

Staff Mobility

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Functional Sub group Personnel/Workforce - Conditions of employment
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Summary Provides detail on the cross public sector leave provisions applicable when staff transfer between public sector services and the arrangements for the transfer of leave when staff move between the NSW Health Service and non-declared affiliated health organisations and within the NSW Health Service. This policy directive will be included as a chapter of the Leave Matters Manual.

Replaces Doc. No. Staff Mobility Public Sector [PD2005_099]

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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, NSW Dept of Health, Public Health Units, Public Hospitals

Audience All staff

Distributed to Public Health System, Health Associations Unions, NSW Ambulance Service, NSW Department of Health

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Director-General

Compliance with this policy directive is mandatory.

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1. INTRODUCTION

Cross public sector leave arrangements apply where an employee has been permanently transferred between public sector services in the NSW public sector. The cross public sector leave arrangements are found at Division 2 of Part 3.2 and Schedule 3A of the *Public Sector Employment and Management Act 2002* (PSEM Act).

The *Health Services Regulation 2003* provides arrangements for the transfer of leave entitlements for persons moving from a non-declared affiliated health organisation to the NSW Health Service and vice versa.

The provisions of this policy directive should always be read in conjunction with the relevant legislation. The Act and Regulation can be accessed at:

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

2. SCOPE

This policy directive covers staff employed in the NSW Health Service and staff employed in the Government Service of NSW. The policy also covers holders of positions in the Executive Services. [Section 8](#) is relevant to staff of non-declared affiliated health organisations.

This policy directive describes entitlements and procedures for the transfer of leave when employees move between NSW public sector services; between the NSW Health Service and non-declared affiliated health organisations; and within the NSW Health Service.

This policy directive does not apply to employees who transfer from a Commonwealth or interstate public service or governmental authority. Information on recognition of service with Commonwealth or interstate agencies can be found in the policy directive on long service leave.

3. PURPOSE

The purpose of this policy directive is to describe the conditions applicable and the administrative procedures to be followed, for the portability of leave when staff transfer between NSW public sector services; between the NSW Health Service and non-declared affiliated health organisations; and within the NSW Health Service.

Changes were made in March 2006 to the employment arrangements for staff of the NSW Health Service. This policy directive clarifies how those changes affected the application of the public sector mobility arrangements to staff employed in the NSW Health Service and to staff of non-declared affiliated health organisations.

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4. DEFINITIONS

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

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.

Divisions of the Government Service are specified at Schedule 1 of the PSEM Act. Divisions within NSW Health are the Department of Health, the Cancer Institute, the Health Professional Registration Boards and the Institute of Psychiatry in relation to medical, scientific and technical staff.

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

Executive Services includes the Chief and Senior Executive Services as described in Part 3.1 of Chapter 3 of the PSEM Act and the Health Executive Service as described in Part 3 of Chapter 9 of the *Health Services Act 1997*.

The **Government Service of NSW** consists of those persons employed under Chapter 1A of the PSEM Act by the Government of NSW in the service of the Crown. Such staff are employed in Divisions of the Government Service.

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.

5. ACCOUNTABILITIES

Employees

Employees who are entitled to elect to be paid out for accrued annual (recreation) leave or long service (extended) leave as per Section 7 of this policy directive, must advise the employer of their intentions when transferring to or from a relevant organisation.

Employers

Employers have a shared responsibility (with the other employer involved), in ensuring that employees are informed of the mobility provisions before the transfer occurs.

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Employers must also ensure accurate and timely transfer of funds and/or provision of details of leave entitlements to other Divisions of the NSW Health Service or other organisations.

6. RELATED POLICIES

- Annual Leave (PD2006_089)
- Leave Administration (PD2006_093)
- Long Service Leave (PD2006_092)

7. PUBLIC SECTOR STAFF MOBILITY

7.1 General

The cross public sector leave arrangements for employees moving between NSW public sector services are found at Division 2 of Part 3.2 and Schedule 3A of the *Public Sector Employment and Management Act 2002* (PSEM Act).

Schedule 3A of the PSEM Act provides for the recognition of prior service in the NSW public sector for long service leave purposes and replaces the provisions of the *Transferred Officers Extended Leave Act 1961*.

