# Long Service Leave – Entitlement, Conditions, Pay in Lieu, Cash Equivalent, Casuals, Home Helps, Part-time, Voluntary Reversion and Termination Payment

Human Resources Policy

**Effective Date:** December 2009

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1 PURPOSE

To outline long service leave entitlements for Queensland Health employees.

2 APPLICATION

This policy applies to all employees of Queensland Health, excluding visiting medical officers (VMOs). Refer to Visiting Medical Officers – Leave Entitlements HR Policy.

3 GUIDELINES

Guidelines may be developed to facilitate implementation of this policy. The guidelines must be consistent with this policy.

4 DELEGATION

The ‘delegate’ is as listed in the Queensland Health Human Resource Delegations Manual as amended from time to time.

5 REFERENCES

- Industrial Relations Act 1999
- Succession Act 1981
- Nurses and Midwives (Queensland Health) Certified Agreement (EB7) 2009
- Queensland Public Health Sector Certified Agreement (No.7) 2008 (EB7)
- Health Practitioners (Queensland Health) Certified Agreement (No.1) 2007
- Home Help Community Service - Department of Health Award - State
- Directive 13/08 – Long Service Leave
- Long Service Leave HR Policy C41
- Annual/Recreation Leave HR Policy C51
- Recognition of Previous Service for Long Service Leave and Sick Leave Purposes HR Policy C55
- Grievance Resolution HR Policy E12
- Preparation of Inspection of Employee Time and Wages Records HR Policy F2
- Separation of Employment HR Policy H1
- Visiting Medical Officers – Leave Entitlements HR Policy
- Sick Leave HR Policy

6 SUPERSEDES

- IRM 11.4-1 Leave – Long Service Leave – Entitlement, Conditions, Pay In Lieu, Cash Equivalent, Casuals, Home Helps, Part-Time, Voluntary Reversion and Termination Payment

7 POLICY

All employees of Queensland Health are entitled to take pro rata long service leave on full pay, or half pay, after completing seven years continuous service, and are entitled to a cash equivalent of long service leave on termination after 10 years continuous service, or a lesser period in circumstances specified in section 7.4. On meeting this requirement, the employee is entitled to long service leave at the rate of 1.3 weeks on
full salary for each year of continuous service and a proportionate amount for an incomplete year of service.

The entitlements in this policy are operative from 5 December 2005.

7.1 Procedure

The following provisions are to apply in respect of long service leave:

- An application for leave is to be made in writing.
- Timely notice of the desire for leave is to be given by the employee.
- The employee is to be given timely advice as to whether or not leave is approved.
- Granting of long service leave is subject to organisational convenience however requests for leave are not to be unreasonably refused.
- Leave may be taken up to the total amount of leave due as at the date of commencement of the leave, calculated by:
  - determining the total period of the employee’s continuous service having regard to the provisions of this policy in respect of leave credited for service
  - determining the total long service leave entitlement appropriate to that period of continuous service
  - deducting from the total entitlement any long service leave previously taken and any entitlement forfeited as a result of disciplinary action.
- The minimum period of long service leave which may be taken on full pay at any one time is one day, or one rostered shift.
- The minimum period of long service leave which may be taken on half pay at any one time is one week (refer Long Service Leave HR Policy C41).
- When an employee becomes ill and is granted sick leave in lieu of long service leave, approval is granted in accordance with Sick Leave HR Policy.
- When an employee is recalled from long service leave, the taking of the balance of the leave originally approved is not subject to any minimum period other than the minimum balance that can be taken is one day.

7.2 Voluntary reversion to a lower classification

When an employee voluntarily reverts to a lower classification, the employee is entitled to long service leave accrued as at the date of the reversion at the employee’s substantive classification and paypoint immediately preceding the reversion. At the time of taking the leave the employee is entitled to be paid at the rate of that previous higher substantive classification and paypoint.

An employee is not compelled to take accrued long service leave at the date of voluntary reversion to a lower classification.
Long service leave accrued after reversion to a lower classification is payable at the employee’s classification and paypoint at the time the leave is taken.

When an employee subsequently attains a substantive classification and paypoint higher than the substantive classification and paypoint immediately preceding reversion to a lower classification, all long service leave accrued is payable at the higher substantive classification and paypoint.

7.3 Termination payment

A person who ceases to be an employee, and who at the date of ceasing to be an employee has an entitlement to long service leave, is to receive a payment in lieu of long service leave not taken (refer section 7.4.2).

Cash payments upon termination for both recreation leave (which may attract public holidays) and long service leave are to be adjusted once only in respect of public holidays which occur during leave. Only one type of leave attracts additional payment by virtue of public holidays with the longer period of leave to be used for this purpose.

The calculation of the amount of the payment is to be based on:

• that entitlement
• either:
  o section 53 of the Industrial Relations Act 1999, which does not specify the rate at which a payment in lieu of long service leave at termination is to occur. The rate to use is set out in section 46 of the Act, as outlined below. “..if the employee is, immediately before taking the leave, being paid at a higher rate than the ordinary rate, the employer must pay the employee at the higher rate”.
  (the rate prescribed in section 46 of the Act corresponds with Directive 13/08 – Long Service Leave)
  or
  o in cases when an employee has voluntarily reverted to a lower classification as part of their continuous service, the cash equivalent is based on the actual rates paid at the time of termination for both the higher level and lower level accrued balances.

