

LEAVE (PART 2)

WHAT YOU

need to know

Resources for Doctors-in-Training

WHAT YOU *need to know*

What types of leave other than annual and sick leave are available to me as a doctor in training?

There are numerous types of leave available to you as a doctor in training. In this edition we will look at the following types of leave entitlements:

- Allocated Day Off
- Parental Leave
- Family Violence Leave
- Long Service Leave
- Study Leave
- Leave Without Pay
- Special/Other Leave

ALLOCATED DAY OFF

What is an Allocated Day Off or ADO?

An ADO is accumulated over a calendar month. As a full-time employee, you are paid to work 38 hours per week but will be rostered to work 40. The additional 2 hours per week accumulate to 1 ADO per calendar month.

How many ADOs am I entitled to?

A full-time employee is entitled to 12 ADOs per year.

When can I take an ADO?

Your roster should include one ADO per month. Your supervisor should make sure that you are able to take your ADO each month. Generally, you can only accumulate a maximum of three ADOs.

If I have accumulated two or three ADOs, can I take these together?

No. ADOs cannot be taken consecutively.

Can I take half-ADOs?

No. ADOs may only be taken in whole days.

My rotation has finished, and I haven't used my ADOs. What happens to my ADOs?

If you have unused ADOs at the end of a rotation, these ADOs must either be taken or paid out. If they are paid out, they should be paid at ordinary time rates for the first three ADOs and at appropriate overtime rates for any additional ADOs thereafter.

I'm leaving my LHD, what happens to my ADOs?

Where you start a new rotation with a different LHD, the LHD from which you have rotated must either allow you to take your ADOs or pay out any accrued or untaken ADOs before you commence the new rotation. There is no transfer of untaken ADOs between Districts.

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PARENTAL LEAVE

Who is eligible for paid parental leave?

A full-time or permanent part-time employee who has or will have completed at least 40 weeks' continuous service as at the expected date of birth, time of adoption, time of altruistic surrogacy or permanent out-of-home care placement.

How much paid parental leave am I entitled to?

Eligible employees are entitled to 14 weeks paid parental leave if:

- the leave is associated with the birth of a child of the employee, the employee's partner or the employee's legal surrogate, or the adoption of a child or the placement of a child in permanent out-of-home care; and
- the employee has or will have responsibility for the care of the child.

This may be taken in any single continuous period (unless otherwise agreed upon by your employer) within the first 24 months after the birth, adoption, surrogacy or out-of-home care placement. Where the leave is associated with the birth of the child, it may commence prior to the birth as per maternity leave provisions in the [Award](#).

Where both parents have exhausted any paid parental leave entitlements provided by their employer, an eligible employee will be entitled to an additional two weeks of bonus paid leave. Single parent employees or employees whose partners do not have access to paid parental leave are also entitled to the full two weeks of bonus paid leave.

Paid parental leave is paid at the ordinary rate of pay on a normal fortnightly basis, or in advance in a lump sum, or payment at the rate of half pay over a period of 28 weeks.

Eligible employees entitled to paid parental leave can access up to 24 months unpaid leave, meaning a total of no more than 24 months of parental leave. Employees not entitled to paid parental leave can also access unpaid parental leave of up to 12 months.

My partner is also employed within NSW Health. Does this affect our ability to access paid parental leave at the same time?

Both parents can take paid parental leave at the same time, unless they are both employed in the same NSW Health workplace and operational requirements may prevent the leave being taken at the same time.

If employed in the same workplace, both parents may be able to take four weeks at the same time. For additional time, this can only be taken concurrently by the agreement of the employer.

I intend to take parental leave. What do I need to do?

You need to notify your employer in writing as early as possible. For maternity leave, this needs to be no less than 8 weeks prior than the expected date of leave. It is probably best to provide a copy of this to both your supervisor and the JMO manager.

Please refer to the NSW [Health Policy Directive](#) for specific evidence requirements to accompany your notice to your employer.

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I am concerned about completing my role now that I am pregnant. What should I do?

Speak to your JMO manager in the first instance. Transferring to a safe job is available if you are pregnant and fit for work, but it is inadvisable for you to continue in your current position because of illness or risks in your position.

Will I be able to return to my former position when I return from parental leave?

Yes. An employee returning from parental leave has the right to resume their former position.

I have already commenced parental leave, can I change the amount of leave I want to take?

