

Long Service Leave

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Summary Consolidated long service leave policy. This policy directive will be included as a chapter of the Leave Matters Manual. This policy also supersedes PD2005_450, PD2005_463, PD2005_441, PD2005_448 and PD2005_453.

Replaces Doc. No. Recognition of Prior Service - Transferred Officers Extended Leave Act 1961 [PD2005_140]
Leave - Entitlements Extended (Long Service) [PD2005_442]
Long Service Leave - Public Hospital Employees and Section 14 Employees [PD2005_449]
Long Service Leave Entitlements Permanent Part-Time Employees - Public Hospital Nurses (State) Award [PD2005_462]
Long Service Leave - Payment - Application Form - Area Health Service and Public Hospitals [PD2005_446]

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Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Public Health System Support Division, Community Health Centres, Dental Schools and Clinics, NSW Ambulance Service, Public Health Units, Public Hospitals

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1. INTRODUCTION

This policy directive provides a summary of the Award and legislative provisions on long service leave and includes other related information. This policy directive should always be read in conjunction with the relevant Award and legislative provisions. The current Awards can be accessed on the Department of Health intranet site at: <http://internal.health.nsw.gov.au/jobs/empcond/awards.html>.

The Determination of Conditions of Subsidy requires (to the extent permitted by law) non-declared affiliated health organisations to comply with policy directives dealing with the terms and conditions of employment of staff employed in the NSW Health Service and to provide to staff the same conditions of employment as those set out in industrial instruments applicable to staff employed in the NSW Health Service.

2. SCOPE

This policy directive describes the long service leave entitlements of most staff employed in the NSW Health Service. Staff employed in the NSW Health Service that are not covered by the policy directive are those employed under the following Awards:

- Ambulance Service of NSW Administrative and Clerical Employees Award
- Ambulance Service of NSW Superintendent/Operational Managers' (State) Award
- Operational Ambulance Officers (State) Award

The long service leave entitlements for these employees are contained in Schedule 3 of the *Public Sector Employment and Management Act 2002*.

The current long service leave provisions for full time and permanent part time staff as described in this policy directive are set out in the relevant Awards and Schedule 3A of the *Public Sector Employment and Management Act 2002*. The current long service leave entitlements for non-permanent part time employees and casual employees are found in the *Long Service Leave Act 1955* or other relevant Determination.

The long service leave provisions were altered substantially in the early 1970s. The exact date at which they were changed varies from Award to Award. A list of current Awards and the various dates are at [Appendix A](#).

The rights of employees employed at the date at which the current provisions came into operation have been preserved; therefore, when such employees apply for long service leave, the employer must ascertain which set of provisions is more favourable to the employee in the particular circumstances and pay the long service leave accordingly. Further information on the former provisions is included at [Section 14](#).

3. PURPOSE

The purpose of this policy directive is to:

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- ensure staff employed in the NSW Health Service are aware of their long service leave entitlements
- provide entities within the public health system with information on the application of the long service leave provisions as stipulated in Awards and legislation
- consolidate the information previously provided in a number of policy directives.

4. DEFINITIONS

A **Division of the NSW Health Service** consists of the group of staff employed in or in connection with an area health service, a statutory health corporation, or a declared affiliated health organisation; in connection with the provision of ambulance services; or in connection with public health organisations providing corporate and other health support services to those public health organisations.

Employer means any person authorised to exercise the functions of the employer of staff to which this policy directive applies.

Public health system includes area health services, declared affiliated health organisations in respect of their recognised establishments or services, statutory health corporations, the Ambulance Service of NSW, Institute for Medical Education and Training, Health Technology, Health Support and any administrative unit or division under the control of the Director-General or Health Administration Corporation in which staff of the NSW Health Service are employed.

NSW Health Service consists of those persons who are employed under Chapter 9, Part 1 of the *Health Services Act 1997* by the Government of New South Wales in the service of the Crown. For the purposes of this policy directive, members of the Health Executive Service are excluded.

5. ACCOUNTABILITIES

Employees have a responsibility to provide appropriate notice of their intention to take long service leave. Employees must apply for long service leave in accordance with established procedures.

Entities within the public health system:

- have a responsibility to ensure employees are aware of their long service leave entitlements and to facilitate employees' access to their accrued long service leave wherever possible
- are responsible for the accurate application, assessment, calculation and payment of long service leave entitlements
- are to ensure that employees' leave records are accurate and complete.

6. RELATED POLICIES

- Health Services Union – Award Changes – Memorandum of Understanding – Old Part Time Employees (IB2005_062)

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- Leave Administration (PD2006_093)
- Long Service Leave Entitlements for Permanent Part Time Employees (PD2005_440)
- Staff Mobility (PD2006_096)

7. LONG SERVICE LEAVE PROVISIONS

Full time employees are eligible for two months long service leave after ten years' service and then five months long service leave for each ten years' service thereafter.

Employees with at least seven years service and less than ten years service are entitled to proceed on a proportionate period of long service leave on the basis of two months long service leave for ten years service.

A table setting out the long service leave entitlements is at [Appendix B](#).

Permanent part time employees are entitled to the quantum of long service leave based on the actual period of service. However, the payment due for the long service leave is at an adjusted monetary rate based on the full time equivalent period of leave.

