

EXTRACT FROM DIMA CERTIFIED AGREEMENT 2004-2007

FLEXIBLE LEAVE ARRANGEMENTS

The department is committed to providing employees with streamlined leave arrangements which facilitate flexibility and are easy to administer.

- 1.1 Ongoing employees will have access to the following types of leave:
- Annual leave;
 - Sick and Personal leave;
 - Family leave;
 - Parental leave;
 - Maternity leave;
 - Adoption leave;
 - Long Service leave;
 - Purchased leave;
 - War Service Sick leave; and
 - Other types of leave.
- 1.2 Employees may access only one type of leave at any time.
- 1.3 Non-ongoing employees who are engaged for a specified term or for the duration of a specified task will have access to leave where specified in this Agreement. Non-ongoing employees who are engaged for duties that are irregular or intermittent will receive a loading on salary, as determined by the Secretary, and are not entitled to any form of paid leave, unless so entitled under legislation.
- 1.4 Ongoing employees moving to the department from another APS agency or an agency staffed under the *Parliamentary Service Act 1999* will have their accrued credits of annual leave and sick and personal leave (or its equivalent) recognised. The accrued annual and sick and personal leave credits of employees moving from the ACT Government Service will be recognised consistent with legislative requirements and any policy guidance from DEWR. Access to credits will be in accordance with this Agreement.

Outside Employment

- 1.5 All employees, including those on leave from the department, must obtain written permission from the Secretary prior to engaging in any employment outside their official duties. Employees must establish that any employment, whether paid or unpaid, will not create a conflict of interest with their usual official duties consistent with the provisions of the department's Conduct Guidelines and the APS Code of Conduct as contained in section 13 of the *Public Service Act 1999*.

Medical Officers and Private Practice

- 1.6 Medical officers employed by the department may undertake private practice as a medical practitioner subject to:

- the practice occurring in the employee's own time;
- the practice not adversely impacting on the employee's duties as an employee of the department or on the department itself;
- the employee having professional indemnity insurance for the private practice with no liability falling to the Commonwealth;
- Commonwealth facilities and premises not being used for the private practice; and
- the employee making an application to the Secretary under the provisions for outside employment in paragraph 1.5, including establishing that the employment will not create a conflict of interest.

Annual Leave

- 1.7 Annual leave is paid leave and counts as service for all purposes.
- 1.8 The purpose of annual leave is to provide the employee with a break from work for rest and recreation. Annual leave is an entitlement and the department encourages its staff to use their annual leave entitlement each year. An employee must apply for annual leave and wherever possible the department will grant annual leave at a time that is convenient to the employee. Factors that may not make it possible to grant annual leave at a time that is convenient to the employee include pressing operational requirements and the need to balance the leave requests of other employees. Managers will consult with staff in the workplace about the timing of annual leave at peak periods such as Easter, Christmas and the school holidays.
- 1.9 All employees accrue annual leave on a monthly basis. The basic entitlement for a full-time employee is four weeks (20 working days) per calendar year. Employees who have:
- worked part-time;
 - taken unpaid leave that does not count as service (see paragraph 1.133); or
 - worked for only part of the year,
- in the preceding calendar year, will accrue annual leave on a pro rata basis.
- 1.10 An ongoing employee stationed permanently, or on a term transfer basis, in the department's offices in Cairns, Darwin, Port Hedland, or Thursday Island will receive additional annual leave credits each year as detailed in paragraph **Error! Reference source not found.**, unless the employee is receiving a cash allowance for this purpose under the Remote Area and Exceptional Circumstances Allowance provisions.
- 1.11 Shift workers accrue additional annual leave in the circumstances detailed in Attachment D.
- 1.12 Employees posted overseas with the department may receive additional annual leave in accordance with the department's Overseas Conditions of Service Manual.
- 1.13 An employee who ceases employment with the department, and does not move to another APS agency, will be paid for any unused annual leave credits and pro rata uncredited annual leave. This payment will not be made if the employee is able to transfer the credits to another employer.

