

**Note: Delete this page and following page (total 2 pages) once you complete tailoring the template for your own business**

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This Leave Policy can be used by all Australian employers, except the following excluded employers:

- Non-constitutional corporation employers in Western Australia
- State public sector employers (ie employees of a Minister, the Governor or the Crown); and
- Local Government employers — except Tasmania.

Employees have a range of entitlements in relation to certain types of leave. The types of leave that are dealt with in this Leave Policy are annual leave, personal/carer's leave, compassionate leave, long service leave, and community services leave (which includes jury service and voluntary emergency services).

### **1. Does the client have an enterprise agreement in place?**

Before using or implementing the leave policy, the employer should ensure that it is consistent with any enterprise agreement, contract, or award which applies to the employees in their workplace.

### **2. Does an employer have to grant an employee annual leave?**

The National Employment Standards provides that an employer **cannot unreasonably refuse** an employee's application for **annual leave**.

**Note:** Where permission for leave of absence is unreasonably withheld by the employer and the employee proceeds on such unauthorised leave, abandonment of employment would not apply.

### **Getting it wrong**

An appropriate leave policy should aim to maintain staff well-being and enthusiasm, and to negotiate leave in a manner which meets the needs of the business and the employee.

While various forms of leave are subject to statutory regulation, the manner in which such leave is to be taken can be subject to negotiation, such as annual leave. The policy can detail the administrative process involved in applying for leave and taking leave.

A breach of any statutory leave entitlement under the Fair Work Act, such as annual leave or personal/carer's leave, **can result in penalties of up to \$10,800 for an individual and \$54,000 for a corporation, per breach.**

It should be noted compliance with the National Employment Standards is important because, in most cases, a failure to comply can result in an order of compensation and/or penalties.

### **General Information**

These entitlements may differ in some respects for certain types of employees, for example, day workers and shift workers; agreement-covered employees; award-covered employees; or award/agreement free employees. They also differ depending on the detail of the award or agreement that applies to the employee.

Certain entitlements may also be affected by state and territory legislation including long service leave and community service leave (e.g. relating to payment for jury service).

The Leave Policy allows employers to account for these different types of employees in one policy.

Before using or implementing the leave policy, please ensure that it is consistent with any enterprise agreement, contract, or award which applies to the employees in your workplace. The Policy should also be supplemented by a policy on parental leave and leave without pay - those policies can also be found under Resources/Policies tab on the FIAA Website.

### **How to complete this template**

#### **Designed to be customised**

It is completely customisable based on your specific requirements.

#### **Include what you must and can comply with**

This document should be used in conjunction with your contract of employment, and any specific company procedures and processes. Only include the commitments you are confident you can comply with, make sure you update and review the document regularly.

**Important:** You may have legal obligations to your employees under an employment or industrial agreement such as an award, workplace agreement or employment contract. Make absolutely certain what's written in this document is consistent with these. If you're unsure what covers your employees, FIAA Members can contact FIAA's workplace advice team on 1300 FIAA 4U or on 02 4340 2000 for further advice/assistance.

#### **To complete the template:**

1. Using Word's Replace function, search for (INSERT COMPANY NAME) and replace with your company name.
2. Replace (items in brackets) with your own wording.
3. Once you have finished work on the template, delete the first TWO pages of the document.
4. Update page numbers.

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## Leave Policy

### 1. Purpose

- 1.1 This Leave Policy ('Policy') covers the following types of leave: annual, personal/carer's, compassionate leave, community service and long service. It applies to all full-time, part-time and casual employees (where applicable) as detailed in the Policy.

### 2. Commencement of the Policy

- 2.1 This Policy will commence from XX/XX/XXXX. It replaces all other leave policies of (Insert company name) which deal with the taking of annual leave, personal/carer's leave, compassionate leave, community service leave and long service leave.

### 3. Application of the Policy

- 3.1 This Policy applies to employees (including temporary employees) of (Insert company name) who apply for or take leave after (Insert date of commencement of policy).
- 3.2 This Policy does not form part of any employee's contract of employment. The Policy is not intended to override the terms of any award, enterprise agreement or contract that applies to an employee.
- 3.3 This Policy reflects the National Employment Standards (NES) as set out in the *Fair Work Act 2009* (Cth) (the Act), but does not override the NES.

### 4. Definitions

- 4.1 'Immediate family' means:
- a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
  - b) a child, parent, grandparent, grandchild or sibling of a spouse of the employee.
- 4.2 'Spouse' includes a former spouse, a de facto spouse or a former de facto spouse.
- 4.3 'De facto partner' means a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes) and includes a former de facto partner of the employee.
- 4.4 'Child' includes an adopted child, stepchild, an ex-nuptial child and an adult child.

### 5. Annual leave

(Insert company name) provides annual leave in accordance with the Act.

#### Amount of leave

- 5.1 For each year of service, an employee (other than a casual employee), subject to their hours and employment status, progressively accrues 4 weeks of paid annual leave.
- 5.2 Annual leave accrues progressively from year to year.

#### Taking annual leave

**\* This is only a preview of the document, you will need to purchase the document to see all the content.**

*\*Please Note: As a Business Plus or Premium FIAA Member you can download all the policies on our website for free or have them customised specifically for your business at no additional charge. FIAA Members can also request policies and resources which are not on our website through our HR Department. This is just one of the many services that are included with our annual membership subscription.*