An employee with an entitlement to long service leave may elect to access the entitlement on full pay, on half pay or on double pay.

When taking long service leave and an employee would otherwise have had a rostered shift fall on a public holiday during the period, the amount of long service leave to be deducted is reduced by one day for the public holiday. For example, an employee who has applied for a week (ie seven days) long service leave which includes one public holiday would be paid for a full week but would only have six days long service leave deducted.

8. LONG SERVICE LEAVE ON TERMINATION

On termination of employment, an employee shall be entitled to receive the monetary value of all long service leave accrued and not taken at the date of termination.

Employees who have completed at least five years' service and less than seven years service and whose services are terminated by the employer for any reason other than serious and wilful misconduct, or who resign their employment on account of illness, incapacity or domestic or other pressing necessity, are entitled to a pro rata payment for long service leave on the basis of two months leave for ten years' service.

The taxation of long service leave paid on termination differs depending on when the long service was accrued. The Australian Taxation Office has advised that it has no objection to employees charging long service leave taken against their entitlements in other than the order in which the entitlements accrued. For example, long service leave accrued before 15 August 1978 may be retained until some future date and long service leave taken offset in the first place against leave accrued after 15 August 1978.

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8.1. Staff Mobility

Employees who transfer within the NSW Health Service are not terminating their employment and so cannot elect to be paid the monetary equivalent of accrued long service leave (see [Section 9.7](#) for more detail).

If an employee ceases to be employed in the NSW Health Service and immediately commences employment in another NSW public sector agency, the public sector mobility provisions provide that they may elect to transfer their long service leave entitlement to the new employer rather than being paid the monetary value of the long service leave. This entitlement is provided in Schedule 3A of the *Public Sector Employment and Management Act 2002*. More information can be found in the policy directive on staff mobility.

Non-declared affiliated health organisations are not part of the NSW Health Service and are not covered by the public sector mobility provisions. Special arrangements allowing for the transfer of long service leave entitlements apply in relation to the movement of staff between the NSW Health Service and non-declared affiliated health organisations. See [Section 9.8](#) of this policy directive for more information.

9. SERVICE FOR THE ACCRUAL OF LONG SERVICE LEAVE

9.1. Continuous Service

All full time and permanent part time continuous service in the NSW Health Service counts towards the accrual of long service leave.

All Awards (other than the Public Health System Nurses' and Midwives (State) Award) state that continuous service has the same meaning as in the *Transferred Officers' Extended Leave Act 1961* (TOEL Act). That Act is now repealed and has been replaced with Schedule 3A of the *Public Sector Employment and Management Act 2002* (PSEM Act). The PSEM Act provisions apply to transfers that occur from 1 January 2006.

9.2. Broken Service

For employees under the following Awards all full time and permanent part time broken service in the NSW Health Service counts towards the accrual of long service leave:

- Public Health System Nurses' and Midwives' (State) Award
- Health Employees Conditions of Employment (State) Award

In other Awards, full time and permanent part time broken service in the NSW Health Service may count towards the accrual of long service leave subject to certain conditions.

Some Awards have a requirement whereby a five year qualifying period applies before previous broken service can be counted. Other Awards also include savings provisions whereby employees who were employed at the date that the current long service leave provisions were introduced and who, under the former

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provisions, could have broken service counted, can continue to count former broken service.

The following Awards should be checked to ascertain the conditions under which broken service is recognised:

- Hospital Scientists (State) Award
- Public Health Service Employees Skilled Trades (State) Award (Incorporating the Ambulance Service of NSW Skilled Trades)
- Public Hospital Career Medical Officers' (State) Award
- Public Hospital Medical Officers Award
- Public Hospitals Medical Superintendents (State) Award
- Public Hospitals (Professional and Associated Staff) Conditions of Employment (State) Award
- Staff Specialists (State) Award

9.3. Leave Without Pay

Leave without pay in excess of six months duration does not count as service for the accrual of long service leave.

For an employee with less than ten years service, leave without pay of less than six months does not count as service towards long service leave.

Once an employee has completed ten years **net** service (ie excluding any leave without pay), leave without pay of less than six months duration counts as service for long service leave.

This provision applies to leave without pay taken after the commencement of the current long service leave provisions. See [Appendix A](#) for the relevant date for each Award.

9.4. Previous Part Time Service

Some Awards provide that previous part time service may be recognised as service in respect of long service leave entitlements. Other Awards do not recognise previous part time service at all. The provisions of each Award should be studied carefully when assessing previous part time service.

Generally, where Awards do allow recognition of previous part time service, this service must be the equivalent of at least two days per week and the part time service must merge without a break with the subsequent full time or permanent part time service. The part time service is converted to a full time equivalent and recognised accordingly.

Note: The part time service referred to above does not include permanent part time service. Permanent part time service attracts the same long service leave entitlements as full time service on a pro rata basis. The part time service that this section applies to is commonly referred to as "old part time".

9.5. Combinations of Full Time and Part Time Service

Full Time and Permanent Part Time

Employees who have a combination of full time and permanent part time service are entitled to the quantum of long service leave based on the actual period of service. However, the payment due for the long service leave is at an adjusted monetary rate based on the full time equivalent period of leave.