Schedule 3A of the PSEM Act applies to transfers that occur on or after 1 January 2006. For transfers that occurred 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>.

7.2 Eligibility

The cross public sector leave arrangements are subject to the employee ceasing with one public sector service and commencing service immediately with another public sector service or with the service being regarded as continuous. These provisions apply to staff employed in the NSW Health Service, the Government Service of NSW and to holders of positions in the Executive Services.

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A public sector service is defined at section 3 of the PSEM Act as including any of the following:

- the Government Service
- the Teaching Service
- NSW Police
- the NSW Health Service
- 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 or 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 (eg from one Area Health Service to another Area Health Service), they retain the same employer and are not moving to a new public sector service. The mobility provisions as outlined in this Section therefore do not apply to such transfers. Staff transferring in this way retain their accrued leave entitlements; they cannot elect to be paid the monetary equivalent of accrued annual or long service leave.

Non-declared affiliated health organisations are not part of the NSW Health Service, are not a public sector service and are not covered by the mobility provisions of the PSEM Act. Special arrangements apply in relation to the movement of staff between the NSW Health Service and non-declared affiliated health organisations. These arrangements are set out in [Section 8](#).

Special arrangements apply for the cashing in of accrued annual and long service leave on first appointment to the Executive Services. See [Section 11.1](#) for details.

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7.3 Annual (Recreation) Leave

Other than in respect of transfers between different Departments of the Public Service, eg Department of Health and Department of Education and Training, an employee who ceases employment in one public sector service and immediately commences employment in another public sector service may elect to be paid the monetary value of accrued annual leave on termination, or have their entitlement (including the cost of leave loading of 17½% on all remaining base annual leave) transferred on commencement with the new employing organisation. Future accrual of annual leave and annual leave loading will be as per the conditions applying in the new employing organisation.

The term “immediately” should be given the same meaning as that given to “immediately follows” in Schedule 3A of the PSEM Act. That is, the employee entered duty on the next working day or within two months of the last day of service with the former public sector employer.

Where the employee elects to transfer their entitlements, the transferring public sector service is to pay funds equivalent to the value of accrued entitlements (including the dollar value for unpaid annual leave loading and pro rata annual leave loading) to the receiving public sector service.

If an employee elects to transfer their annual leave entitlement and they have in excess of 40 days to credit, the new employing organisation may require the employee to take payment for the leave in excess of 40 days.

Special arrangements apply for the cashing in of accrued annual (recreation) leave on first appointment to the Executive Services. See [Section 11.1](#) for details.

7.4 Long Service (Extended) Leave

Other than in respect of transfers between different Departments of the Public Service, an employee ceasing employment in one public sector service and commencing employment in another public sector service may elect to be paid the monetary value of accrued long service (extended) leave on termination, or have their entitlement transferred on commencement with the new employing organisation.

An employee who moves between public sector services shall have their period of service recognised for the purposes of calculating long service (extended) leave, provided that the prior service is continuous and the employee’s employment in the new public sector 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

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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.

Where the employee elects to transfer their entitlement, the following shall apply:

- for staff with less than five years aggregate service, no funds transfer is required
- for those staff with five years and longer service an amount equivalent to the accrued entitlement shall be transferred calculated at the salary rate applicable prior to transfer.

Special arrangements apply for the cashing in of accrued long service (extended) leave on first appointment to the Executive Services. See [Section 11.1](#) for details.

7.5 Sick Leave

An employee who ceases employment in one public sector service and immediately commences employment in another public sector service is taken to have the same amount of accrued sick leave on commencement with the employing organisation as was accrued on termination of employment with the transferring organisation.

The term “immediately” should be given the same meaning as that given to “immediately follows” in Schedule 3A of the PSEM Act. That is, the employee entered duty on the next working day or within two months of the last day of service with the former public sector employer.

The future eligibility of an employee to sick leave is to include the amount accrued with the former organisation and any amount determined in accordance with the conditions relating to the granting of sick leave in the new employing organisation. There is no “cashing-in” of sick leave under these arrangements.

There is to be no funds transfer for accrued sick leave.

