

Part E Leave

E.0 Introduction

- (1) NSWALC provides its employees with an extensive range of leave as outlined in the table below and this Part. The differing types of leave consist of those provided to all Australian employees under the National Employment Standards (NES) and as well, a number of additional forms of leave designed for the specific needs of NSWALC employees. These forms of leave provide employees with access to entitlements that go beyond the National Employment Standards.

Leave Type	Summary of Entitlements
Annual leave Section E.1	<p>20 days paid leave per year, pro rata for part-time hours plus paid leave on working days between Boxing Day and New Year's Day.</p> <p>At least 2 weeks consecutive weeks of annual leave must be taken every 12 months except by specific written approval from the NSWALC. Annual leave accruals must not exceed 6 weeks without specific written approval from the NSWALC to an agreed plan to reduce the accrual back to 6 weeks. Additional annual leave can be purchased up to a cap of 2 weeks. Annual leave may only be taken at full pay. Approvals can be made on an individual case basis for annual leave to be cashed out, provided a minimum of 2 consecutive weeks are availed of first.</p>
Personal and carer's leave Section E.2	<p>10 days paid leave per year for full-time employees and for part-time employees, paid for the employee's ordinary hours of work in the period.</p>
Parental leave Section E.3	<p>Following 12 months of continuous service, parental leave of up to 12 months, of which 14 weeks will be paid if the employee is the primary caregiver and 4 weeks if the employee is the supporting partner.</p> <p>The above entitlement is also available to employees who adopt a child, foster a child or are granted guardianship or custody of a child under 16 years of age.</p>
Compassionate leave Section E.4	<p>3 days paid leave per occasion with NSWALC discretion to approve additional days.</p>
Long service leave Section E.5	<p>2 months/8.67 weeks paid leave after 10 years continuous service and employees with at least 7 years continuous service can access long service leave on a pro-rata basis.</p>
Community service leave Section E.6	<p>Paid leave for community service activity such as jury service, voluntary emergency management service or other community service as defined by section 109 of the <i>Fair Work Act 2009</i> (Cth), less any payment made to the employee for their attendance.</p>
Defence service leave Section E.7	<p>Paid ADF reserve leave for up to 4 weeks during each financial year for the purpose of fulfilling service in the ADF reserve, topped up to base salary above ADF Reserve pay entitlements.</p>

Additional Leave Types	Summary of Entitlements for NSWALC employees
NSWALC Additional Leave Bank Section E.8	Employees are entitled to a bank of additional leave entitlements derived from: -Personal leave above the NES ie 5 days per year (see E.2 (4)) - Long Service Leave above the NES (see E.5(2))
Cultural, ceremonial and volunteer leave Section E.9	<p>An Aboriginal or Torres Strait Islander employee may be granted up to 5 days paid cultural, ceremonial or volunteer leave in a calendar year to engage with relevant Aboriginal cultural, ceremonial or in the case of volunteering Aboriginal organisations.</p> <p>All approvals will need to attach full details of the organiser of the event and be reconciled at the end of the period of leave with written proof of their participation.</p> <p>An employee other than an Aboriginal or Torres Strait Islander employee may be granted up to 2 days paid leave in a calendar year for an activity or activities associated with their culture or ethnicity.</p> <p>Cultural, ceremonial and volunteer leave is only available to employees with leave balances within threshold limits.</p>
Special Seasonal (Christmas-New Year) leave Section E.10	Paid leave of 4 days during Christmas-New Year shutdown, for employees with leave balances within threshold limits
Study leave Section E.11	Paid leave of up to a maximum of 4 hours per week and pro rata for part-time employees for approved programs of study, for employees with leave balances within threshold limits
Purchased leave Section E.12	Participate in the purchased leave scheme. The scheme allows employees to access up to 2 weeks additional paid leave by reducing annual salary where leave balances are within threshold limits.

