



Changes to state employment laws in WA

Personal leave entitlements

June 2022

Changes to the personal leave entitlement have been introduced for all employees in the state industrial relations system. Sick leave and carer's leave have been combined, and both forms of leave are now termed 'personal leave'.

The new personal leave provisions in the *Minimum Conditions of Employment Act 1993* (MCE Act) were introduced by the *Industrial Relations Legislation Amendment Act 2021* and commenced on 20 June 2022.

State employment laws have changed

This fact sheet is part of a suite of information on the changes to state employment laws that commenced on 20 June 2022. For details on the changes visit www.dmirs.wa.gov.au/new-employment-laws.

Paid personal leave

For each year of service, full time and part time employees are entitled to paid personal leave for the number of hours the employee is required ordinarily to work in a two week period during that year, up to 76 hours. Personal leave accrues on a weekly basis.

Personal leave is a cumulative entitlement, which means that any unused personal leave is carried over and added to the next year's entitlement.

The amount of leave, and how it accrues and accumulates, has not changed. However, the previous limit on the amount of paid leave that could be taken for caring purposes each year has been removed.

An employee is able to take paid personal leave:

- because the employee is not fit for work due to a personal illness or injury; or
- to provide care or support to a member of the employee's family or household who requires care or support because of:
 - a personal illness or injury affecting the member; or
 - an unexpected emergency affecting the member.

The definition of a member of the employee's family or household in the MCE Act has not changed – a member of the family or household means any of the following people:

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

Unpaid personal leave for caring purposes

All employees, including casual employees, are entitled to unpaid personal leave for caring purposes under the MCE Act.

An employee is entitled to take up to two days of unpaid personal leave for each occasion when a member of the employee's family or household requires care or support because of:

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

An employee is able to take unpaid personal leave for each occasion as a single continuous period of up to two days, or any separate periods to which the employee and their employer agree.

The amount of leave, and how it may be taken, has not changed. An employee is not able to take unpaid personal leave for caring purposes if they could instead take paid personal leave. This means that full time and part time employees need to take any paid personal leave they have available under the MCE Act before accessing unpaid personal leave.

Casual employees are able to access up to two days unpaid personal leave per occasion for caring purposes.

Under the MCE Act, employees do not have a specific entitlement to unpaid personal leave for a personal illness or injury affecting themselves. However, this does not prevent an employer and employee from agreeing on some other form of leave, including leave without pay.

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