



# Australian Meat Industry Council Annual Leave Webinar

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# House-Keeping.

- Q and A at the end of the webinar,
- Type in questions during webinar,
- Interactive: Questions by presenters,
- Recording, PowerPoint presentation and speaker notes will be uploaded to AMIC Members Portal.

# Introduction.

By the end of this webinar you will know:

- NES Annual leave provisions,
- Calculating annual leave,
- Leave accruals, leave loading, managing excess leave, cashing out excess annual leave, and annual leave in advance,
- Workers compensation and annual leave accruals.

# Annual Leave - A Brief History.

## Annual Leave:

- 1906: The Federal Maritime Award introduced 10 days annual leave,
- Adopted slowly into the 70's by most awards,
- 1974 NSW Public Sector were granted 4 weeks annual leave,
- Gradually became the norm for all full time permanent employees,
- Seven Day Shift workers entitled to 5 weeks per year.

# Leave Loading – A Brief History.

Leave Loading – 17.5% of gross pay.

- In 1970 the Waterside Workers Federation campaigned for a further one week's annual leave,
- The compromise was a 17.5% bonus to their existing two weeks annual leave,
- Leave loading also allowed for extra expenditure during annual leave,
- Is an Award provision,
- Not an NES provision.

# Annual Leave – Conditions.

- Annual leave is an NES provision,
- Four weeks for ordinary employees and five weeks for a Seven Day Shift-worker,
- Accrues progressively throughout the year,
- Paid Annual Leave can be taken by agreement at any time,
- Employer not to unreasonably refuse employee's request for leave,
- Paid Annual Leave does not include Public Holidays or other paid leave,
- Casuals are not entitled to accrue or take paid annual leave.

# Annual Leave – Calculating.

## Calculating Annual Leave:

- For the purpose of Employer Superannuation Contributions, annual leave and leave loading is considered ordinary time earnings, (OTE)
- When an employee works regular weekends the penalty rates are also considered OTE,
- Annual leave is calculated weekly, and multiplied by the number of weeks if any to be taken,
- Leave loading is added prior to employer superannuation contribution being calculated,
- Leave loading is taxable.

# Annual Leave-Payment.

- Paid at ordinary hours – which for a butcher is currently \$23.09 per hour,
- Must include 17.5% leave loading when calculating leave to be taken OR paid out when an employee leaves employment,
- Annual leave is calculated “per pay cycle” not as a whole,
- Guaranteed Superannuation Contributions are paid on Annual Leave and Leave Loading for leave taken, but not for lump sum payments on termination,
- A part time employee accrues a percentage of annual leave.



# Annual Leave – Accruals Whilst on Paid Leave.

**Annual leave continues to accrue whilst an employee is on paid leave.**

# Annual Leave in Advance.

- Permissible under the Meat Industry Award 2020 - Cl. 25.7,
- Requires written agreement from both parties,
  - Include the date the leave is to be taken,
  - Must be signed by both parties, and a guardian if the employee is under 18 yrs of age,
- Does not appear to be a maximum leave amount.

[Click for: Leave in Advance Template](#)

# Managing Excess Annual Leave.

- Eight weeks of accrued annual leave is considered excessive, ten weeks for a Seven Day shift worker,
- Both parties agree to reduce the excess leave,
- Employer may direct the employee to take leave, employee may request leave,
- May opt to cash out accrued annual leave.

# Physical Effects of Not Taking Annual Leave.

## Booking.com survey

- Suffered burnout at some point - 90% (lowered morale)
- Loss of concentration - 51% (increased in the risk of a Workplace accident)
- Working more slowly - 43% (lost productivity)
- More Personal/Carers leave taken - 38% (associated costs)
- Increase in eating junk food - 36%
- Increase in Caffeine consumption - 33%

# Annual Leave - Cashing Out

**If an employee qualifies to cash out leave, they have a considerable annual leave balance.**

**WHY?**

# Annual Leave - Cashing Out.

- Provisions in the Meat Industry Award Cl. 25.9 allow for the cashing out of annual leave,
- May only cash out two weeks of paid annual leave per year,
- Must retain a minimum of 20 days accrued annual leave,
- Provision includes part-time employees.

[Click Here: Agreement to Cash Out Annual Leave Template](#)

# Annual Leave – Cashing Out.

## **Pros:**

No replacement costs,

- No down time training a replacement,
- No loss in productivity,
- Less disruptive to the work flow.

## **Cons:**

- Does not manage fatigue and other symptoms,
- Will not reduce excess leave on its own,
- Elevated risk of workplace injury remains.
- The employee has still not had rest and recreation.