E.1 Annual leave

- (1) Annual leave is underpinned by the NES and the following clauses.
- (2) NSWALC is committed to assisting its employees to have a reasonable work/life balance and acknowledges the value in having employees access their annual entitlements on a regular basis. Employees are encouraged to take their full annual leave entitlement each calendar year.
- (3) A full-time employee is entitled to 20 working days paid annual leave. Where an employee works part-time, the employee's annual leave entitlement will accrue on a pro rata basis. Annual leave will accrue progressively according to the ordinary hours of work and accumulates from year to year.
- (4) Where an employee's annual leave accrual is approaching 30 days for a full-time employee or a pro rata amount for a part-time employee, the employee and the employee's manager should discuss and agree on a leave management plan to reduce the amount of accrued annual leave.
- (5) Employees who have accrued an annual leave credit of 30 days or more may be directed by NSWALC to

take at least 10 days annual leave and enter into a leave management plan to bring leave back within threshold within 6 months.

Cashing out

- (6) The NSWALC may approve requests to cash out annual leave provided that:
 - a. the employee has taken at least 10 days annual leave at the same time or has taken a block of 10 days annual leave (pro-rata for part-time employees) in the preceding 12 months, and
 - b. the employee retains at least 4 weeks of annual leave after the cash out as required by the FW Act.
- (7) A written agreement will be entered into for the cashing out of the annual leave. Cashed out annual leave will be paid at the rate that would have been payable if the leave had been taken at the time of cashing out.

E.2 Personal and carer's leave

- (1) Personal and carer's leave is underpinned by the NES and the following clauses.
- (2) Personal leave gives employees access to paid personal leave to be used when they are absent:
 - a. due to personal illness or injury including attendance at medical appointments,
 - b. due to a member of the employee's immediate family or household requiring care or support related to an illness or injury,
 - c. to provide care or support for a member of the staff member's immediate family or household who is affected by an unexpected emergency or special circumstance,
 - d. to deal with the impact of family and domestic violence (including but not limited to attending court proceedings, attending police appointments or making arrangements for alternative accommodation or childcare), or
 - e. as a result of special or exceptional circumstances.
- (3) Consistent with the NES, full-time employees are entitled to 10 paid days (or the part-time equivalent) personal leave annually. An employee's entitlement to paid personal leave accrues progressively during a year of service according to the employee's ordinary hours of work and accumulates from year to year.
- (4) Full-time employees are also entitled to an additional 5 paid days (or the part-time equivalent) of leave annually which will accrue on the same basis as personal leave but will be added to their NSWALC Additional Leave Bank (NSWALC ALB).
- (5) Personal leave may be granted without pay where other leave credits for annual leave, long service leave or Additional Leave Bank are exhausted. The NSWALC may also grant additional paid personal leave in special or exceptional circumstances where an employee has exhausted paid leave credits.
- (6) Personal leave will not be paid out on separation.
- (7) An employee is required to provide evidence to be entitled to paid personal leave where the employee is absent from work:
 - a. for a period in excess of 3 consecutive days,
 - b. for any absences in excess of 10 days (pro-rata for part-time employees) per calendar year, and/or

- c. for any period on annual leave during which the employee seeks paid personal leave.
- (8) Evidence for the purposes of personal leave means:
- a. a medical certificate from registered health practitioners and registered health providers,
 - b. if it was not reasonably practicable for the employee to obtain a medical certificate, a statutory declaration which identifies the category of leave specified in clause (2), and/or
 - c. with the prior agreement of the NSWALC, another form of evidence or no evidence.
- (9) Evidence for the purposes of leave to deal with family and domestic violence may include a document issued by the police service, a court or a family violence support service, or a statutory declaration.
- (10) If an employee has a personal illness or injury which requires ongoing treatment and/or may result in the employee taking personal leave for illness or injury on a regular or intermittent basis, and the NSWALC has received medical evidence confirming the ongoing condition, the NSWALC may approve future leave based on the initial medical evidence if that medical evidence supported the future absence.
- (11) NSWALC may also request evidence in other circumstances, for example where repeated and frequent single day or short-term absences occur; or the employee has a pattern of taking a particular day off (e.g. Mondays).