7.6 Maternity Leave, Adoption Leave, Parental Leave, etc

This section applies for the purposes of determining whether an employee who ceases to be employed in one public sector service and immediately commences employment in another public sector service is entitled to maternity leave, adoption leave, parental leave or any other leave (other than extended leave) for which a condition of eligibility is a period of service.

The term “immediately” should be given the same meaning as that given to “immediately follows” in Schedule 3A of the PSEM Act. That is, the employee entered duty on the next working day or within two months of the last day of service with the former public sector employer.

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All continuous previous service at the date of transfer to the new organisation is taken into account by the new employer. The entitlements are determined in accordance with the new organisation's conditions.

No transfer of funds is required in connection with this entitlement.

7.7 Access to Forfeited Sick Leave

An employee with continuous service in the NSW public sector who prior to 13 October 1995 moved to a new public sector service and was not able to transfer their sick leave credit, may access those forfeited sick leave credits in the following circumstances:

- access will be at the discretion of the employer.
- accrued sick leave will only be accessible when all current sick leave credits have been exhausted.

No payments may be effected on cessation of employment.

7.8 Up to Two Months Break – Effect on Leave

Where an employee does not commence duty on the next working day after ceasing with the former employer, the period of time (of up to two months) between ceasing with the former employer and starting with the new employer does not break continuity of service but it does not count towards the accrual of any leave entitlements. This does not apply if the employee is on approved leave during the time between the two periods of employment.

When the employee commences they retain any relevant anniversary dates for accrual of leave from the former employment. Future leave entitlements are adjusted to take account of any leave that is transferred or paid out on ceasing with the former employer and the time between the two periods of employment.

8. MOVEMENT BETWEEN THE NSW HEALTH SERVICE AND NON-DECLARED AFFILIATED HEALTH ORGANISATIONS

The provisions of the *Health Services Act* 1997 in relation to affiliated health organisations (AHOs) were amended on 17 March 2006. There is now a distinction between “declared” and “non-declared” AHOs. Staff of non-declared AHOs are not members of the NSW Health Service.

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

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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 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.
- In relation to accrued annual leave or long service leave, a person may elect to be paid the monetary value of the leave rather than retaining the entitlement.
- Unless approved by the new employer, the amount of accrued annual leave that can be retained cannot exceed two years worth.
- The previous employer is liable for the cost of annual or 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*.
- Where an employee elects to transfer their entitlement to annual leave to the new employer, any annual leave loading entitlement is also transferred. The previous employer is liable for the cost of the transferred annual leave loading entitlement.

9. ACCUMULATED ALLOCATED DAYS OFF

Where an employee gives notice that they are intending to transfer to another public sector employer or to another Division of the NSW Health Service, all reasonable steps should be taken to eliminate any accumulated allocated days off (ADOs) prior to the last day of service.

The public sector mobility provisions do not provide for the transfer of accumulated allocated days off (ADOs) when employees move between public sector services. Any accumulated ADOs remaining on an employee's last day of service are to be paid out.

In relation to the transfer of staff between Divisions of the NSW Health Service, where there are still accumulated ADOs on the employee's last day of service in the Division, these are to be paid out to the employee. This is the responsibility of the Division from which the employee is transferring.

10. NSW HEALTH SERVICE FINANCIAL ARRANGEMENTS

The financial/accounting arrangements to cover the public sector mobility arrangements are set out below. These arrangements apply when staff employed in the NSW Health Service transfer to another public sector service (or vice versa).

These financial/accounting arrangements also apply when staff employed in the NSW Health Service transfer to another Division of the NSW Health Service. This type of transfer does not involve a change of employer but there is still a need to effect a transfer of the leave liability to the new Division.

The financial/accounting arrangements also apply when staff move between the NSW Health Service and non-declared AHOs as described in [Section 8](#).

These arrangements apply to all health organisations, as defined in the Accounts and Audit Determination. The arrangements are applicable in respect of the NSW Ambulance Service which, like all health organisations other than Central Administration is to be recognised as a Category 3 Public Sector Agency, ie an agency responsible for funding its own long service leave liability.

