the sabbatical leave period.

23.7 Transfers and advancement/promotion

An employee who is advanced, promoted or transferred to another Branch/State during the deduction period will be eligible to continue to participate in the scheme/s, subject to the agreement of the new Branch Manager/ Delivery SES Manager, and will continue to have the salary of the new classification level reduced by 20 per cent (from the effective date of advancement/promotion/transfer) for the remainder of the deduction period.

An employee's participation in the scheme/s will automatically terminate where the agreement of the new Branch Head/ Delivery SES Manager is not given. Where participation in the scheme/s ceases, the employee will be refunded the amount of the deduction made from their salary an amount in accordance with the agreement. The method and timing of the refund will be agreed with the employee.

23.8 Leaving the scheme/s early

The agreement will be automatically terminated if the employee:

- ceases to be an employee of DSS; or
- takes miscellaneous leave without pay to take up other employment during the deduction period; or
- takes personal leave beyond 52 weeks; or
- takes miscellaneous or unauthorised leave without pay greater than 30 days in a calendar year; or
- takes compensation leave extending beyond 45 weeks.

An employee may be granted approval to leave the scheme/s during the deduction period, with the approval of the delegate and with at least two (2) months' notice (wherever possible).

An employee may also be granted approval by the Branch Manager/ Delivery SES Manager to leave the scheme/s during the deduction period, if the employee elects to do so after being placed on personal or compensation leave which is likely to be for an extended period that is less than 52 and 45 weeks respectively.

During the sabbatical/purchased leave period, employees may only be permitted to return to work early if there are exceptional circumstances and the Branch Manager/ Delivery SES Manager identifies a suitable vacancy. Where an employee leaves the scheme/s early a reconciliation will be undertaken and the employee will be refunded any monies owing, no interest will be payable on any monies owing.

23.9 Employment during the sabbatical/purchased leave period

An employee must not under any circumstances work for the Australian Public Service in any capacity during the sabbatical/purchased period.

Notwithstanding the above, an employee will be free to engage in activities of their choice during the sabbatical/purchased leave period provided that agreement is reached with DSS that there is no real or perceived conflict of interest with the employee's normal duties (see the [Procedures for Approving Outside Employment](#)).

23.10 Other Leave

Long Service Leave, personal and annual leave may be taken at any time during the deduction period, but the employee will need to formally authorise DSS to continue to deduct 20 per cent of their base salary during the period of leave.

Annual, Personal and Long Service Leave entitlements will be credited during the deduction period as if the employee was not in the Sabbatical or Extended Purchased Leave scheme/s.

Where an employee is granted supporting partner/parental/maternity/adoption/foster/permanent care leave during the deduction period and wishes to continue as a participant in the scheme/s, the employee will be required to formally authorise DSS to continue to deduct 20 per cent of their base salary during this period of leave. The employee should ensure that the total of any unpaid leave does not exceed 30 calendar days per year in the deduction period.

Where in the above circumstances an employee's paid supporting partner/maternity/adoption/ foster/permanent care leave extends into, or commences in, the sabbatical/purchased leave period, the sabbatical/purchased leave period will be extended by an equivalent period.

23.11 Compensation Leave

Employees participating in the scheme/s will retain their entitlements to compensation as prescribed by the SRC Act. Employees should note that the level of weekly Comcare compensation payments payable will be affected by the reduction in salary over the combined deduction and sabbatical/purchased leave periods.

If an employee participating in the scheme/s suffers a compensable injury whilst working for another employer during the sabbatical leave period, they are not covered by provisions of the SRC Act.

If a Comcare claim is determined against DSS during the sabbatical leave period resulting in the payment of weekly compensation benefits, the employee may be required to participate in an alternative duties return to work program during which time the salary deduction of 20 per cent would be maintained.

If an employee while on compensation leave or while participating in an alternative duties return to work program is assessed as being no longer incapacitated, the employee will resume sabbatical/purchased leave.

Where an employee is on Compensation leave and/or an alternative duties return to work program during the sabbatical/purchased leave period, the sabbatical/purchased leave period will be deferred by an equivalent period.

23.12 Superannuation

The sabbatical/purchased leave period will not count for superannuation. Contributions during the deduction period will continue to be paid as though the employee was not in the Sabbatical/Extended Purchased Leave scheme/s.

Given the complexity of superannuation arrangements, employees should contact Comsuper directly before joining the Employee Sabbatical/Extended Purchased Leave scheme/s to discuss available superannuation options.

23.13 Sanctions for non-compliance

Employees have an obligation to apply for leave to cover any absences from duty and to accurately record their hours of work. Failure to apply for leave for any absences and to accurately record hours of work may constitute a breach of the APS Code of Conduct.

23.14 Review of Decisions

Employees who apply for and have leave rejected or amended under these provisions can discuss the matter with their manager or their manager once removed or may seek a review of that decision or action under section 33 of the *Public Service Act 1999*.

23.15 More Information

For more information, please contact People Branch on 1800 799 140 or by email to HRServiceDesk@dss.gov.au.

Definitions

In accordance with the [DSS EA](#) the following definitions apply:

"**APS**" means Australian Public Service

"**Casual employee**" means a non-ongoing employee who is engaged on an irregular or intermittent basis under section 22(2) (c) of the *Public Service Act 1999* (PS Act 1999).

"**Delegate**" means a person authorised by the Secretary to be a delegate of the Secretary under the terms of this agreement.

"**[the] Department**" or "**DSS**" is interchangeable, and means the Department of Social Services.

"**Dependant**" unless defined elsewhere means a spouse/partner of the employee or a child or parent of the employee or the spouse/partner of the employee and who is wholly or substantially dependent upon the employee. For the purposes of remote localities conditions a dependant of the employee as defined here, who resides with the employee.