For example, an employee with 10 years full time service and five years permanent part time service (at 0.5 full time equivalent) would have 15 years service (or 12 years 6 months on a full time equivalent basis). The long service leave entitlement for 15 years service is 4 months 15 days. If the employee was to take their full long service leave entitlement they would be paid at the rate which applies to leave which accrues for 12 years 6 months service ie 3 months 7½ days.

More information on the calculation of entitlements for employees with full time and permanent part time service can be found in [PD2005_440 – Long Service Leave Entitlements for Permanent Part Time Employees](#).

Full Time, Permanent Part Time and Old Part Time

Employees may have a mixture of previous full time/permanent part time and old part time service. By way of example, where a nursing employee is employed as an old part time employee, had eight years previous full time service and had completed four years part time service, the total service for long service leave entitlements would be 12 years and long service leave would be due under the *Long Service Leave Act 1955*. If the part time employee resigned, they would receive payment for the long service leave accrued and not taken.

If the employee was re-employed sometime later on a full time or permanent part time basis, the employee could only count the previous eight years full time service towards the accrual of long service leave as the prior part time service was not continuous with the current employment (see [Section 9.4](#)). After two years full time service the employee would have completed ten years service but would only have accrued 12 days long service leave. This is the accrual for two years service only as the entitlement related to the previous eight years full time service has already been paid when they resigned at the earlier date. Further long service leave will accrue on the basis of 15 days per annum for each year of service.

9.6. Nursing Service in Private Hospitals

The Public Health System Nurses' and Midwives (State) Award provides that employees under that Award are able to count previous service in licensed private hospitals towards their long service leave entitlement. This occurs where the private hospital becomes a public hospital and an employee working in the private hospital remains working at the hospital and is employed in the NSW Health Service. The service is counted as the rate of 75% of the actual time served.

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9.7. Prior Government Service

Schedule 3A of the *Public Sector Employment and Management Act 2002* (PSEM Act) provides for recognition of prior government service for long service leave purposes. The PSEM Act provisions are effective from 1 January 2006 and only apply to employees who commenced employment with the NSW Health Service on or after that date.

Where an employee commenced employment with the NSW Health Service prior to 1 January 2006, the provisions of the *Transferred Officers Extended Leave Act 1961* still apply despite the fact that this Act is now repealed.

Premier's Department Circular [C2005-50](#) describes the changes that were introduced by Schedule 3A of the PSEM Act. This Circular is available on the Premier's Department website at:
<http://www.premiers.nsw.gov.au/TrainingAndResources/Publications/MemosAndCirculars/>.

The *Public Sector Employment and Management Act 2002* can be accessed at:
<http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>.
The repealed *Transferred Officers' Extended Leave Act 1961* can be accessed at:
<http://www.legislation.nsw.gov.au/maintop/scanact/repealed/NONE/0>.

Recognition of Prior Service

The PSEM Act provides that prior service in other NSW public sector agencies or in Commonwealth or interstate agencies may be recognised for the purposes of long service leave accrual provided that the prior service is continuous and the employee's employment in the NSW Health Service immediately follows their employment in the former organisation.

The definitions of "continuous" and "immediately follows" under clauses 3 and 4 of Schedule 3A of the PSEM Act should be considered when determining if an employee is entitled to the provisions. Generally, under the definition of "immediately follows", a break of up to two months is allowed between the periods of employment.

When an employee commences employment in the NSW Health Service and has previous government service that is recognised under Schedule 3A of the PSEM Act, all prior service accepted by the previous employer for long service leave purposes must be recognised by the NSW Health Service.

NSW Public Sector Agencies

The PSEM Act defines a public sector agency as having the same meaning as a public sector service. A public sector service is defined at section 3 of the Act as including the following:

- the Government Service (see Schedule 1 of the PSEM Act which sets out the Divisions of the Government Service);
- the Teaching Service;
- NSW Police;
- the NSW Health Service;

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- the service of either House of Parliament, or the President or Speaker, or the President and the Speaker jointly;
- any other service of the Crown;
- the service of any other person or body constituted by or under an Act or exercising public functions (such as a State owned corporation), being a person or body that is prescribed, or that is of a class prescribed, for the purposes of this definition.

From 17 March 2006 the NSW Health Service consists of those persons employed by the Government of NSW in the service of the Crown in the following areas:

- Area Health Services
- Statutory Health Organisations
- Declared Affiliated Health Organisations
- the Ambulance Service of NSW
- Public Health System Support

The Director-General of Health exercises on behalf of the Government of NSW the employer functions of the Government in relation to these staff. Administrative divisions have been established within the NSW Health Service which relate to public health organisations and other parts of the public health system. When staff move from one division of the NSW Health Service to another division of the NSW Health Service they retain the same employer and are not moving to a new public sector service. Staff transferring in this way retain their accrued long service leave entitlements; they cannot elect to be paid the monetary equivalent of accrued long service leave.

Non-declared Affiliated Health Organisations (AHOs) are not part of the NSW Health Service, are not a public sector service and service in these organisations is not recognised as government service under Schedule 3A of the PSEM Act. Special arrangements exist between the NSW Health Service and non-declared AHOs (see [Section 9.8](#)).

All Affiliated Health Organisations are listed at Schedule 3 of the *Health Services Act 1997*. Declared Affiliated Health Services are specified in the *Health Services Regulation 2003*.