Family and domestic violence

- (1) NSWALC is committed to supporting employees affected by family and domestic violence. Employees are encouraged to discuss the avenues of support available with their manager or Human Resources.
- (2) Leave is available to employees affected by family and domestic violence, or to provide support to a member of their family who is affected by family and domestic violence. Employees may use existing entitlements to Personal & Carer's Leave provided by **Section E.2 (Personal & Carer's Leave)** of this Agreement. In the case where entitlements are exhausted, employees may apply for additional paid Personal & Carer's Leave in accordance with paragraph (4) of **Section E.2 (Personal & Carer's Leave)** of this Agreement, and will be required to provide a medical certificate or a plan of treatment from the treating medical practitioner which can be in advance of subsequent accruals.
- (3) These provisions apply in addition to any entitlements available under the National Employment Standards in accordance with Subdivision CA, Division 7, Part 2-2 [Unpaid family and domestic violence leave] of the *Fair Work Act 2009* (Cth).

E.3 Parental leave

- (1) Employees who are required to take time away from work for the birth or adoption of a child are entitled to 12 months of parental leave after completing 12 months of continuous service. At the beginning of parental leave:
- a. if the employee is the primary caregiver, the employee is entitled to 14 weeks paid leave, or
 - b. if the employee is the supporting partner, the employee is entitled to 4 weeks paid leave.
- (2) Employees who adopt a child, and who have responsibility for the care of that child, are entitled to parental leave, where:

- a. the child is under 16 years of age, and
 - b. the child is not (otherwise than because of the adoption) a child of the employee or the employee's spouse/partner, and
 - c. the child did not previously live with the employee for a period of six months or more as at the day of placement.
- (3) In addition, the provisions of clause (2) also apply to the placement of a child where:
- a. the employee becomes the primary caregiver of a child through formal foster care or kinship care arrangements for a period of more than 12 months, or
 - b. the employee is granted custody and guardianship of a child as a result of a guardianship order (or equivalent permanent care order).
- (4) Eligible employees are entitled to an extension of parental leave for a further period of up to 12 months, immediately following the end of the initial 12 month period.
- (5) Paid parental leave counts as service for all purposes. For the avoidance of doubt, this includes paid parental leave granted in accordance with the provisions of clauses (1), (2) and (3). Unpaid parental leave will not count as service for any purpose, however will not result in a break in service.
- (6) Employees may take paid parental leave at half pay. For the avoidance of doubt, this includes parental leave of up to 28 weeks at half pay for primary caregivers and 8 weeks at half pay for supporting partners granted in accordance with the provisions of clauses (1), (2) and (3). When taken at half pay, only the full pay equivalent period will count as service for all purposes.
- (7) Employees applying for parental leave as a primary caregiver must submit their application no less than 10 weeks prior to the commencement date of the leave.
- (8) Documentary evidence must be submitted with an application for parental leave. Documentary evidence may include a birth certificate, medical certificate showing estimated date of delivery or evidence of approval for adoption or enduring parental responsibilities.

E.4 Compassionate leave

- (1) An employee is entitled to 3 days of paid compassionate leave for each occasion when a member of the staff member's immediate family or household or someone they provide significant care or support for:
- a. contracts or develops a personal illness or sustains a personal injury that poses a serious threat to his or her life, or
 - b. dies.
- (2) The NSWALC may approve additional paid compassionate leave on a case by case basis.

