

CARER LEAVE POLICIES IN AUSTRALIA



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Caring for family members alongside paid work is increasingly common and the global longevity revolution means this will continue. Combining care work and paid work has well-known consequences for carers, their employers, the labour force and economies. Some governments have introduced strategies that let carers take time away from their jobs to fulfill care responsibilities while still being able to return to their job afterwards. To inform development of carer leaves in the UK, an international policy scan was carried out in nine other countries (Australia, Canada, Finland, Germany, Italy, Japan, Poland, Slovenia and Sweden) as part of the [Sustainable Care](#) program.

This Policy snapshot provides an overview of carer leave initiatives in Australia. These policies and their implications for working carers are part of a forthcoming edited book J Fast, J Heyes, and K Hamblin, **Combining Work and Care**, that will be published by Policy Press.

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AUSTRALIA'S POLITICAL CONTEXT

Australia is a federated system incorporating 1 federal, 6 state and 2 territory governments with municipal governments having a role at the local level (urban, rural).

Australia's Constitution represents an 'integrated federation'¹ whereby the federal government has centralised fiscal powers shaping its key policy-making role in socio-economic life (health, aged care, disability, childcare, income support), while the states have a service delivery role (hospitals, schools) and rely on transfers from the federal government for approximately half of their funding needs.^{1 2}

Australia is considered a liberal welfare state, however a shift away from provision of public services to more marketised systems is occurring, including with care services.³

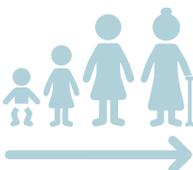
AUSTRALIA'S SOCIO-ECONOMIC CONTEXT



83.3% men and 75.0% women of employment age were in the labour force in February 2020 (pre-pandemic). 83.5% men and 75.4% women of employment age were in the labour force in July 2021 following the global COVID-19 pandemic.



5.1% unemployment rate in February 2020 (pre-pandemic), rose to a high of 7.4% unemployment in July 2020, and sits at 4.6% as of July 2021.



The proportion of Australians aged 65+ is projected to increase by 7% between 2021 and 2061 to 23% of an expected population of 38.3 million. The ratio of working age population to those aged 65+ is projected to decrease from 4.0 to 2.7 in the same time frame.



Carers make up nearly 11% of Australia's population.

1. Fenna, A. (2012). The Character of Australian Federalism. *eJournal of Tax Research*, 10 (1), 12-20.

2. Koutsogeorgopoulou, V. & Tuske, A. (2015), *Federal-State Relations in Australia*, OECD Economics

Department Working Papers, No. 1198, OECD Publishing, Paris 3. Fine, M. & Davidson, B. (2018). The marketization of care: Global challenges and national responses in Australia. *Current Sociology*, 66 (4), 503-516.



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PERSONAL/CARER'S LEAVE

INTENT

Allows eligible employees to take paid leave to provide care or support to a member of their immediate family or household, because of illness or injury, or unexpected emergency, affecting the member.

DURATION

Accrues progressively during a year of service up to a maximum of 10 days per year and accumulates from year to year.

There is no minimum or maximum amount of paid personal/carer's leave that can be taken at a time.

Leave is taken as needed in smaller blocks of time, and in full or part days, to provide short-term care.

Leave continues to accrue when an employee takes a period of paid personal/carer's leave, paid annual leave, or paid long service leave.

BENEFITS

Employees are paid at their base rate of pay for their ordinary hours of work in the period excluding penalty rates, overtime etc.

Leave may be taken in the form of cash (paid out) if a formally registered award or enterprise agreement includes terms to allow this; however, this is not common.

ELIGIBILITY CRITERIA

Applies to all employees of employers covered by the Fair Work Act (~87% of employees).⁴ Public sector employees in many States receive the same amount of leave, but legislated in State-based legislation.

Entitlement accrues from an employee's first day of work.

Available for full-time and part-time employees only; casual employees have no entitlement. Part-time employees receive a pro-rated entitlement according to the number of hours worked.

Care because of illness, injury or unexpected emergency only.