- 1.14 With the agreement of their managers, employees may cash out a five day block of annual leave per calendar year, provided that they take an amount of leave equal to or greater than five days at the time the leave is cashed out. The option of cashing out leave may only be initiated by the employee at the time when the leave is taken. Employees cannot cash out anticipated leave, ie. leave which has not yet been credited.
- 1.15 Annual leave may be taken in part-day or full day amounts.
- 1.16 Employees may access annual leave at full or half pay.
- 1.17 Where a designated public holiday falls within a period of annual leave, the holiday will not be deducted from the employee's annual leave credits.
- 1.18 An employee may maintain a credit of up to three years' annual leave entitlements at any time. If an employee has more than three years' annual leave credits accrued after 1 January, the employee must take sufficient leave within a three-month period to reduce the accrued leave to the equivalent of three years' credits or less. If, at the end of this period the leave is not reduced to the maximum permissible amount, the employee will be deemed to be on annual leave until the credit is reduced.
- 1.19 The Secretary may extend the deeming date for an employee where the Secretary considers that operational reasons or personal circumstances beyond the employee's control have prevented the employee from reducing the accrued leave to an acceptable amount.
- 1.20 When an employee is deemed to be on annual leave the Secretary may require the employee to be absent from the workplace and the employee has the right to absent themselves from the workplace.
- 1.21 At the time an employee is deemed to be on annual leave, the employee may already be on leave other than annual leave, eg sick and personal leave, family leave etc. In these circumstances:
- where the other leave is for a period of four weeks or less, the employee will be deemed to commence annual leave as soon as the period of other leave ceases; and
 - where the other leave is for a period exceeding four weeks, the employee has six months following the initial period of leave to use their excess annual leave credits before they are deemed to be on leave.
- 1.22 Where an employee is recalled to duty while on approved annual leave, the employee will be re-credited with a period equivalent to the standard hours of duty worked during the annual leave. Where an employee's annual leave is cancelled without reasonable notice, or an employee is recalled to duty from annual leave, the employee will be entitled to be reimbursed reasonable travel costs and incidental expenses not otherwise recoverable from insurance or from any other source.
- 1.23 Where an employee who is on annual leave becomes sick (that is, in circumstances that might qualify for sick and personal leave had they been on duty) they may apply for sick and personal leave with the provision of documentary evidence. Annual leave will be re-credited to the extent of the period of sick and personal leave granted.
- 1.24 Where an employee with school children has an application for annual leave or purchased leave during school holidays refused or cancelled for

operational reasons, the provisions at paragraphs **Error! Reference source not found.** to **Error! Reference source not found.** may apply.

Yearly Close Down

- 1.25 Where at least 75 percent of the employees of an office of the department agree, and the Secretary approves, the office may observe a close down at Christmas or another holiday period.
- 1.26 Where, in the view of a manager, it is not appropriate for supervisory reasons or there is a lack of sufficient work during the holiday period, the Secretary may direct that an employee at that office will observe that period of close down unless required to attend for duty.
- 1.27 Employees may choose to use either annual leave or flex credits to cover the close down period.
- 1.28 If an employee has insufficient annual leave or flex credits, leave without pay to count as service for all purposes will be granted for the period where paid leave is not available.

Sick and Personal Leave

- 1.29 Each ongoing employee, and non-ongoing employees who are engaged for a specified term or for the duration of a specified task, will be eligible for sick and personal leave.
- 1.30 Paid sick and personal leave counts as service for all purposes.
- 1.31 An employee may apply to their manager for sick and personal leave for any of the following purposes:
 - personal illness;
 - attending medical appointments;
 - accompanying immediate family members to medical appointments;
 - caring for a flat/housemate who is ill;
 - death and/or funeral of immediate family members or close friends;
 - moving from their usual place of residence;
 - house emergencies;
 - car accidents;
 - caring for children in an emergency;
 - caring for immediate family members who are ill;
 - to attend a graduation ceremony of the employee;
 - birth of a child of the employee;
 - adopting a child;
 - flooding;
 - natural disasters;
 - religious and/or cultural observance;
 - attending own citizenship ceremony;
 - attending a departmental sports day;