E.5 Long service leave

- (1) An eligible employee is entitled to 2 months (8.67 weeks) long service leave on ordinary pay after 10 years of continuous service. Thereafter, an employee is entitled to long service leave at the rate of 4.33 weeks for each additional 5 years of continuous services

- (2) Eligible employees are also entitled to an additional 4.33 weeks of leave (calculated at 13 weeks less 8.67 weeks) after 10 years of continuous service, thereafter an additional 2.17 weeks for each additional 5 years of continuous service (calculated at 6.5 weeks less 4.33 weeks) which will accrue on the same basis as long service leave but will be added to their NSWALC Additional Leave Bank (NSWALC ALB).
- (3) Employees may take long service leave at half pay. When taken at half pay, only the full pay equivalent period will count as service for all purposes.
- (4) Subject to the provisions of clauses (1) and (2), long service leave will be otherwise in accordance with the *Long Service Leave Act 1955 (NSW)*, except for employees with service prior to 17 February 2003 who may be eligible to the provisions of s.55 of the PSE&M Act 2002.
- (5) The provisions of the Long Service Leave Act 1955 (NSW) apply to all Employees who commence employment with the NSWALC on or after 17 February 2003.
- (6) Employees shall be entitled to pro-rata long service leave after 7 years continuous service with NSWALC. Employees wishing to access this clause must take a minimum of one-month long service leave.

E.6 Community service leave

- (1) Employees are entitled to community service leave for the purposes of:
 - a. jury service,
 - b. voluntary emergency activity with a recognised emergency management authority, or
 - c. an eligible community service activity prescribed in accordance with section 109 [Meaning of eligible community service activity] of the *Fair Work Act 2009* (Cth).
- (2) Participation in voluntary emergency management activities include training, emergency responses, reasonable recovery time and ceremonial duties. The NSWALC may determine whether any or all of the leave taken to participate in voluntary emergency management activities will be with or without pay.
- (3) Employees on paid community service leave, other than casual employees, will be paid in accordance with their ordinary hours of work less any amount of payment the employee may be eligible to from attending.
- (4) Documentary evidence must be submitted to the NSWALC when applying for community service leave.

E.7 Defence service leave

- (1) Employees are entitled to defence service leave to enable them to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or ADF Cadets obligations.
- (2) Employees are entitled to paid defence service leave up to 4 weeks during each financial year, and an additional 2 weeks in the first year of ADF Reserve Service for the purpose of fulfilling service in the ADF Reserve.
- (3) Defence service leave counts as service for all purposes with the exception of unpaid leave to undertake CFTS. Unpaid leave to undertake CFTS counts as service for all purposes except annual leave.
- (4) Employees on paid defence service leave, other than casual employees, will be paid in accordance with their ordinary hours of work less any amount of payment the employee may be eligible to from attending.

ADDITIONAL LEAVE TYPES FOR NSWALC EMPLOYEES

E.8 NSWALC Additional Leave Bank

- (1) All NSWALC employees will have an Additional Leave Bank available to them. This Additional Leave Bank will accumulate on the basis of:
 - 5 days per year on the same basis as Personal and Carer's leave for full time employees (or the pro-rata equivalent); and
 - Long service leave credits in excess of those set out in the Long Service Leave Act (NSW) 1955, as detailed in E5(1) and (2).
- (2) The NSWALC Additional Leave Bank is intended to provide employees with additional flexibility to attend and participate in scheduled breaks from the workplace. For example taking a wellbeing break; a health day; facilitating Aboriginal or Torres Strait Islander employees returning home and going back to country.
- (3) All use of NSWALC Additional Leave Bank credits is subject to operational needs and prior approval.

