

PART 2 - LEAVE

By-law 4 - Recreation Leave

INTERPRETATION

4. (1) For the purposes of this By-law -

“additional recreation leave credit” means an additional credit determined by the Commissioner under clause (2);

“annual credit” means a period equal to an employee's ordinary hours of duty during a period of 4 weeks plus any additional recreation leave credit;

“completed month” means a period of 22 working days inclusive of any public holidays;

“month” means a calendar month;

“year” means a calendar year.

DETERMINATION OF ADDITIONAL RECREATION LEAVE CREDITS

4. (2) Without affecting the operation of By-law 6, the Commissioner may, by determination, grant an additional recreation leave credit to employees whose normal place of employment is in the Northern Territory and under any condition the Commissioner determines, so long as the total annual credit does not exceed 6 weeks.

ACCRUAL OF ANNUAL CREDIT

4. (3) Except as provided at clause (4), there accrues to an employee on 1 January of every year an annual credit based on the previous year of service, provided that where an employee has not completed the full year, they shall accrue the annual credit on a pro rata basis.
4. (4) OMITTED

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GRANT OF RECREATION LEAVE

4. (5) An employee employed in a teaching capacity shall, unless otherwise directed, be deemed to be on recreation leave on and from the first working day succeeding the last day on which the employee's school is open in a calendar year, and the period of leave shall be to the limit of available credits or to the day preceding the first day on which the school is open in the next calendar year.
4. (6) The Chief Executive Officer may, on application in writing by an employee, other than one to whom clause (5) applies, and subject to the Agency's requirements, grant leave for recreation purposes -
 - (a) to the extent of the employee's available annual credits; and
 - (b) on a pro rata basis calculated to provide 1/12th of the annual credit for each completed month of service in the uncompleted year up until the date the employee proposes to utilise the leave.
4. (7) The Chief Executive Officer shall not grant pro rata recreation leave in respect of any month where leave without pay that does not count as service is in excess of 5 days.
4. (8) Where an employee is granted pro rata recreation leave, the next annual credit accruing shall be reduced by the amount of pro rata recreation leave utilised in the previous year.

ILLNESS DURING LEAVE

4. (9) Where an employee becomes ill during a period of recreation leave and the illness is supported by medical evidence, the Chief Executive Officer may grant sick leave in accordance with By-law 7 and authorise the equivalent period of recreation leave to be re-credited.

ANNUAL CREDIT REDUCED BY LEAVE WITHOUT PAY

4. (10) Where:
 - (a) an employee has been on leave without pay for 22 working days or more in a year; and
 - (b) the period of absence on leave without pay does not count as service,the next annual credit that accrues in relation to the employee shall be reduced by one twelfth of the period of the annual credit that would otherwise accrue for each 22 working days on which the employee was so absent.

MAXIMUM ANNUAL CREDIT, &c.

4. (11) An employee who is not employed in a teaching capacity may accumulate a maximum of 2 years annual credit.
4. (12) An employee employed in a teaching capacity is not entitled to accumulate accrued recreation leave beyond the end of the following year without the approval of the Chief Executive Officer.
4. (13) An employee, whose annual credits will be in excess of the allowable maximum in accordance with clause (11) at the date on which the next annual credit is due and who does not commence utilising the whole of the portion of the credit that will be in excess before that date, shall forfeit the portion of the annual credit that is in excess of the maximum.

RESTORATION OF FORFEITED LEAVE

4. (14) Where the Chief Executive Officer is satisfied, having regard to the special circumstances of the case in question which led to the forfeiture of recreation leave under clause (13), the Chief Executive Officer may approve the restoration of any period so forfeited on the following conditions -
 - (a) the restored credit shall not exceed the forfeited credit;
 - (b) the employee commences utilisation of the whole of the restored credit within a maximum period of 6 months; and
 - (c) any of the restored credit not utilised within the limitations referred to in paragraph (a) or (b) shall be forfeited and shall not be subject to a further restoration.

PAYMENT IN LIEU

4. (15) Where an employee ceases employment, other than by death, he or she is entitled to payment in lieu of any remaining annual credit and, in addition, payment of pro rata leave for each completed month of service since the last accrual.
4. (16) Any part months of service in respect of the first and last month of employment, previously unaccounted for in respect of pro rata or annual credits, shall be added to the employee's final year of service for the purpose of calculating payment in lieu of leave.

PAYMENT IN CASE OF DEATH

4. (17) Where an employee dies or, after consideration of all the circumstances the Commissioner has directed that an employee shall be presumed to have died on a particular date, the Chief Executive Officer may authorise payment in lieu of recreation leave, calculated in accordance with clauses (15) and (16) -

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- (a) to the employee's legal personal representative; or
- (b) when authorised by the employee's legal personal representative, to another person or persons at the Chief Executive Officer's discretion.

PUBLIC HOLIDAYS

- 4. (18) Where a public holiday occurs during recreation leave -
 - (a) an employee shall be paid at the same rate as the rate allowed for the period of leave; and
 - (b) the public holidays shall not be debited from the employee's annual credit.

By-law 5 - Recreation Leave Loading

ENTITLEMENT

- 5. (1) An employee shall be entitled to a recreation leave loading as follows:
 - (a) a sum of seventeen and one half percent of the value of the recreation leave credit based on their salary (including any allowances in the nature of salary) as at 1 January in the year in which the recreation leave accrued; or
 - (b) to a maximum payment advised by the Commissioner, of the equivalent of the average weekly earnings of Northern Territory males ascertained from the Australian Statistician for the quarter ended 31 August of the year preceding the year in which the date of accrual occurs;whichever is the lesser; or
 - (c) where the employee is a shift worker as defined in By-law 39, payment of the greater of either shift penalties to which they would have been entitled but for proceeding on leave or the recreation leave loading as per paragraph (a) and (b).

MINIMUM PERIOD OF LEAVE

- 5. (2) An employee is not entitled to be paid a recreation leave loading unless an application is approved for use of at least one week of recreation leave.

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