- attending court as a witness in a private capacity;
 - attending local government activities in the capacity of mayor or councillor, where such positions are not paid positions;
 - attending NAIDOC week activities;
 - attending as a participant in international sporting events; or
 - for activities related to tertiary study, such as attending exams or preparing essays.
- 1.32 A full-time ongoing employee will receive an annual credit of 18 days of sick and personal leave. If the employee is engaged by the department, that credit accrues on the date on which the employee is engaged by the department and on the anniversary of that date each year. If the employee moves to the department from another APS agency or the ACT Government (see paragraph 1.4) the credit accrues on the anniversary of that employee's accrual date. Where an employee has been on unpaid leave for more than 30 calendar days, which does not count as service (see paragraph 1.133), the anniversary date will be deferred by the total number of days of unpaid leave taken exceeding 30 days.
- 1.33 Non-ongoing employees who are engaged for a specified term or for the duration of a specified task will accrue sick and personal leave with pay on the following basis. There is no entitlement if the non-ongoing employee is engaged for a period less than two calendar months. Once a non-ongoing employee has worked two calendar months they accrue three days leave. They accrue an additional one and one half (1 ½) days for each calendar month worked thereafter.
- 1.34 Part-time employees will accrue sick and personal leave on a pro rata basis based on the employee's hours of work on the date the leave accrues.
- 1.35 Unused accrued sick and personal leave credits are carried over each year and accumulate without limitation during the employee's employment with the department. Unused sick and personal leave is not paid out when an employee resigns or their employment is terminated.
- 1.36 Employees may take sick and personal leave with the following limitations:
- leave accrued prior to the last anniversary date can only be used for reasons of personal illness;
 - leave taken to attend a graduation or for study activities must not total more than five days in any calendar year; and
 - an employee on paid maternity leave or paid adoption leave is not entitled to paid sick leave.
- 1.37 Sick and personal leave may be taken in part-day or full-day amounts.
- 1.38 An employee may take sick and personal leave at full pay or half pay. Half pay sick and personal leave is debited from accrued leave on a pro rata basis.
- 1.39 If the employee has exhausted all their accrued full pay sick and personal leave, the employee may anticipate up to 10 days full pay sick and personal leave from their next year's credit.
- 1.40 The employee must apply for sick and personal leave either by electronic lodgement of the application or in writing to their manager. If a manager requires, the employee is to provide documentary evidence of the reason for

the leave where the absence is for more than three consecutive days, or the employee has taken five days or more of undocumented sick and personal leave in the accrual year at the time of the application for leave.

1.41 Documentary evidence for personal illness can include medical certificates provided by medical practitioners, registered nurses, dentists, optometrists, opticians, radiographers or physiotherapists. Documentary evidence from podiatrists, chiropractors, osteopaths, naturopaths, homeopaths, and acupuncturists may be used for absences up to five days in the sick and personal leave accrual year, of which no more than three can be consecutive.

1.42 Where the Secretary considers:

- there are exceptional circumstances; and
- all other forms of leave are exhausted:

the Secretary may grant the employee additional sick and personal leave at half pay.

1.43 Where an employee:

- has an identified disability or medical condition; and
- that condition requires ongoing medical management involving time off work to attend medical appointments and/or hospitalisation and time to recuperate; and
- has exhausted all sick and personal leave (both current year's credits and accrued credits):

the Secretary may grant up to 10 additional days of sick and personal leave at full pay in an accrual year.

1.44 Before granting the additional leave, the Secretary may require the employee to provide a report from the treating doctor and/or a nominated medical practitioner to establish the existence of a condition and the nature of, and need for, ongoing treatment or management.

1.45 The maximum continuous absence that may be granted on sick and personal leave for reasons of personal illness is 52 weeks' paid leave (see paragraph 1.49).

1.46 Unless an employee consents, their employment will not be terminated on invalidity grounds until the employee's full-pay sick and personal leave credit has expired.

1.47 With the agreement of the manager, the employee may give blood, or attend a medical practitioner for the purposes of vaccinations for official duty during working hours without being required to complete an application for leave. A record of such absence will be kept for employee compensation purposes.