Yes, you can vary the period of leave once without the consent of your employer. Notice must be given in writing at least 14 days before the start of the extended period. An employer may accept less notice.

If you have varied your parental leave once, any further extension of your leave will require the agreement of your employer. Contact your supervisor or the JMO Manager to enquire about applying for an extension.

Can I return to work on a part-time basis?

Yes, you can request to return to work on a part-time basis. These requests should be made as early as possible, with a minimum of 4 weeks' notice.

What factors will be taken into consideration if I make a request to return to work part-time?

Your employer will consider your request taking into account your particular circumstances. If your request is genuinely based on your parental responsibilities, then the request can only be refused on grounds related to the effect on the workplace. These might include cost or lack of adequate replacement staff.

What happens to my leave balance if I move between locations within NSW?

If you will continue to be employed within NSW Health, and your new employment immediately follows your previous employment, your paid parental leave entitlements will be recognised and transfer with you. However, these leave balances cannot be paid out to you.

What happens to my leave balance if I move between interstate locations?

Parental leave entitlements are not transferrable and nor will time served in one State be recognised in NSW for the purposes of paid parental leave.

If you are required to transfer to a different State or Territory as a part of your prevocational and/or vocational training program (e.g. secondment or rotation), this will not be considered a break in the continuity of service on return to NSW. As such, if you have 40 weeks of service before moving interstate, on return to NSW you will still have 40 weeks' service for the purposes of paid parental leave.

You should note that these leave balances cannot be paid out to you and that you will be required to submit supporting documentation of your training requirements. Please note, this may vary from State to State.

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DOMESTIC AND FAMILY VIOLENCE LEAVE

What is family violence leave?

If you are experiencing family or domestic violence, there are leave options available to you.

Where there is an existing arrangement for paid domestic and family violence leave in an industrial instrument (e.g. your **Award**), NSW government sector employees will have access to the more beneficial arrangement (but not both).

Your **Award** currently provides 5 days paid family violence leave with various conditions, therefore the domestic and family violence leave available to NSW government sector employees is currently more beneficial than that of the Award.

Can you explain the domestic and family violence leave entitlement for NSW government sector employees?

From 1 January 2023, NSW government sector employees (including those employed by NSW Health) have access to 20 days' paid domestic and family violence leave per calendar year. This leave is non-cumulative and can be taken in part-days, single days or consecutive days.

This leave can be accessed without the need to exhaust other existing leave entitlements first.

All employees, including casual employees, are entitled to this leave. This leave is not pro-rated for part-time or casual employees. A casual employee can take a period of paid leave for the hours for which the casual employee is rostered to work.

When can I use family violence leave?

Family violence leave is available to you for purposes including:

- Seeking safe accommodation
- Attending medical, legal, police or counselling appointments relating to their experience of domestic and family violence
- Attending court and other legal proceedings relating to their experience of domestic and family violence
- Organising alternative care or education arrangements for your children
- Other related purposes approved by the agency head.

What evidence do I need to provide to access family violence leave?

You can provide your manager with a range of relevant evidence including:

- A provisional, interim, or final Apprehended Violence Order (AVO) or Apprehended Domestic Violence Order (ADVO)
- A certificate of conviction
- A family law injunction
- A medical certificate
- An agreed document issued by the Police Force, a court, a domestic violence support service or a member of the legal profession.
- A statutory declaration by the employee experiencing domestic and family violence.

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What other options are available if I am experiencing domestic or family violence?

Other initiatives to support victims of domestic and family violence to continue to participate in the workforce include:

- Flexible working arrangements, including changes to start and finish times
- Changes to work location where practicable
- Changing work email address and/or phone number
- Access to an employee assistance provider support to you and your immediate family.
- Workplace support and role adjustments.

Further information about the NSW government sector employees family violence leave is available at [M2022-1318-03 Support for Employees Experiencing Domestic or Family Violence](#).

Can I access leave to provide support and/or care for a family or household member experiencing domestic and family violence?

Access to leave has been extended to employees providing care and support to a member of their family or household experiencing domestic and family violence. You can access existing leave entitlements such as family and community service leave and sick leave to care for a family member.

The reason for the leave must fit within the definitions of family and community service leave, sick leave to care for a family member, or carer's leave.

LONG SERVICE LEAVE

When am I entitled to long service leave?