(a) Transferor Division of the NSW Health Service

The Division of the NSW Health Service from which an employee is transferred, is to effect payment against the leave provision account. The entry is as follows:

Dr	Provision (Liability) Account
Cr	Bank

(b) Transferee Division of the NSW Health Service

The Division of the NSW Health Service to which an employee transfers is to ensure that monies are received from the former public sector employer or former Division of the NSW Health Service or non-declared AHO. Alternatively, in the case of transfers from another public sector employer or in relation to staff formerly employed by a non-declared AHO, the Division is to ensure an acquittance is received which clearly indicates that the former employer effected payment to the individual concerned. Assuming payments are to be made to the Division to which an employee transfers, the following entries apply:

Dr	Bank
Cr	Provision (Liability) Account

(c) Cash Management

It remains the responsibility of management to determine the cash that needs to be made available each year to fund leave payments.

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Excluding Group Services, it is suggested that cash received from other organisations need not be retained for application to the designated officer.

Under the principles of accrual accounting, health services are to determine the amount of cash required each year from the Operating Budget to meet either long service or annual leave payments inclusive of any known commitments for leave liability transferred in accordance with these arrangements.

No requests for supplementation to meet cash leave payments will be considered by the Department and management should therefore ensure that cash management is adequately planned in accordance with the above, eg for a three year period, to identify any significant movements which are likely to occur for which additional cash will need to be provided.

(d) **Group Service Policy**

In respect of Group Services, it should be noted that the Department's policy on cash reserves was advised in policy directive [PD2005_522](#), which stated inter alia, "reserve funds may only be used for the purpose for which they are set aside - borrowing from reserve funds or their use in any other manner is not permitted".

11. EXECUTIVE SERVICES

11.1 First Appointment – Incumbent Officers – Accrued Leave

Section 80 of the PSEM Act provides for the payment or part payment of accrued annual (recreation) and long service (extended) leave on first appointment to an executive position if the person was engaged in the public sector when appointed. The monetary value of the leave is calculated at the rate of pay applicable immediately prior to the appointment to the executive position.

The person retains any rights to long service (extended), annual (recreation), sick or other leave accrued (other than that which has been paid as a gratuity as described above).

This provision also applies to the Health Executive Service in accordance with section 121P of the *Health Services Act 1997*.

Employment in the public sector includes employment in the NSW Health Service, the Government Service, the Teaching Service, as a member of NSW Police, service in a public authority or appointment to a statutory office.

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11.2 Notional Salary

Notional salary is used for a number of purposes, including the cashing in of annual and long service leave and paying out Executive Service entitlements on termination.

The Premier's Department regularly advises of the Senior Executive Service notional salary. This advice also applies to the Health Executive Service. The Premier's Department circulars should be checked for the latest advice. At the time of issue, Circular [C2006-22](#) was current.

The Premier's Department circulars can be accessed at:

<http://www.premiers.nsw.gov.au/TrainingAndResources/Publications/MemosAndCirculars/>.

12. DETAILS OF PREVIOUS EMPLOYMENT FORM

Each employee of the NSW Health Service should have only one personal file. The file is to be transferred between Divisions of the NSW Health Service when the employee transfers.

In order to provide uniformity in the information required to facilitate the portability of leave in the NSW Health Service, it is recommended that the "Details of Previous Employment" form at [Appendix A](#) also be utilised. While the exact layout of the form may be subject to modification by individual Divisions of the NSW Health Service, the information contained on the form should be included in all Details of Previous Employment forms.

The following items are to be used as guidelines in the completion of the form.

- The rate of pay to be used for transfer should be that at the point of transfer, ignoring any retrospective increase yet to be reflected on the employee's record.
- Details of all service should be completed in the section provided.
- Pro-rata annual leave calculations should be made with reference to the award which covers the employee. Factors to be applied to total of ordinary pay earned include:
 - 6/46 for Nurses rostered to work on a 7 day basis
 - 5/47 for Principal Hospital Scientists
 - completed months for Medical Officers and Staff Specialists
 - proportion of 5 weeks for Medical Superintendents
 - for staff in the Ambulance Service of NSW Division, 1/12, 5/47, 7/45 or 8/44 depending on the employee's entitlement to annual leave
 - 1/12 for others

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- Payroll leave reports and/or payroll screen prints should accompany the Details of Previous Employment form whenever possible.
- Employees who transfer from one Division of the NSW Health Service to another must transfer their accrued credit of annual leave and long service leave.
- Annual leave loading of 17½% is to be included on all base annual leave transferred.
- The monetary calculation of the pro-rata component of annual leave should be based on 100% of hours calculated. ADOs should not be taken into account.