Sick Leave Without Pay

1.48 If an employee has exhausted all their sick and personal leave, and a medical practitioner certifies that the employee is unfit to return to work, then the employee will be granted sick leave without pay. This provision does not apply if a medical practitioner nominated by the department has certified that the employee is fit to return to work.

1.49 The maximum continuous absence to count as service which may be granted on sick and personal leave, including without pay, is 78 weeks, of which no more than 52 weeks may be paid sick and personal leave.

- 1.50 Sick and personal leave granted beyond 78 weeks is unpaid leave and does not count as service for leave purposes but does count as contributory service for superannuation purposes.
- 1.51 Sick and personal leave granted beyond 78 weeks counts as service for long service leave.

Family Leave Pool

- 1.52 Family leave is available to ongoing employees primarily to meet temporary short-term care and support needs for a family member dependent on the employee.
- 1.53 For the purposes of these provisions, the term 'family' is inclusive of a wide range of lifestyles of employees. 'Family' includes any person dependent on the employee for care or support such as a relation by blood (child, parents, sibling, grandparents), marriage (including de facto relationships), adoption, fostering or traditional kinship without discrimination on the basis of race or sexual preference.
- 1.54 Family leave is not available to cover absences due to social or sporting events, pupil-free days, routine or full-time care, or routine care over school holidays.
- 1.55 The department has established a family leave pool consisting of 6,500 days per calendar year. Employees may access up to five days of full pay leave per year from the family leave pool. Access to more than five days requires written approval from the Secretary.
- 1.56 Employees may use the family leave pool if they are responsible for the care of the person concerned. In normal circumstances an employee must not take family leave where another person has taken leave to care for the same person.
- 1.57 The Secretary may, having regard to previous usage of the family leave pool, increase the total number of days in the pool should the pool be used completely in any calendar year.
- 1.58 Leave accessed from the family leave pool counts as service for all purposes.
- 1.59 Details of the department's family leave arrangements are available on DIMIANet.

Family Leave Without Pay

- 1.60 The Secretary may, on the request of the employee, grant family leave without pay (FLWOP) to ongoing employees for periods ranging from a minimum of four weeks to a maximum of 104 weeks, subject to the provisions in paragraph 1.62. FLWOP may be taken for the purpose of caring for immediate family members of the employee. The Secretary may require the employee to provide documentary evidence before considering a request for FLWOP.
- 1.61 FLWOP does not count for service for any purpose.
- 1.62 If FLWOP is taken after a grant of leave under the *Maternity Leave (Commonwealth Employees) Act 1973*, the maximum that can be taken is 52 weeks.
- 1.63 An employee who has been granted FLWOP may not engage in outside employment while on leave.

- 1.64 Managers should discuss issues relating to placement on return with employees prior to the employee's departure on FLWOP and again within a reasonable time before the employee returns to work. Such discussions should include the return of the employee to their previous workplace where this is consistent with operational requirements and the preference of the employee.

Purchased Leave (48/52)

- 1.65 Purchased leave is a voluntary scheme which enables employees to access between one and four weeks of unpaid leave per year in addition to their annual leave and other entitlements. Purchased leave aims to provide employees with flexibility in accessing extra leave at times mutually agreed between employees and their managers.
- 1.66 In considering applications for purchased leave, managers must balance the demands and priorities of the work area with the needs of individual employees.
- 1.67 Purchased leave is not available to non-ongoing employees.
- 1.68 Purchased leave reduces the annual salary of employees in the same way as leave without pay. However, it allows the spreading of salary deductions over a period of time up to a maximum of 12 months. This is known as the purchased leave period.
- 1.69 Changes in an employee's salary or hours of work, after entering into a Purchased Leave arrangement, will not change the amount of leave available or the amount deducted from their salary.
- 1.70 Subject to the approval of the leave by the Secretary, the duration of the purchased leave period, up to the maximum of 12 months, is at the discretion of the employee purchasing the leave.
- 1.71 Purchased leave must be used within 12 months of the initial date of purchase.
- 1.72 The period over which the employee's salary is adjusted commences on the date the employee's purchased leave application is approved or on the date nominated under 'Purchased Leave Period' on the application, whichever is the later.
- 1.73 If the employee does not use all or part of the purchased leave within the purchased leave period, the employee will be credited the leave not taken as paid annual leave.

