

Status of Leave While Entitled to Income Compensation

The Bill clarifies the status of sick leave, annual leave and long service leave (and leave accrual) while a worker is entitled to income compensation.

Key Points

Bill ref: cl. 61

The Bill clarifies that for any period for which a worker is entitled to receive income compensation:

- the worker is entitled to take annual leave or long service leave
- the worker's entitlement to receive income compensation is not affected by the worker being entitled to, or taking, leave of that kind – these leave entitlements are concurrent to the worker's entitlement to income compensation
- the worker accrues entitlements to annual leave, long service leave and sick leave while receiving income compensation – this clarifies a long-standing issue and is consistent with legal precedent and most other jurisdictions
- the worker is not entitled to take sick leave – this reflects section 130(1) of the *Fair Work Act 2009*.

Questions & Answers

Q. Can a worker still access sick leave while a claim is being processed?

A. Yes. Like the current Act, the Bill requires the sick leave to be reinstated if the worker is subsequently entitled to income compensation for the period of the sick leave. The Bill also clarifies that any amount paid to the worker as sick leave is taken to be paid towards income compensation.

Q. Why does a worker get access to compensation entitlements as well as annual leave payments?

A. Leave entitlements and workers compensation are concurrent entitlements. The position in the Bill reflects the current legal position.

