

7. PERSONAL LEAVE

Interpretation

7.1 General

- (a) Subject to this by-law, an employee may take personal leave if the leave is:
- (i) because the employee is not fit for work because of a personal illness or injury suffered by the employee (sick leave); or
 - (ii) to provide care or support to a member of the employee's immediate family or household who requires such care or support because of:
 - A. a personal illness or personal injury affecting the member (carer's leave); or
 - B. an unexpected emergency affecting the member (carer's leave).

7.2 Definitions

For the purpose of this by-law:

"medical certificate" means a certificate signed by a registered health practitioner;

"personal leave year" means 12 months service from the anniversary of commencement or 12 months service since receiving the last personal leave entitlement;

"registered health practitioner" means a health practitioner registered, or licensed, as a health practitioner (or as a health practitioner of a particular type) under a law of a State or Territory that provides for the registration or licensing of health practitioners (or health practitioners of that type).

7.3 Paid personal leave entitlement

- (a) An ongoing employee is entitled to:
- (i) three (3) weeks paid personal leave on commencement of employment; and
 - (ii) three (3) weeks paid personal leave annually on the anniversary of the employee's commencement date.
- (b) A fixed period employee is entitled to:

- (i) two (2) days paid personal leave on commencement of employment;
 - (ii) up to one (1) week of paid personal leave for each period of two (2) months service provided that the total leave does not exceed three (3) weeks within the first 12 months of service; and
 - (iii) three (3) weeks paid personal leave annually on the anniversary of the employee's commencement date.
- (c) Where an employee is appointed on an ongoing basis immediately following a period of fixed period employment, the provisions of by-law 7.3(a) will be taken to have applied from the date of commencement of fixed period employment, and the employee's personal leave record will be adjusted accordingly.
- (d) A part time employee is entitled to paid personal leave on a pro-rata basis in accordance with his or her agreed hours of work.
- (e) Casual employees are not entitled to paid personal leave.
- (f) Paid personal leave is cumulative.
- (g) An employee's paid personal leave entitlement will be deferred by any period of:
- (i) leave on account of illness where the absence is without pay and not covered by documentary evidence;
 - (ii) unauthorised absence; or
 - (iii) leave without pay that does not count as service.

7.4 Accessing paid personal leave

- (a) Subject to the requirements of by-laws 7.6 and 7.7, an employee is entitled to access paid personal leave up to a maximum of his or her accrued personal leave entitlement.
- (b) An employee may access personal leave without providing documentary evidence, up to a maximum of five (5) days or the equivalent number of hours of duty per personal leave year, provided that no more than three (3) of those days may be consecutive working days or the equivalent number of hours of duty.
- (c) An employee may elect to access personal leave at half pay where the absence is at least one (1) day.

7.5 Additional personal leave

- (a) Subject to the requirements of by-laws 7.6 and 7.70, an employee who has exhausted his or her entitlement to paid personal leave is entitled to access up to two (2) days unpaid carer's leave on each occasion that he or she requires carer's leave. This may be taken as a single unbroken period of up to two (2) days or any separate periods as agreed between the employee and the CEO.
- (b) After considering all relevant circumstances, the CEO may grant:
 - (i) an amount of unpaid leave in excess of the amount specified in by-law 7.5(a).
 - (ii) additional sick/carer's leave on half pay, which cannot be converted to full pay; or
 - (iii) access to recreation leave, where an extended period of absence is involved, provided the period of leave taken will be deemed to be sick/carer's leave for all other purposes under the provisions of this by-law.
- (c) The provisions of by-laws 7.5(a) and 7.5(b)(i) apply to casual employees.

7.6 Notice Requirements

An employee must make all reasonable effort to advise his or her manager as soon as reasonably practicable on any day of absence from his or her employment. If it is not reasonably practicable for the employee to give prior notice of absence due to circumstances beyond the employee's control, the employee will notify his or her manager by telephone of such absence at the first opportunity of such absence.

7.7 Documentation Requirements

- (a) An employee must apply for personal leave in the form required by the CEO as soon as it is reasonably practicable for the employee to make the application.
- (b) Subject to by-law 7.4(b), to assist the CEO to determine if the leave taken, was or is for one of the reasons set out in by-law 7.1(a)(i) (sick leave), an employee must, as soon as reasonably practicable provide the CEO with the following documentary evidence:
 - (i) a medical certificate from a registered health practitioner;
or

- (ii) if it is not reasonably practicable for the employee to access a registered health practitioner to obtain a medical certificate for reasons that include because they reside in a remote or regional locality or for any other reason approved by the CEO, a statutory declaration may be submitted in writing detailing:
 - A. the reasons why it was not practicable to provide a medical certificate; and
 - B. the reason for and length of the absence.
- (c) Subject to by-law 7.4(b), to assist the CEO to determine if the leave taken, or to be taken, was or is for one of the reasons set out in by-law 7.1(a)(ii) (carer's leave), an employee must, as soon as practicable, provide the CEO with evidence which may include a medical certificate from a Registered Health Practitioner or other relevant documentary evidence stating the condition of the person concerned, or the unexpected emergency, and that this condition/unexpected emergency required the employee's care or support.

7.8 Personal leave whilst on other forms of leave

- (a) Subject to the requirements of by-laws 7.6 and 7.7 and the recreation leave and long service leave by-laws, an employee may access paid personal leave during periods of recreation and long service leave.
- (b) Where recreation leave or long service leave had been previously approved on half pay, any personal leave granted in lieu shall also be at half pay, based on the employee's ordinary hours of duty.

7.9 Medical examination at the direction of the CEO

- (a) The CEO may direct an employee to attend an examination by a registered health practitioner approved by the Commissioner where:
 - (i) an employee is frequently or continuously absent, or expected to be so, due to illness;
 - (ii) it is considered that an employee's efficiency may be affected due to illness;
 - (iii) there is reason to believe that an employee's state of health may render the employee a danger to him or herself, other employees or the public; or

- (iv) under part 7 (Employee Performance and Inability) or part 8 (Discipline) of the *PSEM Act*.
- (b) An employee directed to attend a medical examination in accordance with by-law 7.9(a) who is:
 - (i) absent on approved sick leave covered by documentary evidence, is entitled to continue on personal leave until the findings of the medical examination are known;
 - (ii) an employee other than one to which by-law 7.9(b)(i) refers, is deemed to be on duty from the time of the direction until the findings of the examination are known,

and the grant of sick leave after the date of examination or the employee's return to duty will be subject to the findings of the medical examination.

- (c) The CEO will not grant personal leave where the employee fails to attend a medical examination without reasonable cause, or where illness is caused through misconduct. Under these circumstances the CEO may initiate disciplinary action.

7.10 Infectious disease

Where an employee produces documentary evidence that:

- (a) he or she is infected with, or has been in contact with, an infectious disease as defined under the *Notifiable Disease Act*; and
- (b) by reason of any law of the Territory or any State or Territory of the Commonwealth is required to be isolated from other persons,

the CEO may grant:

- (c) sick leave for any period during which the employee actually suffers from illness; or
- (d) recreation leave in relation to any period during which the employee does not actually suffer from illness.

7.11 War service

The Commissioner shall determine the conditions under which personal leave may be granted to an employee where an illness or injury is directly attributed to the employee's war service, provided satisfactory medical evidence is produced.

7.12 Personal leave – workers compensation

An employee is not entitled to paid personal leave for a period during which the employee is absent from duty because of personal illness, or injury, for which the employee is receiving compensation payable under Northern Territory workers compensation legislation.