# Leave Accruals and Workers Compensation

State/Territory	Can annual leave be taken?	Can Personal/Carer's Leave be taken?	Does Annual Leave accrue during Workers Compensation?	Does Personal/Carer's Leave accrue during Workers Compensation?
<b>VIC</b> Workplace Injury Rehabilitation and Compensation Act 2013	Yes	No	Yes	No
<b>NSW</b> Workers Compensation Act 1987 No 70	Yes	Yes	Yes	No
<b>QLD</b> Workers' Compensation and Rehabilitation Act 2003 (Qld)	Yes	Yes	Yes	Yes
<b>SA</b> Workers Rehabilitation and Compensation Act 1986	Yes (but not for absences of total incapacity of more than 52 weeks)	No	Yes (but not for absences of total incapacity of more than 52 weeks)	Yes
<b>WA</b> Workers Compensation and Injury Management Act 1981	Yes	No	Yes	No
<b>TAS</b> Workers Rehabilitation and Compensation Act 1988	Yes (but weekly compensation payments will cease)	No	Yes	No
<b>A.C.T.</b> Australian Capital Territory Workers Compensation Act 1951	No	No	No	No
<b>N.T.</b> Workers Rehabilitation and Compensation Legislation Amendment Act 2015	No	No	No	No



# Annual Leave – Public Holidays.

If a Public Holiday falls during a period of an employee's annual leave, AND it would have been an ordinary workday for the employee, the employee is deemed to not be on annual leave for that day.

# Annual Leave – Illness.

- An employee must make a reasonable effort to contact their employer when they become ill,
- Employee must show evidence of illness – evidence that would satisfy a reasonable person,
- Employer will recredit the employees annual leave balance,
- Leave will be taken from accrued Personal/Carers Leave balance.

# Annual Leave - Termination pay.

- Calculate all untaken annual leave,
- Include leave loading,
- No employer superannuation contribution on the payment of untaken annual leave.

# Annual Leave – Records.

An employer must keep records of:

- Any leave taken, date of leave and the amount taken,
- Balance of an employees annual leave,
- Annual Leave accruals do not need to be recorded on pay slips,
- All employee records **MUST** be kept for 7 years.

# Questions



# Speaker Notes for Annual Leave Webinar

2pm 10 March 2021

## **Introduction: Slide 2**

On the surface annual leave appears simple, the employee accrues annual leave, the employee takes annual leave, the employer pays the annual leave and so on.

But as you can see from the headings there are several behind-the-scenes provisions that need to be considered to ensure annual leave is recorded, calculated, and paid correctly.

## **Annual Leave -Conditions: Slide 6**

- For a permanent full-time employee, annual leave accrues year to year, approximately 1.66 days per month,
- A permanent part-time employee accrues a percentage of fulltime accruals.

## **Annual Leave – Payment: Slide 8**

Initially calculating leave seems tricky as there are a few things to take into consideration such as:

- Will the leave be taken or is it a payment upon termination?
- Does the pay attract an employer contribution to superannuation?
- Do I need to add leave loading?
- How many weeks has the employee applied for?
- How do I calculate pro-rata annual leave for Part-time employee?



## **Managing Excess Annual Leave: Slide 11**

### **Example 1**

An employee had accrued 1200 hrs or approximately 31 weeks of annual leave. Other employees had accrued more.

This occurred because:

- Terry earned shift and weekend allowances and even with leave loading he would have lost considerable income,
- Terry was a senior employee, so his employer did not encourage him to take leave,
- Poor leave management.

The outcome for Terry to reduce his leave was that he had every rostered weekday off on annual leave but worked all his rostered weekends to maintain his income until his excess leave had been reduced to an acceptable level.

### **Example 2**

A small butcher's shop had a long-term employee retire who had a large amount of accrued annual leave. They found it necessary to negotiate with the ex-employee and paid his entitlements over the ensuing 6 months.

### **Deficits of excessive leave accruals include:**

- Increased Workplace Health and Safety risk in the due to reduced concentration of the employee,
- Increase in Personal/Carer's leave and injury,
- Increase in workplace tension,
- Increased financial liability for the business,
- Increased cost to the employee due to annual wage rises. That is, holidays are paid at the wage the employee is on when they take the leave NOT when they accrued the leave.



### **Physical Effects of Not Taking Annual Leave: Slide 12.**

Although the focus of the webinar is on Annual Leave provisions it is appropriate to discuss the effects of NOT taking annual leave may have on your employees and business.

The owner/managers of a business have a Workplace Health and Safety duty of care to manage ALL their staffs annual leave- including their own.

This means assigning time to look at the leave tally of staff and having a conversation with those who have or are nearing excess accruals.

### **Workers Compensation and Leave Accruals: Slide 16.**

Each State and Territory have their own Workers Compensation Act. This means there are variation in each Act including leave accruals whilst injured workers are on Worker Compensation.

The table is self-explanatory but if there are any question please type them in the comment box.

### **Annual Leave – Public Holidays: Slide 17.**

When a person is on annual leave and a Public Holiday occurs and it would have been one of their normal rostered days at work. The day will be paid as a not worked public holiday and no annual leave debited for that day.

### **Annual Leave – Illness: Slide 18.**

From time to time an employee may get ill or of have carers responsibilities. That employee is entitled to have the time they are sick paid as Personal/Carers Leave and their annual leave recredited.

However, they can be required to provide medical documentation or a Stat Dec stating that they were ill or had carers responsibilities during their period of annual leave.

**Remember:** Personal/Carers includes an immediate family member OR a member of the same household.