Long Service Leave

- 1.74 The employee will be entitled to long service leave as provided for in the *Long Service Leave (Commonwealth Employees) Act 1976*.
- 1.75 The minimum period that an employee may be granted long service leave is 10 consecutive calendar days.
- 1.76 An employee may apply for sick and personal leave where they become ill or suffer bereavement while on long service leave. The sick and personal leave will be granted where the employee would have been eligible for the leave had they been on duty. Employees will be recredited with long service leave in full day amounts to the extent of the period of sick and personal leave granted. Employees will not be recredited with part day amounts.

- 1.77 Public holidays that occur during a period of long service leave are deducted from long service leave credits.

Maternity Leave

- 1.78 The employee will be entitled to maternity leave as provided for in the *Maternity Leave (Commonwealth Employees) Act 1973*.
- 1.79 An eligible employee will be entitled to up to 12 weeks of paid maternity leave and 40 weeks of unpaid leave for each confinement.
- 1.80 The Secretary may approve the payment of the mandatory period of 12 weeks maternity leave over a period of 24 weeks, ie. providing for employees to take maternity leave at half pay. Only the first 12 weeks of half pay maternity leave will count as service. The second 12 week period will not count as service for any purpose, although the employee may elect to make superannuation contributions for this period.
- 1.81 Where an employee applies for paid leave continuous with a period of paid maternity leave, and is eligible for that leave, the employee will be granted the paid leave.
- 1.82 An employee on maternity leave taken at full pay is not eligible for sick and personal leave. Where an employee on unpaid maternity leave, or in the second 12 week period of maternity leave taken at half pay, becomes sick (in circumstances that might qualify for sick and personal leave had they been at work), they may apply for sick and personal leave with the provision of documentary evidence.

Adoption Leave

- 1.83 Adoption leave is available to ongoing employees who are to be the primary carer of an adopted child.
- 1.84 Documentary evidence of approval for adoption must be submitted when applying for leave.
- 1.85 The adoptive child must not be a child or step-child of the employee or of the employee's partner unless that child had not been in the custody and care of the employee or the employee's partner for a continuous period of six months or more.
- 1.86 Eligible employees will be entitled to 12 weeks of paid adoption leave and 40 weeks of unpaid leave. The 12 weeks of paid leave must be taken within a period commencing two weeks before the date of placement of the child and ceasing six months after the date of placement of the child. The maximum period of paid and unpaid adoption leave that an employee may take is 52 weeks.
- 1.87 The Secretary may approve the payment of the 12 weeks of paid adoption leave over a period of 24 weeks, ie providing for employees to take adoption leave at half pay. Adoption leave taken at full pay counts as service for all purposes. Only the first 12 week period of adoption leave taken at half pay will count as service. The second 12 week period will not count as service for any purpose, although employees may elect to make superannuation contributions for this period.
- 1.88 Adoption leave will be taken as a continuous period unless otherwise agreed by the Secretary.

- 1.89 Employees on an overseas posting at the time they adopt a child will only be eligible for 12 weeks paid adoption leave taken at full pay. The access of employees on an overseas posting to this leave will be decided on a case-by-case basis by the Secretary taking into account the personal circumstances of the employee including domestic support available to them and operational requirements at the post.
- 1.90 Where an employee applies for paid leave continuous with a period of paid adoption leave, and is eligible for that leave, the employee will be granted the paid leave.
- 1.91 An employee on adoption leave taken at full pay, or in the first 12 week period of adoption leave taken at half pay, is not eligible for sick and personal leave. Where an employee on unpaid adoption leave, or in the second 12 week period of adoption leave taken at half pay, becomes sick (in circumstances that might qualify for sick and personal leave had they been at work), they may apply for sick and personal leave with the provision of documentary evidence.