Commonwealth or Interstate Agencies

The PSEM Act provides a definition of “Commonwealth or interstate agency” as being a body that is established under an Act, under the control of a Minister, part of the public service and with employment conditions that are substantially similar to the conditions of officers employed under the PSEM Act. Please note that there are some specific exclusions included in the definition eg a university or the governing body of a university is not a Commonwealth or interstate agency.

The Director-General of the Premier’s Department may also declare a body to be a Commonwealth or interstate agency. The Director-General has made such a declaration with effect from 1 January 2006 that the agencies listed in HR eXpert are Commonwealth or interstate agencies. The HR eXpert list of agencies can be accessed on the Premier’s Department website at:
<http://www.premiers.nsw.gov.au/hrexpert/libraries/comment/AgencySelector.htm#top>.

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Service in public hospitals in the Australian Capital Territory, the Northern Territory, Tasmania and Western Australia is recognised as government service. This also applies to service of most employees who worked in hospitals operated by the Commonwealth. Service with the following facilities is also recognised as government service:

- public hospitals included in the health service districts declared under section 6 of the *Health Services Act (QLD) 1991*;
- hospitals incorporated by proclamation under section 27 of the *South Australian Health Commission Act 1976*; and
- public hospitals as defined in section 3 of the *Health Services Act (VIC) 1988*.

Transfer of Leave or Recognition of Service

If an employee was previously employed in a NSW public sector agency, they may elect to transfer their accrued long service leave entitlement when they commence employment in the NSW Health Service. Alternatively, they may elect to be paid the monetary value of their accrued long service leave when they cease employment with the former NSW agency. See clause 8 of Schedule 3A of the PSEM Act.

Employees previously employed in Commonwealth or interstate agencies can have previous service recognised for long service leave purposes but cannot transfer any accrued long service leave entitlements. The Act provides that any accrued leave is deemed to have been taken or paid out on ceasing with the Commonwealth or interstate agency. See clause 9 of Schedule 3A of the PSEM Act.

9.8. Non-declared Affiliated Health Organisations

The *Health Services Regulation 2003* has been amended to provide the arrangements for the transfer of leave entitlements (including long service leave) for persons moving from a non-declared AHO to the NSW Health Service and vice versa.

The Regulation provides that if a person ceases employment with a non-declared AHO and immediately commences employment in the NSW Health Service in connection with a public health organisation, they are taken to have the amount of any accrued long service leave to which they were entitled immediately before ceasing to be employed by the non-declared AHO. The same applies when someone moves from the NSW Health Service to a non-declared AHO.

The following provisions apply in relation to the transfer of the leave:

- In relation to a person's accrued long service leave entitlement, a break in employment of up to two months is allowed.
- A person may elect to be paid the monetary value of accrued long service leave rather than retaining the entitlement.

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- The previous employer is liable for the cost of long service leave entitlements that had accrued up to the date of cessation of employment.
- These arrangements do not apply when a person ceases to be employed by a non-declared AHO by the operation of an order under section 64 of the *Health Services Act 1997*.

9.9. Prior Service in Community Health and Fifth Schedule Hospitals

In 1986 staff employed in Community Health Services administered by the Department of Health were transferred to the employment of Area Health Services. The prior service in Community Health Services is recognised as service for the purposes of long service leave.

Employees who have prior service in a Fifth Schedule Hospital and were employed in a public hospital or Area Health Service on or after 1 July 1989, have the prior service in the Fifth Schedule Hospital recognised for the purposes of long service leave.

9.10. Medical Officers with the Surf Life Saving Association

Previous service as a medical officer with the Surf Life Saving Association can be counted as service for long service leave purposes. The service must be continuous in accordance with Schedule 3A of the PSEM Act.

10. PART TIME AND CASUAL EMPLOYEES

This section describes the current long service leave provisions for part time and casual employees.

This section does not apply to permanent part time employees. Permanent part time employees are entitled to the same long service leave provisions as full time employees but on a pro rata basis. The part time employees covered by this section are commonly referred to as “old part time employees”.

Part time employees who are eligible for long service leave and who were employed when the long service leave provisions in Awards were varied in the early 1970s are entitled to long service leave in line with either the provisions that were formerly in the relevant Award or the provisions of the *Long Service Leave Act 1955*, whichever are the more favourable to them. Information on the former provisions is at [Section 14](#). A list of the relevant dates for each Award is at [Appendix A](#).

Part time employees not covered by the savings provisions and casual employees are entitled to the provisions of the *Long Service Leave Act 1955* or any other relevant Determination.

Determination No. 15 of 2005 provides long service leave provisions for part time employees covered by the Health Services Union.

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10.1. Long Service Leave Act 1955

Employers should obtain a copy of the *Long Service Leave Act 1955* and should examine it carefully when calculating long service leave for part time and casual employees. The Act can be found at:

<http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>.

The website of the Office of Industrial Relations also provides information on the provisions of the Act, including a long service leave calculator:

<http://www.industrialrelations.nsw.gov.au/rights/entitlements/default.html>.

Entitlement

Part time and casual employees are entitled to long service leave after working for an unbroken period of ten years for an employer. The entitlement is for two months paid leave after ten years service and one month paid leave for each additional five years service.

An employee who has completed five years service (but less than ten years service) is entitled to a pro rata long service leave payment if they resign as a result of illness, incapacity, domestic or other pressing necessity, are dismissed for any reason other than serious and wilful misconduct or dies.