For the arrangements to work satisfactorily the Details of Previous Employment form should be forwarded to the new Division of the NSW Health Service within seven days of the employee's transfer from the previous Division. It is anticipated that this will in turn facilitate the financial procedures involved in having the necessary payments made to the new Division completed as quickly as possible.

Arrangements should be made for the content of the Details of Previous Employment form to be printed and utilised to facilitate this process.

13. 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

**DETAILS OF PREVIOUS EMPLOYMENT
FOR STAFF TRANSFERRING TO ANOTHER DIVISION OF THE NSW HEALTH SERVICE
(to be completed by the sending Division)**

EMPLOYEE DETAILS

Surname	
Given Names	

DIVISION DETAILS

Name of previous Division (sending Division)	
Name of new Division (receiving Division)	

SERVICE DETAILS AT THE PREVIOUS DIVISION

Date In Service	/ /
Commencement Date	/ /
Termination Date	/ /
Industrial Code	
Base Rate of Pay (as at last day of service)	Per week \$ Per Hour \$
Classification	
Next increment	/ /
Employment type (Payroll codes PT/TF/PP/NP/CAS)	
If Part-Time (PP/NP) please show contracted hours	

SUPERANNUATION

Member Number	Super YTD	Monthly Contribution

FACS LEAVE

Due on Transfer	HRS

SICK LEAVE

Due on Transfer	HRS	Anniversary date	/ /

PREVIOUS SERVICE INCLUDING RELEVANT SERVICE WITH PREVIOUS ORGANISATIONS

Employer (please use another form if space insufficient)	Employment Type	Hours per Week	From Date	To Date
			/ /	/ /
			/ /	/ /
			/ /	/ /
			/ /	/ /
			/ /	/ /
			/ /	/ /
			/ /	/ /
			/ /	/ /
			/ /	/ /

APPENDIX A

LEAVE WITHOUT PAY

Months =>		Days =>	
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LONG SERVICE LEAVE TAKEN

Months =>		Days =>	
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LONG SERVICE LEAVE ACCRUED

Months =>		Days =>	
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Total Days (balance as at of transfer)	Weekly Rate	Divided by	\$ Value
DAYS	\$	7	\$

ANNUAL LEAVE DETAILS

Hours since last anniversary	Ordinary Earnings \$	Public Holiday Bank	Extra Leave Bank
		HRS	HRS

ACCRUED ANNUAL LEAVE AS AT THE LAST ANNIVERSARY DATE

	Hours	Rate	\$ Value
Base Leave (first 4 weeks)		\$	\$
Annual Leave Loading		\$	\$
Public Holiday Leave		\$	\$
Extra Leave (for working Sundays/Public Holidays)		\$	\$

PRO RATA ANNUAL LEAVE FROM THE LAST ANNIVERSARY DATE UP TO THE LAST DAY OF SERVICE WITH THE SENDING DIVISION

	Hours	Rate	\$ Value
Base Leave (first 4 weeks)		\$	\$
Annual Leave Loading		\$	\$
Public Holiday Leave		\$	\$
Extra Leave (for working Sundays/Public Holidays)		\$	\$

TOTAL VALUE OF LEAVE TO BE TRANSFERRED TO APPEAR ON FUTURE INVOICES

Total LSL	Long Service Leave	\$
Accrued Base Leave + Leave Loading + Public Holiday Leave + Extra Leave	Accrued Annual Leave	\$
Pro Rata Base Leave + Public Holiday Leave + Extra Leave	Pro-Rata Annual	\$
Total of LSL, Accrued Leave and Pro-Rata Leave	TOTAL	\$

AUTHORISATION BY THE SENDING DIVISION

Signed	/ /
Title	
Contact Officer	
Contact Phone Number	