You are entitled to 2 months long service leave on full pay after 10 years of service.

I haven't worked with my employer for 10 years, could I still be entitled to some long service leave?

Yes, under some circumstances.

If you have at least 5 years' service (but less than 7 years' service) and are terminated by the employer for any reason other than serious and wilful misconduct, or if you resign from your employment on account of illness, incapacity or domestic or other pressing necessity, you are entitled to a pro-rata payment for long service leave on the basis of 2 months' leave for 10 years' service.

If you have at least 7 years' service (but less than 10 years' service) you are entitled to a pro-rata period of long service leave. This is accrued on the basis of 2 months' long service leave at full pay for 10 years' service.

If applicable, on termination from the NSW Health Service you are entitled to receive the monetary value of all long service leave accrued and not taken at the date of termination.

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I am entitled to long service leave.

Do I need to take it on full pay?

No. If you have an entitlement to long service leave you may elect to access the entitlement on full pay, half pay or on double pay. Depending on the pay type this will of course vary the duration of the leave.

When can I take my long service leave?

Long service leave shall be taken at a time mutually agreed between the employer and the employee.

What happens to my leave balance if I move between locations within NSW?

If you will continue to be employed within NSW Health, your long service leave entitlements will be recognised and transfer with you. However, these leave balances cannot be paid out to you.

What happens to my leave balance if I move between interstate locations?

If you are required to transfer to a different state or territory as a part of your prevocational and/or vocational training program (e.g. secondment, training), this will not be considered a break in the continuity of service on return to NSW and will be recognised and counted towards your leave entitlements. So long as there is no break in your employment of more than 2 months. You should note that these leave balances cannot be paid out to you and that you will be required to submit supporting documentation of your training requirements. Please note, this may vary from state to state.

STUDY LEAVE

I'm an intern, am I entitled to study leave?

No. Under the [Award](#), interns are not entitled to study leave.

What can study leave be used for?

Your employer may grant paid study leave to undertake face-to-face courses or study for exams.

Study leave must be applied for in advance and may be granted at the discretion of your employer.

Does study leave accrue?

Yes. Study leave may accrue to a maximum of 7 working days in a year. If you have continuous service of more than 1 year, you may accrue study leave up to a maximum of 14 days.

Will study leave count towards overtime worked?

No. When you are on study leave, this will not be taken into account for the purposes of calculating overtime payments.

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If you have any questions with regards to the information contained in this document or related to leave, please contact our Workplace Relations team on 9439 8822 or via workplace@amansw.com.au



LEAVE WITHOUT PAY

Am I entitled to leave without pay?

You may be granted up to 3 years leave without pay subject to the following conditions:

- A good and sufficient reason for the leave is shown and the relevant manager is satisfied that you intend to resume duty on the expiration of the leave.
- Your conduct and services are satisfactory.

When taking leave without pay, do I need to use annual leave in the first instance?

Not necessarily, although you may be asked to use any excess annual leave or accrued ADOs before taking leave without pay.

When considering an application to take leave without pay, it is important to note that leave without pay can impact the accrual of leave entitlements and salary increments.

Leave entitlements will not continue to accrue while you are on leave without pay. Extended periods of leave without pay may effect your continuity of service.

SPECIAL/OTHER LEAVE

Are there any other types of leave available to me?

Yes. The NSW Health [Leave Matters for the NSW Health Service Policy Directive](#) provides comprehensive detail on a number of other types of special leave that may be granted.

You may be entitled to leave for a variety of other reasons including, but not limited to:

- Observing Days of Religious Significance
- Jury Duty
- Olympic and Commonwealth Games
- Volunteer Members of Emergency Organisations
- NAIDOC Week
- Witness at Court
- Defence Force Duties
- Trade Union Leave

Only some of the leave types listed above may be granted as paid leave. You should submit a written application to your supervisor and/or the JMO Manager for any of these types of leave.



MORE INFORMATION

The [Award](#) and NSW Health [Policy Directive](#) also provide more detailed information on leave.

This information is for general guidance only and should not be used as a substitute for obtaining specific assistance or advice. AMA (NSW) will not be liable for any decision made or action taken in reliance on the information in this document.

The information included in this document was collated citing the Public Hospital Medical Officers (State) Award 2023 and NSW Health Policy Directive [PD2023_045 Leave Matters for the NSW Health Service.](#)



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