Employees should be engaged on the terms specified in the relevant award. The correct application of awards often precludes the engagement of long term casual employees and consequently the obligation to pay long service leave to casual employees. Nevertheless, casual employees engaged for a consistent period of continuous and ongoing employment that meets the provisions of the *Long Service Leave Act 1955*, are entitled to long service leave. Each case must be determined on its merits.

Continuity of Service

Section 4(11)(a1) of the Act lists the circumstances which will not constitute a break in continuity of service.

These include changes in the method of employment, eg from part time to casual employment or from full time to part time, absences on workers' compensation or on account of illness or injury, interruptions in service made by the employer with the intention of avoiding an employee's rights to long service leave, periods of absence for any reason by leave of the employer, absences caused by industrial disputes or interruptions made by the employer by reason of slackness in trade, or any other absence caused by the employer where the employee returns within two months.

Some absences, such as parental leave, are not counted as time worked. These absences are not included in an employee's period of service when calculating long service leave.

Where a part time or casual employee has previous full time service in the NSW Health Service, this can be counted as service towards long service leave as long as it meets the requirements for continuity as provided under the Act.

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Public Holidays

If a public holiday occurs during a period of long service leave an extra day must be included in the long service leave if the public holiday falls on a day the employee would have worked had they not been on long service leave.

Payment for Long Service Leave

Long service leave pay is based on:

- the employee's ordinary pay for the last pay period prior to the leave being taken; or
- the average weekly ordinary rate of pay earned during the previous five years,

whichever gives the highest rate.

The term "ordinary rate of pay" includes the part time or casual loadings but does not include shiftwork or other penalty payments and overtime payments.

Before taking long service leave the employee may, with the agreement of the employer, be paid in full for the leave or be paid at the ordinary pay rate at their normal regular pay intervals during the long service leave.

10.2. Determination No 15 of 2005

Part time employees covered by the Health Services Union derive their long service leave entitlements from Determination 15 of 2005. A copy of the determination can be found in

[IB2005_062 – Health Services Union – Award Changes – Memorandum of Understanding – Old Part Time Employees.](#)

Entitlement

Part time employees are entitled to two months long service leave after ten years of service; thereafter additional long service leave accrues on the basis of one month for each additional five years of service.

Part time employees with at least seven years service and less than ten years service are entitled to proceed on a proportionate period of long service leave on the basis of two months long service leave for ten years service.

An employee who has completed five years service (but less than seven years service) is entitled to a pro rata long service leave payment if they resign as a result of illness, incapacity, domestic or other pressing necessity or if their service is terminated for any reason other than serious and wilful misconduct.

Service

Continuous and broken service in the NSW Health Service is counted towards accrual of long service leave.

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Service does not include any period of leave without pay unless the employee has completed at least ten years net service. In such cases, periods of leave without pay of less than six months taken after 1 January 1973 count as service for the accrual of long service leave.

Taking Long Service Leave

A part time employee with an entitlement to long service leave may elect to take the leave on full pay, half pay or double pay.

When taking long service leave and an employee would otherwise have had a rostered shift fall on a public holiday during the period, the amount of long service leave to be deducted is reduced by one day for the public holiday.

11. RECREDITING LONG SERVICE LEAVE

Employees who are incapacitated for a period of at least one week while on long service leave may apply to have the period of incapacity recredited to their long service leave entitlement and debited against their balance of sick leave.

Employees who take long service leave immediately prior to retirement, resignation or termination are not eligible for a recredit of leave on account of illness.

Other employees must support their application with a medical certificate stating the period of incapacity. The entitlement to have long service leave recredited is limited to the credit of sick leave available.

Each application for a recredit of leave should be considered by the employer or delegate in the light of the circumstances and the nature of the incapacity.

12. MINIMUM PERIODS OF LONG SERVICE LEAVE

There is no legislative or Award restriction governing minimum periods of long service leave.

Provided that an employee has accrued an entitlement to long service leave, then where an employee and the employer agree, a period of seven days long service leave may be taken by an employee.

Whilst the taking of long service leave is by mutual agreement between an employee and the employer, where an employee has accrued the appropriate entitlement the employer should ensure that there are no unnecessary constraints on that leave being taken at a particular time.

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13. NOTICE OF LONG SERVICE LEAVE

Employees wishing to apply for long service leave should, at least one month prior to the commencement of the leave, complete an application for long service leave and submit it to the manager/supervisor/department head.

It is acknowledged that there may be special circumstances such as compassionate or other good reason, whereby shorter notice may be given.

14. FORMER PROVISIONS

14.1. General

The long service leave provisions were altered substantially in the early 1970s. The exact date at which they were changed varies and current Awards include reference to the relevant dates (see [Appendix A](#)).

The rights of employees employed at the date at which the current provisions came into operation have been preserved; therefore, when such employees apply for long service leave, the employer must ascertain which set of provisions is more favourable to the employee in the particular circumstances and pay the long service leave accordingly.

The former long service leave provisions varied from Award to Award and it is therefore difficult to summarise the main points. An example of the lack of uniformity in the former provisions involves the period of service required before the employee is entitled to take long service leave. The old Nurses' Award required the employee to serve for ten years, while the old Hospital Employees' Award required the employee to serve for fifteen years, before taking long service leave.

