

Know your rights: Annual leave entitlements

In an age when the lines between work and home are increasingly blurred by constant connectivity, the sanctity of annual leave has become increasingly sacred.

It's a crucial component of work-life balance and a major way to safeguard our wellbeing and avoid stress. It's also a fundamental right protected by law.

Nevertheless, many people overlook, misunderstand or underutilise their annual leave entitlements. This means they may be missing out on precious downtime or even dollars tied to accrued but untaken leave.

Andrew Jewell, Principal of [Jewell Hancock Employment Lawyers](#), says it's important to be aware of their legal rights around annual leave and understand what they're entitled to from their employer.

"Employees need to ensure they can access their leave, which is extremely important for rest and recreation but also when it comes to planning holidays," he says.

Here's what you need to know, legally, about annual leave.

How much annual leave are you entitled to?

Annual leave entitlements differ depending on the nature of employment and are outlined in the [National Employment Standards](#).

Full-time employees are entitled to four weeks or 20 days of paid annual leave per year, which accrues cumulatively from the first day of employment and doesn't expire.

Part-time employees are also entitled to four weeks of paid annual leave each year, accrued at their pro-rata rate, while shift workers may get up to five weeks, depending on their workplace agreement.

Currently, casual employees don't accrue any annual leave.

If your leave falls on a public holiday, your entitlement won't be reduced for that day. Similarly, if you're sick or injured while on annual leave, you can use your paid sick leave entitlement for that period.

Employers can't offer less than the above but they're able to provide more, so it's worth checking your contract, advises Jewell.

Are there rules around how and when you can take annual leave?

Some people like to take regular breaks, while others prefer to bank leave for longer holidays. Thankfully, workplace laws in Australia enable this. [Annual leave](#) can be taken as soon as it's accumulated or it doesn't have to be taken that year at all.

But workplace agreements may outline parameters for taking leave, which may include whether you're able to take your annual leave in advance; or whether you must use your leave within a fixed time frame. What notice you need to give before taking leave, and whether you can cash it in.

Jewel advises applying for leave "as early as possible".

"This assists your employer in its workforce management and ensures there are no issues in terms of travel costs being incurred when leave is not approved."

If you take leave in advance and your employment ends before you've had the chance to accumulate it back, most workplace agreements allow your employer to deduct the amount still owing from your final pay.

Can your manager reject your annual leave request?

Yes, but only if there's a justified reason, explains Jewell.

"An [annual leave request](#) can only be rejected where reasonable, which might include where other employees are absent or where there's a genuinely busy period, such as an employee at tax time.

"However, the rejection must be reasonable."

Can you be forced to take annual leave?

The Fair Work Ombudsman says employers can only direct employees to take annual leave if the workplace agreement allows it and the requirement is "reasonable".

This means they can only make you take leave in limited circumstances, explains Jewell.

"An employee can only be forced to take leave during a Christmas shutdown or where the employee has excessive leave, which would need to be at least more than four weeks of leave."

What happens to untaken annual leave?

"Untaken leave is paid out at the end of employment," says Jewell, regardless of whether you leave the organisation voluntarily, are dismissed or made redundant.

'Excessive' accumulated leave, which is generally over eight weeks (or 10 for shift workers), isn't popular among employers as leave is recorded on their balance sheets as a liability.

For this reason, many workplace agreements state employers can force employees with excessive leave to take it.

Others allow excessive annual leave to be cashed in, though there can be limits around the amount or the time frame. For example, you may only be able to cash in two weeks in a period of 12 months.

Can you be dismissed while I'm on annual leave?

Yes, though this is unlikely, says Jewell.

"An employee can't be lawfully dismissed because of their annual leave, although this technically doesn't prevent dismissal during leave for another reason.

"However, such a dismissal could be an unfair dismissal and therefore would be risky," he adds.

Can I be asked to work during my annual leave?

The Fair Ombudsman offers a clear "no" on this.

But if you choose to work, your annual leave no longer applies and won't be deducted.

What if I'm still unsure about my annual leave entitlements?

Talk to your employer if you're unsure about your annual leave entitlements or the terms of your workplace agreement.

In the case of a dispute, contact the Fair Work Ombudsman [here](#).

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