Parental Leave

- 1.92 Paid parental leave at half or full pay is available to ongoing employees:
- to attend the birth of their child, or their partner's child, and provide support and care to the mother in the period after the birth;
 - to give birth and recover from a birth where the employee is not eligible for paid maternity leave; or
 - to care for a foster child, or a child for whom the employee is a guardian, and for whom the employee has recently assumed care.
- 1.93 Parental leave consists of:
- five days paid parental leave; and
 - up to five days family leave (under paragraphs 1.52 to 1.59).
- 1.94 A manager may refuse an application for paid parental leave from an employee who is a foster parent or guardian if the application is not made within a reasonable period of the employee assuming responsibility for the child.
- 1.95 A manager may approve leave without pay for an employee to care for a newborn child, long-term foster child or a child of whom the employee is the guardian. In these circumstances, the employee may be granted a maximum of 52 weeks leave without pay to be taken over a 66-week period. The 66-week period commences on the day on which the child was born or, in the case of a foster child or guardianship arrangement, the date on which the employee assumes responsibility for the child.
- 1.96 Where an employee's spouse is also an employee of this department or another APS agency which grants parental leave, or its equivalent, the total amount of leave including maternity leave which can be granted to the employee and the employee's spouse is 66 weeks.
- 1.97 Paid parental leave counts as service for all purposes. A period of unpaid parental leave does not count as service for any purpose.

All Other Types of Leave

Defence Reserve Leave

- 1.98 The department is committed to supporting the Australian Defence Force Reserve and will provide leave to ongoing employees who are members of the Defence Reserve to meet peacetime training and deployment requirements.
- 1.99 Taking into account the particular requirements of the Defence Force Reserve, the department will provide the following:
- four weeks (20 working days) leave on full pay each year for Reservists undertaking Defence service; and
 - an additional two weeks (10 working days) paid leave to allow for a Reservist's attendance at recruit/initial employment training.
- 1.100 Employees eligible for Defence Reserve Leave may accumulate the entitlements and take them over a two- year period.
- 1.101 Taking into account operational requirements, the Secretary may grant additional leave for Defence service, either paid or unpaid.
- 1.102 Employees accessing Defence Reserve Leave will continue to have their salary paid as it would have been paid had leave not been taken, with the exception of shift penalties. Employees will continue to access other components of their remuneration package during periods of Defence service.
- 1.103 All leave granted for Defence Reserve purposes shall count as service for all purposes.
- 1.104 The department will not require Defence Reservists to pay their tax-free Reserve salary to the department in any circumstances.
- 1.105 Details of the department's Defence Reserve Leave arrangements are available on DIMIANet.

War Service Sick Leave

- 1.106 The Secretary will grant war service sick leave to ongoing and non-ongoing employees who are unfit for duty because of a war-caused condition.
- 1.107 A war-caused condition means an injury or disease that has been determined under the *Veterans' Entitlement Act 1986* to be war-caused or defence-caused.
- 1.108 Employees who are eligible for war service sick leave will be granted a nine-week special credit of war service sick leave from the date they commence employment with the APS. If the employee was eligible for war service sick leave during a previous period of APS employment, only the unused portion of the previous special credit entitlement will be granted.
- 1.109 In addition to the special credit, employees are granted a three-week annual credit of war service sick leave on the date of commencement with the APS and after each subsequent 12 months of service. Unused annual credits will accumulate, subject to a maximum annual credit balance of nine weeks. Where an employee has been eligible for war service sick leave during a previous period of APS employment, on employment with the department any unused accrued annual credits can be brought forward, subject to the maximum annual credit of nine weeks. In this circumstance, the next annual

credit will accrue when the employee's period of service since recommencement equals 12 months.

- 1.110 Leave from the annual credit referred to in paragraph 1.109 may not be granted until the special credit has expired.
- 1.111 The employee must apply in writing for war service sick leave and must present 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, before the application can be approved.
- 1.112 Where an employee's war service sick leave credits have expired, sick and personal leave provisions will apply.
- 1.113 War service sick leave is paid leave and counts as service for all purposes.
- 1.114 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, or for any unauthorised absence.
- 1.115 Leave that counts as service for sick and personal leave purposes will be deemed to count as service for war service sick leave purposes.

Ceremonial Leave

- 1.116 A manager may approve the taking of up to 10 days ceremonial leave over a two year period by an Aboriginal or Torres Strait Islander employee whether ongoing or non-ongoing. This leave is unpaid and is to enable the employee to participate in ceremonial activities associated with the death of a member of their immediate or extended family, or for other obligations under Aboriginal or Torres Strait Islander law.
- 1.117 Ceremonial leave does not count as service for any purpose.