A table setting out the long service leave entitlements under the former provisions is at [Appendix C](#).

14.2. Accelerated Accrual

One of the most significant changes to long service leave was to remove the accelerated accrual of service for long service leave which applied to some classifications of employees who worked in hospitals in the climatic zones. Under the former provisions, service accrued at either time and one half or double time depending on the location.

Where relevant, Awards preserve this provision for employees who were employed on the date the conditions changed and either had service in hospitals in the climatic zones prior to the date the conditions changed; or who were employed in such a hospital at the date the conditions changed.

Additionally, employees covered by the Public Health System Nurses' and Midwives' (State) Award and the Health Employees Conditions of Employment (State) Award who were employed when the current provisions were introduced and who had or were having service accrued at the accelerated rate and who subsequently resigned and were later re-employed, also retain the option of having

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long service leave accrue under the former provisions. This applies even though there has been a break in the continuity of service.

A list of facilities that formerly attracted the accelerated recognition of service are listed at [Appendix D](#).

14.3. Broken Service

Under the former provisions, in some Awards broken service could be counted towards long service leave more readily than it can now. This entitlement to count broken service towards long service leave is preserved for employees who were employed at the date that the condition changed. The long service leave clauses in current Awards refer to this savings provision where relevant.

Conversely, some Awards are now more generous in terms of recognising broken service than they were under the previous conditions when all service had to be continuous.

14.4. Prior Part Time Service

Under the former provisions that were contained in some Awards, part time and full time service was aggregated to determine the length of service for long service leave. The current requirement for continuity and a minimum of two days per week for previous part time service did not apply.

The following Awards provide that an employee who was full time on the date that the current provisions were introduced and who had prior part time service, may be granted long service leave under the former provisions if they are more favourable:

- Health Employees Conditions of Employment (State) Award
- Hospital Scientists (State) Award
- Public Health System Nurses' and Midwives' (State) Award
- Public Hospitals (Professional and Associated Staff) Conditions of Employment (State) Award

(Note: Under the old Nurses' Award, only part time service completed on or after 1 January 1970 could count towards long service leave.)

14.5. Part Time Employees

Under current Awards, part time employees are entitled to long service leave under either the *Long Service Leave Act 1955* or other relevant Determination (see [Section 10](#)).

Part time employees who are eligible for long service leave and who were employed when the long service leave provisions in Awards were varied in the early 1970s are entitled to long service leave in line with either the former or current provisions, whichever are the more favourable to them. This provision is in the following Awards:

- Health Employees Conditions of Employment (State) Award
- Hospital Scientists (State) Award

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- Public Health System Nurses' and Midwives' (State) Award
- Public Hospitals (Professional and Associated Staff) Conditions of Employment (State) Award

Under the former provisions, part time employees were entitled to the accelerated accrual rate if they had service in the hospitals in the climatic zones.

(Note: Under the old Nurses' Award, only part time service completed on or after 1 January 1970 could count towards long service leave.)

Although the old formulae for calculating part time long service leave differ for each Award, the basic steps of the calculation are:

- convert the period of part time service to a proportion of full time service (odd days of part time service are counted for calculating the full time equivalent service);
- calculate the long service leave entitlement (refer [Appendix B](#)) (once the full time equivalent service is calculated, any odd days are disregarded when determining the long service leave entitlement);
- calculate payment for the entitlement at the full time rate of pay excluding the part time loading.

Note: The part time service referred to above does not include permanent part time service. Permanent part time service attracts the same long service leave entitlements as full time service on a pro rata basis.

14.6. Calculating Long Service Leave

An employee's entitlement to long service leave comes from either the former or the current provisions, not a combination of the more attractive elements of each. For example, when calculating the employee's length of service and corresponding leave entitlement, the computation of service at time and one half or double time, available under the former provisions, must not be coupled with the greater quantum of leave available under the current provisions.

15. ASSESSMENT AND CALCULATION OF LONG SERVICE LEAVE ENTITLEMENTS

Employers have responsibility for the assessment and approval of long service leave claims.

Employers must certify employees' prior service, accurately assess their entitlement, maintain adequate records of their application and its assessment, calculate correctly the monetary value of the employee's entitlement and make the necessary payments.

Employers are required to determine an employee's entitlement (if any) to payment for long service leave at the time of an employees' resignation or termination.

The following matters should be carefully considered when assessing a claim for long service leave:

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- the details of any previous service;
- the details of any previous long service leave taken or paid to the employee;
- any periods of leave without pay.

Statutory declarations should only be accepted as a verification of previous service when every other avenue of confirmation of the period of service has been thoroughly investigated. Every attempt to confirm a period of service shown on a statutory declaration should be made before leave is granted.

When an employee is claiming previous government service under Schedule 3A of the PSEM Act, they should obtain a statement from their previous employer indicating:

- the employee's date of commencement and termination of employment;
- details of any long service leave taken during employment or paid on termination;
- details of any leave granted, such as leave without pay, which is not counted as service for long service leave;
- the reason for termination.

When the long service leave is determined, it will be expressed in months and days. This entitlement must then be converted to a calendar period of leave and the appropriate payment calculated. An example is shown below.