If an employee resigns and is paid cash equivalent for long service leave and/or recreation leave, and is then re-employed during a period of cash equivalent, that person does not have to pay back the cash equivalent.

7.4 Cash equivalent

Cash equivalent on ceasing employment normally occurs at or after 10 calendar years continuous service. Payment can be made for lesser periods of continuous service in the following circumstances:

• Upon retrenchment – one year.
• Upon ill health retirement – five years.
• Upon retirement within 10 years of attaining age 65 – five years.
- Upon death – five years (refer to section 7.4.1).
- After seven years of service (refer to section 7.4.2).

### 7.4.1 Death of an employee

When an employee dies, the amount payable to that employee on the date on which the employee died, is to be paid to the executors of the estate of the deceased employee.

When an employee dies intestate (i.e. without any will) there are procedures that need to be followed. The *Succession Act 1981* provides intestacy rules that outline how the monies are to be distributed. Schedule 2 of the Act provides for the distribution to the spouse (and/or other family members).

The Public Trustee of Queensland can have a role with regards to estates until grants of letters of administration have been made. Consideration is to be given to the role of the Public Trustee and that it may not be appropriate to merely pass the entitlements cheque to a deceased employee’s spouse without full consideration of the facts.

The delegate is to obtain legal advice if necessary, for example when the will does not appear to be valid or when there is a family dispute, if the employee has died intestate. Refer Separation of Employment HR Policy H1.

### 7.4.2 Exceptions to entitlements

From 1 December 2000, an entitlement was provided for the payment of the cash equivalent of pro rata long service leave after seven years of service, when the separation is not for the purposes of career enhancement or dismissal.

An employee of Queensland Health is not eligible for the pro rata payment after seven years service when the employee resigns to take up a new position elsewhere that is career enhancement. Career enhancement (including self employment) is when there is advancement in rank or position, usually resulting in an increase in pay in line with an increase in responsibility and/or degree of difficulty in allocated tasks. Consequently, a position of equal value to the position from which the employee resigns is not seen as career enhancement.

The payment of pro rata long service leave after at least seven years service is to be made subject to the employee completing the necessary undertaking concerning their eligibility. The employee termination/transfer advice form includes application for payment of pro rata long service leave, which is to be completed by the employee when terminating with at least seven years, but less than 10 years service.

### 7.5 Casual employees

Casual employee entitlements to long service leave are as follows:

<table>
<thead>
<tr>
<th>Date</th>
<th>Entitlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 30 March 1994 onwards</td>
<td>Service counts provided there is no break between casual engagements of more than three months</td>
</tr>
<tr>
<td>From 23 June 1990 to 30 March 1994</td>
<td>Service counts provided at least 32 hours are worked every four weeks</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>---------------------------------------------------------------------</td>
</tr>
<tr>
<td>Prior to 23 June 1990</td>
<td>No entitlement - service does not count (note exception for casual nurses in section 7.5.1)</td>
</tr>
</tbody>
</table>

Long service leave entitlements for casual employees places additional responsibility on Queensland Health with regard to time and wages records, particularly regarding the need to record total hours, other than overtime, aggregated to 30 June each year as well as entitling the employee to receive a certificate of such accumulated hours, calculated to the previous 30 June. Refer Preparation of Inspection of Employee Time and Wages Records HR Policy F2.

Refer Annual/Recreation Leave HR Policy concerning action to be taken when an employee changes employment status from casual to permanent.

### 7.5.1 Casual nurses

Casual nurses employed prior to 1 June 1984 were entitled to accrue long service leave for service prior to 1 June 1984.

Casual nurses employed on or after 1 June 1984 are not entitled to accrue long service leave during the period 1 June 1984 to 22 June 1990.

### 7.6 Part-time employees

A part-time employee accrues long service leave on a proportionate basis of the entitlement for a full-time employee. All long service leave entitlements are expressed as an hourly value.

In determining the length of absence of a part-time employee on long service leave, employees are to apply for the number of ordinary hours they would have otherwise been at work during the leave period. The debit against the balance of accrued leave is the actual number of hours absent from duty as described. This principle applies in the case of employees who have accrued their leave entitlements by working a combination of full-time and part-time employment.

### 7.7 Home helps

Home helps were not entitled to long service leave prior to the introduction of the Home Help Community Service - Department of Health Award - State 1989. This was because their hourly rate incorporated a casual loading which included compensation for the non-accrual of leave entitlements.

### 7.8 Half pay long service leave

Employees are entitled to long service leave on half pay in accordance with Long Service Leave HR Policy C41.
7.9 Grievance resolution

An employee who believes that this policy has been incorrectly applied or has not been applied to their individual particular circumstances may lodge a grievance in accordance with Grievance Resolution HR Policy E12.

8 HISTORY

<table>
<thead>
<tr>
<th>Date</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 2009</td>
<td>Protected IRM 11.4-1 reformatted as part of the HR policy consolidation project in accordance with EB7. Minimum period of long service leave amended in line with public service provisions.</td>
</tr>
<tr>
<td>October 2006</td>
<td>IRM 11.4-1 amended to include changes for half pay long service leave.</td>
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</tbody>
</table>