E.9 Cultural, ceremonial and volunteer leave

- (1) NSWALC recognises the obligations placed on Aboriginal and Torres Strait Islander employees to participate in ceremonial activities and other cultural obligations. An Aboriginal or Torres Strait Islander employee may be granted up to 5 days paid cultural, ceremonial and volunteer leave in a calendar year to participate in NAIDOC Week activities or other cultural and ceremonial events or to volunteer.
- (2) By written application, an Aboriginal or Torres Strait Islander employee may apply to the NSWALC for a period of this leave by submitting full details of the request and followed by written proof of participation.
- (3) Aboriginal and Torres Strait Islander employees of NSWALC are encouraged to become involved in volunteer activities with recognised Aboriginal organisations and charities, particularly those that enable the employee to return home and go back to country.
- (4) Employees during their participation in approved cultural, ceremonial or volunteer leave are not there to represent NSWALC and must not speak on behalf of NSWALC.
- (5) Aboriginal and Torres Strait Islander employees:
 - within the required thresholds for annual leave accumulation, and
 - maintaining compliance with flex time requirements
- (6) Employees seeking greater than 5 days leave may supplement if required by accumulated annual leave or from their NSWALC Additional Leave Bank. All applications for cultural, ceremonial and volunteer leave require pre-approval.
- (7) An employee other than an Aboriginal and Torres Strait Islander employee may be granted up to 2 days paid leave in a calendar year for an activity or activities associated with their culture or ethnicity, where:
 - a. the activity or activities cannot be undertaken outside business hours, and
 - b. the employee provides satisfactory evidence that the activity or activities are associated with their culture or ethnicity.
- (8) Cultural, ceremonial and volunteer leave is only available to employees with leave balances within policy thresholds.

E.10 Christmas closedown

- (1) NSWALC will close over the Christmas / New Year's period for a 10-day period.
- (2) Employees will be provided the following time off for this period:
 - a. 3 declared public holidays i.e. Christmas, Boxing and New Year's days
 - b. 4 days Special Seasonal Leave
 - c. 3 days from the employee's own leave credits ie Annual/LSL/Flex
- (3) Only employees within the threshold balances of leave will receive the 4 days Special Seasonal Leave on a paid basis.
- (4) Payment of the Special Seasonal Leave will be in accordance with their ordinary hours of work. If an employee is absent on leave without pay or at half pay on both sides of the closedown period, payment for the closedown days will be in accordance with the entitlement for that form of leave.

E.11 Study Leave

- (1) Employees undertaking an approved study program or course may be eligible for paid or unpaid leave. Eligible employees may request up to a maximum of 4 hours per week of paid leave during a period of study.
- (2) In making a decision on a request for study leave, the NSWALC will consider:
 - operational considerations including the impact on the delivery of business objectives,
 - the impact on other staff and available resources,
 - the relevance of the learning and development program to the business needs of NSWALC
 - the benefit of the learning and development program to the employee and NSWALC,
 - the employee's overall learning and development needs,
 - the employee's length of service and performance, and
 - any other consideration relevant on a case by case basis.

E.12 Purchased leave

- (1) Employees may, with the approval of the NSWALC, participate in the purchased leave scheme. The scheme allows employees to access up to 2 weeks additional paid leave by reducing annual salary by a factor of up to 2/52 over a 12 month period.
- (2) Purchasing leave is not available when an employee has an existing leave balances in excess of 30 days annual leave.
- (3) Employees can only purchase leave in one or two weeks installments, and request for single days will not be approved.
- (4) Purchased leave on half pay will not be approved.
- (5) Participation in the purchased leave scheme is intended to be planned taking into account operational requirements and personal circumstances. The timing and expected pattern of paid leave taken under the scheme is to be discussed and approved by the manager.
- (6) Employees who choose to participate in the purchased leave scheme may not take annual leave at half pay while participating in the scheme.

(7) Participation in the purchased leave scheme is by a separate agreement in writing for each 12 month period between the employee and the NSWALC. The employee must take all leave purchased within the period of the agreement. Any remaining leave not taken at the end of the agreement will be paid to the employee as if the employee had taken the leave.

(8) Purchased leave counts as service for all purposes including superannuation.

E.13 Cancellation of leave

Where an employee's leave is cancelled by NSWALC and they are recalled to work, reasonable travel costs, travelling time, incidental costs and any other unavoidable costs arising will be reimbursed where they are not recoverable under insurance or from another source. All unused leave will be re-credited.

E.14 Unauthorised absences

- (1) Where an employee is absent from work without approval, all pay and other benefits under this Agreement cease to be available until the employee resumes duty or is granted leave.
- (2) Where an employee is absent from work without approval for 3 consecutive working days, action on the grounds of non-performance of duties (abandonment of employment) may commence which may result in the employee's employment being terminated.