Leave For Emergency Duty with State Emergency Services

- 1.118 A manager will approve up to four days paid leave for an ongoing or non-ongoing employee who is a member of a State Emergency Service, fire-fighting service, search and rescue unit or other volunteer service performing similar functions to enable the employee to fulfil an obligation to that service in the event of a civil emergency.
- 1.119 The Secretary may approve additional paid leave for an ongoing emergency situation. Any paid leave for Emergency Duty counts as service for all purposes.

Jury Leave

- 1.120 A manager will approve an application from an ongoing or non-ongoing employee for jury leave to enable the employee to attend court as a juror.
- 1.121 An employee will notify their manager of the date he or she is required to attend jury service as soon as possible. The employee will give the manager proof of attendance, showing the duration of attendance and the payment received for jury service. Jury leave will count as service for all purposes.
- 1.122 The employee will continue to receive their normal salary subject to any payments of a salary nature made to the employee by the court for jury service being signed over to the department.

Compensation and Accident Leave

- 1.123 Employees are covered by the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act).
- 1.124 An employee in receipt of compensation for more than 45 weeks will accrue sick and personal leave and annual leave on the basis of hours actually worked during their return to work program.

Miscellaneous Leave, With or Without Pay

- 1.125 The Secretary may, upon application, grant miscellaneous leave to ongoing and non-ongoing employees for a purpose that the Secretary considers to be in the interests of the Commonwealth. This may include:
- for engagement in employment in the interest of the Australian Public Service;
 - to fulfil a role with a community, humanitarian, relief or not-for-profit organisation;
 - to accompany a spouse on a temporary posting in Australia and overseas, where the spouse is employed by a Commonwealth agency or authority, or the Defence Force;
 - to attend workplace relations courses provided such courses contribute to a better understanding of workplace relations issues;
 - to attend proceedings of the Australian Industrial Relations Commission (AIRC) related to industrial issues in the department when summonsed as a witness;
 - to work as a locally engaged employee overseas;
 - for sabbatical or recreational purposes;
 - for religious obligations;
 - for study purposes;
 - to participate in international sporting events;
 - for additional leave without pay following a period of paid and unpaid maternity leave; or
 - for leave not provided for elsewhere.
- 1.126 The Secretary may grant miscellaneous leave:
- for the period requested, or another period;
 - with or without pay;
 - subject to conditions; and
 - so that it counts or does not count for service.
- 1.127 Miscellaneous leave will generally be granted as leave without pay and will not count for service. Miscellaneous leave for study purposes will be leave without pay.
- 1.128 Miscellaneous leave granted to an employee summonsed to attend the AIRC as a witness will be leave with pay, subject to the provision of appropriate documentary evidence, and will count as service for all purposes.

- 1.129 The Secretary will give the employee written notice of the decision to grant or not to grant miscellaneous leave.
- 1.130 Employees who are on probation are ineligible for miscellaneous leave without pay.
- 1.131 If the employee does not resume employment with the department, or another APS agency, at the end of the period of miscellaneous leave, the miscellaneous leave, whether with pay or without, will not count as service for any purpose.
- 1.132 Where the Secretary considers there are exceptional circumstances, the Secretary may approve extensions of miscellaneous leave with or without pay.

Leave That Counts as Service

- 1.133 Leave may or may not count for service for the purpose of accrual of leave entitlements and superannuation purposes:

- as provided for in legislation;
- as provided for in this Agreement; and
- as determined by the Secretary (in the case of miscellaneous leave).

Unpaid leave of longer than 30 calendar days which occurs in an accrual year for leave purposes does not count as service for leave purposes but may be contributory service for superannuation purposes, subject to the provisions of the superannuation legislation.

Recognition of Prior Service

- 1.134 Ongoing and non-ongoing employees may have periods of service recognised as prior service in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*. Recognition of prior service must be applied for in writing to the Secretary, usually upon engagement as an employee by the department.
- 1.135 Employees may also have periods of prior service recognised for sick leave purposes, provided that any break in continuous service has not exceeded two months, or a longer period where the Secretary determines special circumstances.

