

JURY SERVICE

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Authority and Application

Clause 64 of the *Victorian Public Service Enterprise Agreement 2020* (the Agreement), applies to Victorian Public Service Departments and Agencies (Employers) and their Employees covered by the Agreement.

Overview

Clause 64 of the Agreement sets out an Employee's entitlement to leave with pay for the purposes of jury service.

Relevant provisions of the VPS Agreement

64. Jury Service

Supplementary Guidance Information

1. Background

- 1.1. The requirement to attend for jury service arises under the *Juries Act 2000* (Vic) (Juries Act).
- 1.2. Employees are eligible to serve as jurors. Schedule 2 of the Juries Act sets out who is not eligible for jury service, which includes public sector employees engaged in a number of roles (including Police Officers, Court Reporters or, IBAC Officers, Victorian Inspectorate Officers and Ombudsman staff amongst others). Employees selected for jury service will receive a Notice of Selection from the Juries Commissioner at which point they must complete an eligibility form to determine whether they are eligible to be summoned for jury service or not.
- 1.3. An Employee is required to attend for jury service (subject to some exemptions) if they are summoned to do so by the Juries Commissioner.
- 1.4. Entitlements relating to the attendance for jury service are set out in the VPS Agreement, the Juries Act and *Fair Work Act 2009* (Cth) (FW Act).
- 1.5. The entitlement under each of these three instruments is similar. Because of the FW Act interaction rules, to the extent that one entitlement is more beneficial to an Employee than the others, it must be given precedence.

2. Payment for jury service (guidance for non-casual employees)

- 2.1. Under the Agreement, an Employee (other than a casual Employee) who is summoned for jury service is entitled to leave with pay for the period of jury service.
- 2.2. The leave with pay is to cover the period the Employee would have ordinarily been required to be at work and is paid based on the Employee's ordinary hours of work.
- 2.3. The Juries Act provides that the Employee must be paid the amount that they could reasonably have expected to have received as earnings for that period had they not been performing jury service. This includes any applicable loadings and allowances.

Section 51 of the Juries Act provides for a payment of \$40.00 per day for the first six days of jury service and \$80.00 per day thereafter. Because the Employee is provided with paid leave from their Employer for jury service, the Employee must pay any amounts received per s51 of the Juries Act for jury service rendered to their Employer, less an amount for reasonable expenses actually incurred.

- 2.4. Employees who are not engaged on a full-time basis will not be entitled to leave with pay for jury service had they not been ordinarily rostered to work. For example, a part-time employee who does not work on a Friday, who is summoned to attend for jury service on a Friday, would not be entitled to leave with pay for that day.
- 2.5. Payments received per s 51 of the Juries Act on days which an Employee would not be ordinarily rostered to work would not need to be paid to their Employer on those days as payment for work would not have occurred.

3. Payment for jury service (guidance for casual employees)

- 3.1. Whilst casual Employees are not entitled to jury service under the Agreement or the National Employment Standards, casual Employees are not excluded from the entitlement under the Juries Act.
- 3.2. The Juries Act requires the Employer to reimburse an Employee the difference between the amount the Employee could have reasonably expected to receive as earnings and the amount the casual Employee actually received for jury service (including any applicable loadings or allowances).
- 3.3. Note, casual Employees who are not required to work or can have no reasonable expectation of work for certain periods, will not be entitled to payment for jury service. For example, a casual Employee who does not work on a Friday, who is summoned to attend jury service on a Friday, would not be entitled to jury service pay from their Employer for that day.
- 3.4. Payments received by casual employees per s 51 of the Juries Act on days where they are not required to work or have no reasonable expectation to work would not need to be paid to their Employer on those days as payment for work would not have occurred.

4. Notification requirements

- 4.1. An Employee who receives a jury summons must notify the Employer as soon as possible of the dates and times they are required to attend for jury service and, once known the amount of remuneration paid for jury service.
- 4.2. At the conclusion of the period of jury service, the Employee must provide a certificate of attendance issued by the Juries Commissioner as well as written details of any remuneration paid to the Employee for jury service (this may also be included in a 'certificate of attendance' issued by the Juries Commissioner).

Making decisions under this policy

Under section 20(1) of the *Public Administration Act 2004*, the public service body head has all the rights, powers, authorities and duties of an Employer, which will usually be delegated to staff within their Department or Agency. Employers should ensure that any actions under this policy are only taken by an Employee with the delegation to do so. Each Department and Agency should give effect to this policy in accordance with its own delegations.

Dispute resolution

An Employee who is directly affected by a decision made or action taken pursuant to clause 64 may apply for a review of actions under the Employer's review of actions policy or seek to resolve a dispute through the Resolution of Disputes procedure at clause 13 of the Agreement.

Further Information

Employees should refer to their Department or Agency's intranet for information on procedural requirements, systems and approval delegations.

For further information and advice please contact your local Human Resources or People and Culture Unit (or equivalent).

Related policies or documents

VPS Enterprise Agreement Common Policies

- Review of Actions

All policies in the VPS Enterprise Agreement common policies collection can be found at <https://www.vic.gov.au/common-policies-victorian-public-service-enterprise-agreement>

Authorised by Industrial Relations Victoria:

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