An employee in receipt of a salary of \$800 per week resigns on 5 September after 12 years 4 months 25 days service. The employee is entitled to long service leave of 3 months 6 days. The leave is calculated from the day following the last day of duty ie 6 September. The leave period is as follows:

Month 1	6 September to 5 October	=	30 days
Month 2	6 October to 5 November	=	31 days
Month 3	6 November to 5 December	=	30 days
6 days	6 December to 11 December	=	6 days

Therefore, the employee's entitlement to long service leave is 97 days. Payment for the leave is the calculated by the following formula:

$$\begin{array}{rclcl} \text{No. of days leave} & \times & \frac{\text{Weekly rate of pay}}{7} & = & \text{Payment} \\ \\ 97 & \times & \frac{\$800}{7} & = & \$11,085.71 \end{array}$$

When calculating the payment, months are counted as calendar months and weeks have seven days. Therefore, a month's leave may be anything from 28 to 31 days depending on when it is taken. Odd days of leave are paid at one seventh of the weekly rate of pay.

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16. ENQUIRIES

Any enquiries regarding this policy directive should be directed to the human resource personnel in the relevant health service. Only human resource personnel in the health service are to contact the Department.

APPENDIX A

DATES THAT CURRENT LONG SERVICE LEAVE PROVISIONS WERE INTRODUCED

Award	Date
Health Employees Conditions of Employment (State) Award	1 January 1973
Hospital Scientists (State) Award	1 January 1973
Public Health Service Employees Skilled Trades (State) Award (Incorporating the Ambulance Service of NSW Skilled Trades)	1 January 1973
Public Health System Nurses' and Midwives (State) Award	12 March 1975
Public Hospital Career Medical Officers' (State) Award	1 July 1974
Public Hospital Medical Officers Award	1 July 1974
Public Hospitals Medical Superintendents (State) Award	1 July 1974
Public Hospitals (Professional and Associated Staff) Conditions of Employment (State) Award	1 January 1973
Staff Specialists (State) Award	22 August 1972

APPENDIX B

LONG SERVICE LEAVE ENTITLEMENTS – CURRENT PROVISIONS

Period of Service		Leave Due		Period of Service		Leave Due	
Years	Months	Months	Days	Years	Months	Months	Days
5	-	1	1	8	3	1	19½
5	1	1	1½	8	4	1	20
5	2	1	1	8	5	1	20½
5	3	1	1½	8	6	1	21
5	4	1	2	8	7	1	21½
5	5	1	2½	8	8	1	22
5	6	1	3	8	9	1	22½
5	7	1	3½	8	10	1	23
5	8	1	4	8	11	1	23½
5	9	1	4½	9	-	1	24
5	10	1	5	9	1	1	24½
5	11	1	5½	9	2	1	25
6	-	1	6	9	3	1	25½
6	1	1	6½	9	4	1	26
6	2	1	7	9	5	1	26½
6	3	1	7½	9	6	1	27
6	4	1	8	9	7	1	27½
6	5	1	8½	9	8	1	28
6	6	1	9	9	9	1	28½
6	7	1	9½	9	10	1	29
6	8	1	10	9	11	1	29½
6	9	1	10½	10		2	-
6	10	1	11	11		2	15
6	11	1	11½	12		3	-
7	-	1	12	13		3	15
7	1	1	12½	14		4	-
7	2	1	13	15		4	15
7	3	1	13½	16		5	-
7	4	1	14	17		5	15
7	5	1	14½	18		6	-
7	6	1	15	19		6	15
7	7	1	15½	20		7	-
7	8	1	16	21		7	15
7	9	1	16½	22		8	-
7	10	1	17	23		8	15
7	11	1	17½	24		9	-
8	-	1	18	25		9	15
8	1	1	18½	26		10	-
8	2	1	19	27		10	15

APPENDIX B (cont)

Period of Service		Leave Due		Period of Service		Leave Due	
Years	Months	Months	Days	Years	Months	Months	Days
28		11	-	40		17	-
29		11	15	41		17	15
30		12	-	42		18	-
31		12	15	43		18	15
32		13	-	44		19	-
33		13	15	45		19	15
34		14	-	46		20	-
35		14	15	47		20	15
36		15	-	48		21	-
37		15	15	49		21	15
38		16	-	50		22	-
39		16	15				

Where service of 10 years or more includes periods of less than a completed year leave accrues on such portion of a year as follows:

Period of Service

Calendar Days

12 days to 23 days	½
24 days to 1 month 5 days	1
1 month 6 days to 1 month 17 days	1½
1 month 18 days and less than 2 months	2
2 months to 2 months 11 days	2½
2 months 12 days to 2 months 23 days	3
2 months 24 days to 3 months 5 days	3½
3 months 6 days to 3 months 17 days	4
3 months 18 days and less than 4 months	4½
4 months to 4 months 11 days	5
4 months 12 days to 4 months 23 days	5½
4 months 24 days to 5 months 5 days	6
5 months 6 days to 5 months 17 days	6½
5 months 18 days and less than 6 months	7
6 months to 6 months 11 days	7½
6 months 12 days to 6 months 23 days	8
6 months 24 days to 7 months 5 days	8½
7 months 6 days to 7 months 17 days	9
7 months 18 days and less than 8 months	9½
8 months to 8 months 11 days	10
8 months 12 days to 8 months 23 days	10½
8 months 24 days to 9 months 5 days	11
9 months 6 days to 9 months 17 days	11½
9 months 18 days and less than 10 months	12
10 months to 10 months 11 days	12½
10 months 12 days to 10 months 23 days	13
10 months 24 days to 11 months 5 days	13½