"**Employee**" means a person employed by the Department under the PS Act 1999, whether full time or part time, in an ongoing, non-ongoing or intermittent capacity.

"**Family**" or "**Immediate Family**" means:

- a spouse, de facto, or partner of the employee, including a former spouse, de facto or partner, irrespective of gender; and/or
- a child (including an adopted child, a step-child, a foster/permanent care child or an ex-nuptial child) of the employee; and/or
- a child (including an adopted child, a step-child, a foster/permanent care child or an ex-nuptial child) of the employee's spouse, de facto or partner; and/or
- parent, grandparent, grandchild or sibling of the employee; or
- parent, grandparent, grandchild or sibling of the employee's spouse, de facto or partner; or
- a member of the employee's household; and/or
- traditional kinship where there is a relationship or obligation, under the custom and traditions of the community or group to which the employee belongs.

"**Household Member**" means the usual occupants of the dwelling in which the employee normally resides.

"**Manager**" means a person who has operational and/or supervisory responsibility for another employee or a team of employees within DSS, which may include another manager/employee (at, above or below the manager's level) and/or may be a Section, a Branch, a State Office, a Group or other work unit.

"**NES**" means National Employment Standards.

"**Non-ongoing APS employee**" means a person engaged as a non-ongoing APS employee under Section 22(2) (b) of the Public Service Act.

"**Ongoing APS employee**" means a person engaged as an ongoing APS employee under Section 22(2) (a) of the Public Service Act.

“Partner” or **“spouse”** for the purposes of remote localities conditions and reunion visits means a person who stands in a bona fide domestic or household relationship with an employee without discrimination as to sexual preference.

"Secretary" means the person for the time being performing the duties of the office of the Secretary of the Department.

“Secretary’s Instructions” are instructions issued by the Secretary of DSS, under the authority of section 20A of the *Public Governance, Performance and Accountability Act 2013*.

“Shiftworker” means an employee rostered to perform duty outside the bandwidth hours of 7.00am to 7.00pm, Monday to Friday, and/or on a Saturday, Sunday, public holiday or a closedown period for an ongoing or fixed period.

Essentials Leave Codes

ESsentials Text	Employee Status	Reason for leave
Cult/Cerem/NAIDOC EA 6.66	All	Leave with pay for Aboriginal and Torres Strait Islander employees to take part in activities associated with their culture
Exec Level TOIL	All	EL 1 and 2 employees TOIL days
LSL Full Time Full Pay	All	Long service leave from full time credit at full pay
LSL Full Time Half Pay	All	Long service leave from full time credit at half pay
LSL Part Time Full Pay	All	Long service leave from part time credit at full pay
LSL Part Time Half Pay	All	Long service leave from part time credit at half pay
LWOP - Defence Serv TCAS	All	Leave without pay to count as service for Defence service
LWOP - Comm. Volunt. TCAS	All	Leave without pay to count as service for community volunteering
LWOP - Emerg Service TCAS	All	Leave without pay to count as service for emergency services duty
LWOP - Defence Training	All	Leave without pay not to count as service for Defence training
LWOP - Acc. Spouse Posting	All	Leave without pay not to count as service for accompanying a spouse on a commonwealth posting
LWOP - Not Pres. .TCAS	All	Leave without pay to count as service usually for employees to get experience outside the Department
LWOP - Not Presc. NTCAS	All	Leave without pay not to count as service for general use
LWOP - Study TCAS	All	Leave without pay to count as service for study leave
LWOP - Parental Leave	All	Leave without pay not to count as service for new parents (including adoption/foster/permanent care)
Emergency Service Duty	All	Leave with pay for emergency services duty
LWP - Defence Service	All	Leave with pay for Defence service
LWP - Jury Duty	All	Leave with pay for attending jury duty only
LWP - Exam Leave	All	Leave with pay for employees on study leave to attend an exam
LWP - Study bank Leave	All	Leave with pay for employees to study
LWP - Volunteers Leave	All	Leave with pay for community volunteering
LWP - Senior Officer Lve.	All	Leave with pay for SES TOIL
LWP - NAIDOC EA 6.64	All	Leave with pay for employees who are not Aboriginal and Torres Strait Islander to take part in NAIDOC week celebrations
LWP - DSS Study Leave	All	Leave with pay for employees to study
LWP - Lactation	All	Leave with pay for mothers to have lactation breaks when back at work
LWP Union Training/Forum	All	Leave with pay to attend approved union training and forums
Compassionate Death	All	Leave with pay when a family member passes away
Compassionate Illness	All	Leave with pay when for a family member with life threatening disease
Pers Lve - Special/Emerg.	Ongoing	Personal leave for unexpected emergencies
Supporting Partner Leave	All	4 weeks miscellaneous leave when partner has a baby.
Pers Lve Sick With M/Cert	All	Personal leave with a medical certificate

Leave Policy

Pers Lve Sick W/O M/Cert	All	Personal leave without a medical certificate
Carers Lve with Med Cert.	All	Carers leave with a medical certificate
Sick LWOP (Ongoing)	Ongoing	Personal leave without pay
War Service Sick Leave	All	Personal leave for Veterans
Pers LWOP for Temps	Non-Ongoing	Personal leave without pay
Carers Leave W/O Med Cert	All	Carers leave without a medical certificate
Purchased Lve (taking)(new)	All	Take purchased leave
Recreation Leave Full Pay	All	Recreation leave paid at full pay
Recreation Leave Half Pay	All	Recreation leave paid at half pay
Unauth Abs-Ind Action	All	Attendance at industrial actions such as a strike or stop work
Unauthorised Absence	All	Unapproved absence from the Department