Leave can be taken to care for a family member who is living overseas.

FEATURES

Leave is part of the National Employment Standards (NES), which provide minimum entitlements/standards for all employees in full-time or part-time employment.

Individual industrial instruments (registered enterprise agreement, award, contract) can set out different entitlements, but cannot be less than the minimum.

Employee's job is protected. It is unlawful for an employer to take adverse action against an employee for using a workplace right such as Personal/Carer's Leave.

NOTICE

Medical certificate is required if the employer requests one.

4. Fair Work Act 2009 (Cth), ss. 95, 96.

PAID COMPASSIONATE LEAVE

INTENT

Allows eligible employees to take paid leave each time an immediate family member or household member suffers a life-threatening illness, injury, or death.

2 consecutive full days or separate periods of one day can be taken as paid compassionate leave.

The full leave entitlement is available for each occasion as needed.

Amount of leave is specified in 'days'; a part-time employee is entitled to the same number of days' leave, equivalent to the shorter number of hours worked in a day.

BENEFITS

Employees are paid at their base rate of pay for their ordinary hours of work in the period.

Does not include penalty rates, overtime etc.

DURATION

Applies to all employees of employers covered by the Fair Work Act (approximately 87% of employees).⁵

Most State government-employed workers are also entitled to a similar version of compassionate leave. Western Australian employees not covered by the Fair Work Act are not entitled to compassionate leave for caring.⁶

Available for full-time and part-time employees; casual employees are excluded.

There is no minimum service period or seniority/job level criteria for taking this leave.

The person who needs care can be in a different country to the employee.

ELIGIBILITY CRITERIA

FEATURES

Paid Compassionate Leave is part of the National Employment Standards (NES), which provide minimum entitlements/standards.

The employee's job is protected. It is unlawful for an employer to take adverse action against an employee for using a workplace right such as taking Paid Compassionate Leave.

NOTICE

Medical certificate is required if the employer requests one.

IMMEDIATE FAMILY MEMBERS

Family member – (a) a spouse/former spouse, de facto partner/former de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or (b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee. Includes step-relations and adoptive relations. It does not matter if the child is an adult.

Household member – does not have to be related to the worker.

5. Fair Work Act 2009 (Cth), section 104.

6. Minimum Conditions of Employment Act 1993 (WA)

UNPAID CARER'S LEAVE

INTENT

Allows eligible employees to provide care to immediate family/household members because of personal illness, injury or an unexpected emergency.

DURATION

Up to 2 consecutive full days or 4 consecutive half days of unpaid carer's leave each time an immediate family member needs care and support because of illness, injury, or an unexpected emergency.

BENEFITS

Employees are not paid when taking unpaid carer's leave, nor are they compensated for loss of earnings during this leave.

Leave can be used for one or more family/household members requiring care on one or more occasions – it is there to be taken as and when required.

There is no limit to the number of occasions per year. The leave can be taken as a block of two days, or in agreed segments.

ELIGIBILITY CRITERIA

Employees of employers covered by the national Fair Work Act are entitled to this leave.⁷ State government employees in New South Wales,⁸ Queensland⁹ and Western Australia¹⁰ are also entitled to this leave.

There is no minimum service period and casual employees are also eligible.

Full-time and part-time employees must have exhausted any paid personal/carer's leave entitlement before being eligible for unpaid carer's leave.

It is the only form of leave available to casual employees as they have no paid entitlement.

FEATURES

Unpaid Carer's leave is part of the National Employment Standards (NES), which provide minimum entitlements/standards.

The employee's job is protected. It is unlawful for an employer to take adverse action against an employee for using a workplace right such as taking Unpaid Carer's Leave.

Unpaid Care's Leave does not accrue (unlike Paid Personal/Carer's Leave).

NOTICE

Medical certificate is required if the employer requests one.

7. Fair Work Act 2009 (Cth), section 102.

8. Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 – collectively bargained.

9. Industrial Relations Act 1999 (Qld), section 42.

10. Minimum Conditions of Employment Act 1993 (WA), section 20B.