Unauthorised Absence

- 1.136 Where an employee is absent from duty without approval and approval is required, all pay and other benefits provided for under this Agreement will cease to be available until the employee resumes duty or is granted leave.
- 1.137 Where an employee is absent without approval for an aggregated period of 30 minutes or more during a settlement period, the manager may require the employee to perform duty at a time outside the standard working day, or the employee's nominated working hours, for a period equal to the time they were absent from duty without approval. The employee would not be eligible for overtime payments for this period.
- 1.138 If the employee does not make up the time absent, as required in paragraph 1.137 above, the period of absence will be without pay and will not count for service for any purpose.

1.139 The arrangements outlined in paragraph 1.137 do not apply where an employee is absent without approval due to industrial action as defined in sub-section 4(1) of the *Workplace Relations Act 1996*.

Public Holidays

1.140 Employees will observe the following public holidays:

- 1 January (New Year's Day) or, if that day falls on a Saturday or Sunday, the following Monday;
- 26 January (Australia Day) or, if the day falls on a Saturday or Sunday, the following Monday;
- Good Friday and the following Saturday and Monday;
- 25 April (Anzac Day) or if the day falls on a Saturday or Sunday, on the following Monday unless that day is a public holiday (other than Anzac Day itself) in which case on the following day;
- the day observed to celebrate the anniversary of the birthday of the Sovereign (Queen's Birthday);
- the day variously called Eight Hour Day, Labour Day, or May Day as proclaimed by State or Territory governments;
- 25 December (Christmas Day) or, if that day falls on a Saturday or Sunday, 27 December;
- 26 December (Boxing Day) or, if that day falls on a Saturday or Sunday, 28 December;
- an additional day within the Christmas - New Year period in line with the following table:

If Christmas Day falls on a...	Then date of...			
	Christmas Day public holiday is...	Boxing Day public holiday is...	Additional DIMIA public holiday is...	New Year's Day (following year) public holiday is...
Sunday	Monday 26 December	Tuesday 27 December	Wednesday 28 December	Monday 2 January
Monday	Monday 25 December	Tuesday 26 December	Wednesday 27 December	Monday 1 January
Tuesday	Tuesday 25 December	Wednesday 26 December	Thursday 27 December	Tuesday 1 January
Wednesday	Wednesday 25 December	Thursday 26 December	Friday 27 December	Wednesday 1 January
Thursday	Thursday 25 December	Friday 26 December	Monday 29 December	Thursday 1 January

Friday	Friday 25 December	Monday 28 December	Tuesday 29 December	Friday 1 January
Saturday	Monday 27 December	Tuesday 28 December	Wednesday 29 December	Monday 3 January

- 1.141 Employees may observe up to two local public holidays each year when those days are declared under State or Territory law, are gazetted in the Government Gazette, and are observed by the whole of the community in that State or Territory, or the relevant part of that State or Territory. In Victoria, one of those local public holidays may be the day the Victorian Government gazettes as Melbourne Cup holiday. Two half-day public holidays equal one public holiday. In most States local half-day public holidays commence at 12.00pm while in Tasmania they start at 11.00am.
- 1.142 Where a manager and an employee agree, another day may be substituted for any public holiday listed above, for example, for cultural or religious reasons. Where an employee cannot work on the day for which a substituted holiday has been granted, the employee will work make-up time at a time to be agreed with the manager, without any entitlement to overtime payment.
- 1.143 Public holidays during annual leave or sick and personal leave are not deducted from annual leave credits or sick and personal leave credits. However, public holidays that occur during a period of long service leave are deducted from long service leave credits.
- 1.144 No payment is made for public holidays occurring during leave without pay.
- 1.145 An employee who is travelling for work purposes or working temporarily in another State or Territory and misses a public holiday in their own State or Territory as a result of the temporary absence, may claim overtime for work on that public holiday, if eligible (see paragraph **Error! Reference source not found.**). The employee will be paid single time for working on a public holiday that occurs in the location in which they are travelling or temporarily located.