L7 Vacation leave and vacation pay

This leaflet is not intended to be exhaustive, and teachers should check the Teachers Handbook, Section 4.16 or the Federation if they have any further queries.

L7.1 General principles
A teacher’s entitlement to vacation pay is calculated according to the number of days the teacher was on duty or on paid leave, that is, the number of days of "service".

Leave which counts as full service includes:

a) full pay sick leave
b) no pay sick leave up to 20 days in any school year
c) full pay maternity leave
d) half pay maternity leave
e) days absent when a teacher is on workers compensation
f) study leave on full pay or half pay
g) leave without pay for up to five days in any school year
h) long service leave on full pay.

Long service leave on half pay counts as service only under certain conditions.

For periods of leave without pay outside the types of leave listed above a teacher will lose approximately one day’s vacation pay for every two to three teaching days on leave without pay. Employee Services will deduct vacation pay from the holiday following resumption of duty and also from the Christmas holiday if necessary. The teacher should be advised of this on the form sent to the teacher giving approval for the leave and setting out the leave terms.

L7.2 How long service leave affects vacation pay
Long service leave on full pay
Long service leave on full pay does not affect vacation pay. No matter when the teacher takes long service leave on full pay during the year, the teacher still gets full pay for all the holidays.

Long service leave on half pay
a) If the teacher takes up to 20 teaching days in any school year on half pay or a combination of full pay and half pay, the teacher will not lose vacation pay.
b) If the teacher takes more than 20 days and less than one term’s long service leave on half pay or a combination of full pay and half pay, the half pay days will be considered on a pro-rata basis and affect the vacation pay even though the total number of half pay days in this period may not exceed 20. Therefore if the teacher took six weeks long service leave, of which half was on full pay and half was on half pay, the 15 teaching days on half pay would then result in a loss of approximately three days vacation pay.
c) The teacher may take a complete school term in any school year on half pay or a combination of full pay and half pay and not lose any vacation pay, provided the teacher does not take any other long service leave in that year.
d) The teacher may take two consecutive school terms in any period of two consecutive school years on half pay or a combination of full pay and half pay and not lose any vacation pay, provided the teacher does not take any other long service leave in those two years.

The teacher may take other periods of long service leave on half pay during the school year, but the vacation pay will be calculated on a pro-rata basis. This is done by aggregating the half pay teaching days into so many days on full pay and so many days on no pay.

The no pay days then affect the amount of paid holidays based on the following formula:

\[ V = \frac{S}{T} \times C \]

Where:
- \( V \) is the number of paid vacation days the teacher has accrued at that time and not already taken.
- \( S \) is the number of days of service during the school year.
- \( T \) is the number of teaching days during the school year in the Eastern or Western Division as appropriate.
- \( C \) is the number of school vacation days in the Eastern or Western Division as appropriate.

The above formula applies to all teachers in the service including teachers resuming during the year after a period of leave but does not apply to teachers who are employed or re-employed after the first day of first term.

Note: Vacation days on no pay because of long service leave are classified as "leave without pay incremental", that is, they do not affect the incremental date.

L7.3 How maternity leave affects vacation pay
Vacation pay is accrued in proportion to the number of days on duty or on paid leave during the calendar year. (Refer to L7.1 above.) Any half pay period of maternity leave counts in full for vacation pay.

Where the paid maternity leave period includes a school vacation, and the teacher would have been entitled to vacation pay, the teacher is paid accrued vacation entitlement or maternity leave, whichever amount is higher. The teacher does not receive both.

Maternity leave on no pay does not attract vacation pay.
L7.4 How sick leave affects vacation pay
Sick leave on full pay accrues vacation entitlement.
  Sick leave on no pay for up to 20 teaching days will continue to accrue vacation entitlement. Periods of sick leave on no pay in excess of 20 teaching days will lead to a reduction in the amount of vacation pay.

L7.5 How leave without pay affects vacation pay
All teachers except those in their first year of service can take five days leave without pay in any school year and not lose any vacation pay. Beginning teachers can take three days leave without pay and not lose vacation pay. For teachers who take leave without pay for personal reasons, for a term or longer, vacation pay is on a pro-rata basis. For example if the teacher teaches term 1 and takes the rest of the year on leave without pay the teacher will be paid for the April holidays, plus a pro-rata for the summer vacation, based on the number of days worked.

L7.6 How study leave affects vacation pay
Approved study leave on full pay or half pay accrues full vacation entitlement.

L7.7 Workers compensation and vacation pay
Determination 3 of 2009 under the Teaching Services Act of 1980 Annual Leave and Payment for Non-Attendance by Teachers in Non Term Weeks defines annual leave to be a period of four or five weeks (reflecting the difference between the Eastern Vacation Division and the Western Vacation Division). The rest of the holiday period is defined as non term weeks i.e. payments made to teachers during the period when they are not required by the employer to attend their workplaces. Teachers receiving workers compensation payments will receive payments for annual leave in accordance with this Determination and workers compensation payments as determined by the Fund Manager in accordance with the Workers Compensation Act.
  This means that teachers, who are absent from work and have provided a WorkCover medical certificate, will receive both workers compensation (where claim accepted) and vacation pay for the first week of each holiday period. The following non term weeks the teacher will receive workers compensation payments only. If a medical certificate is not provided the teacher will receive, where accrued, vacation pay.

L7.8 Resignation and retirement
The teacher does not have to resign or retire on the last day of the term in order to receive some vacation pay. The teacher is entitled to vacation pay in accordance with the number of days on teaching duty or paid leave during the year of resignation or retirement.

L7.9 Newly appointed and re-appointed teachers
Newly appointed and re-appointed teachers will receive full vacation pay as it falls due if they are appointed any time in terms 1, 2, 3. Teachers appointed in term 4 will receive only half the summer vacation pay. The rest will be paid on the completion of term 1 the following year.

L7.10 Transferring to and from the western division
Teachers in the Western Division are entitled to an extra week in their summer holiday. The entitlement to this extra week is gained or lost automatically when teachers transfer. However, the accrual rate and the loss rate for vacation pay is on the same formula for these teachers as for all teachers.

L7.11 Annual leave loading
Teachers who complete 12 months continuous service as at November 30 are entitled to an annual leave loading equivalent to 17.5 per cent of four weeks normal salary provided that payment cannot exceed the loading calculated on the maximum salary for a grade 12 clerk in the NSW public service. In the case of teachers with less than 12 months service as at November 30, the loading is calculated on a pro-rata basis. No payment will be made to a teacher who separates from the service prior to November 30.

References