

Compassionate Leave



See Fair Work Act s. 104 - 106 for more information

What leave should I take if someone passes away?

Compassionate leave (or “bereavement leave”) is there to take when a member of your immediate family or household dies or contracts a life-threatening illness or injury. You can also take compassionate leave if you or your partner has a miscarriage or a still birth.

Who counts as ‘immediate family’?

You can take compassionate leave for a member of your immediate family or your household. Immediate family includes your:

- Spouse and de facto partner, or former spouse
- Children and grandchildren
- Parents, grandparents and siblings
- Step and adoptive relations; as well as,
- Immediate family of your spouse or de facto partner, including children, parent, grandparent, grandchildren and sibling.

A member of your household is anyone you live with.

I work casual. Can I take compassionate leave?

Yes. You have a workplace right to take compassionate leave. Unfortunately, casuals can only take unpaid compassionate leave.

How much compassionate leave can I take?

Full-time and part-time workers have a right to take two days paid compassionate leave every time something happens. If someone gets seriously sick and then dies sometime later, this counts as two separate occasions and you can take four days paid compassionate leave.

Many union enterprise agreements include improved access to compassionate leave including additional paid leave. Check your union agreement.

Is compassionate leave the same as sick/carer’s leave?

No. Compassionate leave does not come from your paid sick/carer’s leave entitlement. Compassionate leave does not accumulate like sick/carer’s leave; it is always available when you need it.

How is compassionate leave paid?

If you need to take compassionate leave, it is paid at your base rate of pay and will not typically include any allowances, loadings or penalties you usually receive.

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How much notice do I need to give?

You need to provide as much notice as you can when taking compassionate leave. Your notice should include the expected period of leave. If you are covered by an enterprise agreement, it might include a specific procedure about how to give notice (ie call a particular telephone number or a particular person). You should try and comply with this direction as best as possible.

Do I need to provide evidence?

If your employer asks, you need to provide reasonable evidence. This might include a statutory declaration death or funeral notice.

I am an apprentice. Am I entitled to compassionate leave?

Yes. Apprentices or trainees get the same entitlements as other workers, such as paid compassionate leave, sick and carer's leave, paid family and domestic violence leave, paid annual leave, public holidays and breaks.

Depending on what applies to you, you can find more information about your rights at work in either your union negotiated enterprise agreement or Modern Award.

Contact your Union if you are not sure.

I was on annual leave when my family member passed away. What should I do?

If a member of your immediate family or household dies while you are on annual leave or sick/carer's leave, you can convert your leave to paid compassionate leave.

"My husband became critically ill and almost died. I was expected to work regardless of what my home situation was."

- Train Conductor

A close friend has passed away. What should I do?

If you don't have access to paid compassionate leave under the Fair Work Act or your Enterprise Agreement, you have options:

- You lose nothing by asking your employer to take paid compassionate leave – the worst thing that happens is work will say no
- You could consider applying for paid leave entitlements (annual leave, ADOs, long service leave)
- Future options: Consider working with your colleagues to negotiate an Enterprise Agreement and bargain for additional compassionate leave entitlements.



Is this discrimination?

When I tried to take compassionate leave, my employer told me I should take my annual leave instead. Ever since, it has felt like my employer has treated me different.

Know your rights.

The Fair Work Act says that an employer must not target or treat a worker badly because they exercised their workplace right to take compassionate leave. Some examples of discrimination might include:

- Suggesting you don't have a right to take compassionate leave
- Refusing to pay you when you take compassionate leave
- Threatening to sack you if you try and take leave again in the future
- Terminating your employment.

This kind of treatment is called "adverse action" and it is against the law.

If someone makes an unwelcome comment that offends, humiliates or intimidates you in connection with taking your leave, this might be harassment, discrimination or bullying if it is repeated. Harassment, sex discrimination and bullying are against the law, and your employer has a positive duty to take proactive steps to eliminate it in the workplace.

You have a right to take your leave and to not be discriminated against.

You are not alone and you have options.

- Join the Union and fight collectively for change!
- [Click here](#) for steps you can take to effectively respond to harassment and discrimination when trying to access compassionate leave

"When I returned to work after my first child, I was told during 5 year planning that they thought I'd just get pregnant again and leave permanently.

Little did they know I'd been undergoing months of fertility treatments and had already experienced 2 miscarriages since giving birth to my first child. At one point after returning to work, I took bereavement leave due to experiencing a miscarriage and requiring surgery."

- Control Room Technician

Join us!

Women make up 48% of the Australian workforce, but much fewer join male dominated industries. The Workplaces for Women Project is promoting and advancing equality in gender segregated industries and is helping to create workplaces where women are safe, respected, included and equal.



Rights at work
resources here

"Because the more of us that get into the workplace, the better it will be for us all. Workplaces and cultures will only change if we can get more women to help us change."

- Trades Assistant

"I just think women thrive in this industry and we're bloody good at it!"

- Bus Operator



**Workplaces
FOR Women**
EQUALITY RESOURCES

This project received grant funding
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weareunion.org.au/w4w



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