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Period of Service

11 months 6 days to 11 months 17 days

11 months 18 days and less than 12 months

Calendar Days

14

14½

APPENDIX C

LONG SERVICE LEAVE ENTITLEMENTS UNDER FORMER PROVISIONS

Period of Service		Leave Due		Period of Service		Leave Due	
Years	Months	Months	Days	Years	Months	Months	Days
10	-	2	-	12	8	2	16
10	1	2	½	12	9	2	16½
10	2	2	1	12	10	2	17
10	3	2	1½	12	11	2	17½
10	4	2	2	13	-	2	18
10	5	2	2½	13	1	2	18½
10	6	2	3	13	2	2	19
10	7	2	3½	13	3	2	19½
10	8	2	4	13	3	2	20
10	9	2	4½	13	5	2	20½
10	10	2	5	13	6	2	21
10	11	2	5½	13	7	2	21½
11	-	2	6	13	8	2	22
11	1	2	6½	13	9	2	22½
11	2	2	7	13	10	2	23
11	3	2	7½	13	11	2	23½
11	4	2	8	14	-	2	24
11	5	2	8½	14	1	2	24½
11	6	2	9	14	2	2	25
11	7	2	9½	14	3	2	25½
11	8	2	10	14	4	2	26
11	9	2	10½	14	5	2	26½
11	10	2	11	14	6	2	27
11	11	2	11½	14	7	2	27½
12	-	2	12	14	8	2	28
12	1	2	12½	14	9	2	28½
12	2	2	13	14	10	2	29
12	3	1	13½	14	11	2	29½
12	4	1	14	15	-	3	-
12	5	2	14½	15	1	3	1½
12	6	2	15	15	2	3	3
12	7	2	15½	15	3	3	4½

APPENDIX C (cont)

Period of Service		Leave Due		Period of Service		Leave Due	
Years	Months	Months	Days	Years	Months	Months	Days
15	4	3	6	18	-	11	24
15	5	3	7½	18	1	4	25½
15	6	3	9	18	2	4	27
15	7	3	10½	18	3	4	28½
15	8	3	12	18	4	5	-
15	9	3	13½	18	5	5	1½
15	10	3	15	18	6	5	3
15	11	3	16½	18	7	5	4½
16	-	3	18	18	8	5	6
16	1	3	19½	18	9	5	7½
16	2	3	21	18	10	5	9
16	3	3	22½	18	11	5	10½
16	4	3	24	19	-	5	12
16	5	3	25½	19	1	5	13½
16	6	3	27	19	2	5	15
16	7	3	28½	19	3	5	16½
16	8	4	-	19	4	5	18
16	9	4	1½	19	5	5	19½
16	10	4	3	19	6	5	21
16	11	4	3½	19	7	5	22½
17	-	4	6	19	8	5	24
17	1	4	7½	19	9	5	25½
17	2	4	9	19	10	5	27
17	3	4	10½	19	11	5	28½
17	4	4	12	20	-	6	-
17	5	4	13½	After 20 years' service: (a) each five years' service earns 1½ months leave (b) each year of service earns 9 calendar days' leave (c) each completed month of service earns ¾ calendar days' leave			
17	6	4	15				
17	7	4	16½				
17	8	4	18				
17	9	4	19½				
17	10	4	21				
17	11	4	22½				

APPENDIX D

CLIMATIC ZONES

(applicable to former long service leave provisions only)

ZONE A: SERVICE AT TIME AND HALF

Barellan Outpost (Leeton)	Leeton District Hospital
Barham-Koondrook Soldiers' Memorial Hospital	Lockhart and District Hospital
Berrigan Hospital	McCaughey Memorial Hospital
	Urana
Bingara District Hospital	Moree District Hospital
Boggabri District Hospital	Narrabri District Hospital
Condobolin District Hospital	Narrandera District Hospital
Coolah District Hospital	Narromine District Hospital
Coonabarabran District Hospital	Peak Hill and District Hospital
Coonamble District	Tocumwal District Hospital
Deniliquin Hospital	Tottenham Hospital
Dunedoo War Memorial Hospital	Trangie Hospital
Finley Hospital	Tullamore District Hospital
Gilgandra District Hospital	Trundle Subsidiary
Griffith District Hospital	Ungarie District Hospital
Inverell District Hospital	Warialda District Hospital
(including Ashford and Bingara Subsidiaries)	Warren District Hospital
Jerilderie District	
Lake Cargelligo District Hospital	Wee Waa District Hospital

ZONE B: SERVICE AT DOUBLE TIME

Balranald District Hospital	Hillston District Hospital
Bourke District Hospital	Ivanhoe District Hospital
Brewarrina District Hospital	Nyngan District Hospital
Broken Hill and District Hospital	Old Folk's Home, Broken Hill
Cobar District Hospital	Tibooburra District Hospital
Collarenebri District Hospital	Walgett District Hospital
Goodooga District Hospital	Wentworth District Hospital
Hay Hospital	Wilcannia and District Hospital