

LEAVE TO ENGAGE IN VOLUNTARY EMERGENCY MANAGEMENT ACTIVITIES

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Authority and Application

Clause 59 of the Victorian Public Service Enterprise Agreement 2016 (Agreement) applies to Victorian Public Service Departments and Agencies (Employers) and their Employees covered by the Agreement.

Overview

Clause 59 sets out the paid leave entitlements available to an Employee who engages in a voluntary emergency management activity with a recognised emergency management body that requires attendance of the Employee at a time when the Employee would otherwise be required to be at work.

Clause 59 also sets out an Employee's entitlement for leave with pay to attain qualifications or to requalify to perform activities in an emergency management body.

Relevant provisions of the VPS Enterprise Agreement

Clause 59. Leave to Engage in Voluntary Emergency Management Activities

59.1 An Employee who engages in a voluntary emergency management activity with a recognised emergency management body that requires the attendance of the Employee at a time when the Employee would otherwise be required to be at work is entitled to leave with pay for:

- (a) time when the Employee engages in the activity;
- (b) reasonable travelling time associated with the activity; and
- (c) reasonable rest time immediately following the activity.

59.2 The Employee must advise the Employer as soon as reasonably practicable if the Employee is required to attend a voluntary emergency management activity and must advise the Employer of the expected or likely duration of the Employee's attendance. The Employee must provide a certificate of attendance or other evidence of attendance as reasonably requested by the Employer.

59.3 Recognised emergency management bodies include but are not limited to, the Country Fire Authority, Red Cross, State Emergency Service and St John Ambulance.

59.4 An Employee who is required to attain qualifications or to requalify to perform activities in an emergency management body must be granted leave with pay for the period of time required to fulfil the requirements of the training course pertaining to those qualifications, provided that such training can be undertaken without unduly affecting the operations of the Employer.

Supplementary Guidance Information

1. Leave to engage in Voluntary Emergency Management Activities

- 1.1. An Employee is eligible for leave under clause 59 of the Agreement if the Employee engages in a voluntary emergency management activity and the requirements of clause 59 are met, namely:
 - 1.1.1. The engagement is with a recognised emergency management body, and
 - 1.1.2. The emergency management body requires the attendance of the Employee, and
 - 1.1.3. That attendance is at a time when the Employee would otherwise be required to be at work.
- 1.2. The Employer must provide paid leave to enable an Employee to engage in a voluntary emergency management activity where they meet the requirements set out in clause 59 of the Agreement. An exception is where the Employee is required under Victorian legislation to undertake emergency activities as part of their role or to maintain an essential service.
- 1.3. The entitlement to paid leave does not arise if, at the time the Employee engages in the voluntary emergency management activity, and any reasonable travelling time associated with the activity or reasonable rest time immediately following the activity the Employee was not required to be at work.

2. What is a voluntary emergency management activity?

- 2.1. The National Employment Standards (NES) (refer section 109, *Fair Work Act 2009* (Cth)) provide that an Employee engages in a voluntary emergency management activity if:
 - 2.1.1. the Employee engages in an activity that involves dealing with an emergency or natural disaster; and
 - 2.1.2. the Employee engages in the activity on a voluntary basis (whether or not the Employee directly or indirectly takes or agrees to take an honorarium, gratuity or similar payment wholly or partly for engaging in the activity); and
 - 2.1.3. the Employee is a member of, or has a member like association with, a recognised emergency management body; and

2.1.4. either:

the Employee was requested by or on behalf of the body to engage in the activity; or

no such request was made, but it would be reasonable to expect that, if the circumstances had permitted the making of such a request, it is likely that such a request would have been made.

3. What is a recognised emergency management body?

3.1. Clause 59.3 of the Agreement expressly recognises the following bodies as emergency management bodies.

3.1.1. Country Fire Authority

3.1.2. Red Cross

3.1.3. State Emergency Service

3.1.4. St John Ambulance

3.2. The list of recognised emergency management bodies in clause 59.3 of the Agreement is not exhaustive. Recognised emergency management body is also defined in the National Employment Standards (refer section 109, *Fair Work Act 2009* (Cth)) to include:

3.2.1. a body, or part of a body, that has a role or function under a plan that:

- is for coping with emergencies and/or disasters; and
- is prepared by the Commonwealth, a State or a Territory; or

3.2.2. a fire fighting, civil defence or rescue body, or part of such a body; or

3.2.3. any other body, or part of a body, a substantial purpose of which involves:

- securing the safety of persons or animals in an emergency or natural disaster; or
- protecting property in an emergency or natural disaster; or
- otherwise responding to an emergency or natural disaster; or

3.2.4. a body, or part of a body, prescribed by the *Fair Work Regulations 2009* (Cth).

4. Notice and evidence requirements

4.1. An Employee applying for leave to engage in voluntary emergency management activities must advise the Employer of the requirement to attend and the period or expected period of absence as soon as practicable (which may be a time after the absence has started).

4.2. If the Employer reasonably requests evidence, the Employee must provide evidence of attendance at the voluntary emergency management activity.

5. Keeping the Employer updated

- 5.1. An Employee should advise their Employer if they are a member of, or have a member-like association with a recognised emergency management body.
- 5.2. An Employee engaged in a voluntary emergency management activity should take reasonable steps to advise their Employer of the period or expected period of absence.
- 5.3. An Employee who engages in a voluntary emergency management activity should take reasonable steps to advise their Employer of any illness or injury they sustain and any impact this may have on their employment

6. Returning to work and rest periods

- 6.1. Following completion of any voluntary emergency management activity and before returning to normal work duties the Employee is required to take a reasonable rest break.
- 6.2. The length of the rest period will be agreed between the Employee and the Employer and is dependent on:
 - 6.2.1. the nature of emergency, including (but not limited to) the length, physical demands and weather conditions during the voluntary emergency management activity; and
 - 6.2.2. the role of the Employee during the voluntary emergency management activity and the requirements of the role they perform for the Employer, but the rest period should not be less than eight hours.
- 6.3. Where, as a consequence of an Employee engaging in a voluntary emergency management activity, the Employee requires an unreasonable period of rest time immediately following the activity, the Employer may require the Employee to take leave during such period. The Employer will first consult with the Employee about such arrangements.
- 6.4. An Employee may access available support services such as an Employee Assistance Program to assist with any support required as a result of participation in voluntary emergency management activities.

7. Relationship with other entitlements

- 7.1. Emergency services leave is a separate paid leave entitlement and is not deducted from any other leave entitlements.
- 7.2. Taking paid emergency services leave:
 - 7.2.1. will not break the Employee's continuity of employment; and
 - 7.2.2. will count as service for leave accruals and other purposes.
- 7.3. The National Employment Standards (NES) contain a separate entitlement for an Employee to be absent from employment to engage in community service activities, including voluntary emergency management activities. Employers should be mindful that in the event the Employee is not eligible

for leave under clause 59 of the Agreement, they may still be eligible for an entitlement under the NES.

8. Release for training purposes

- 8.1. An Employee who is required to attain qualifications or to requalify to perform activities in a voluntary emergency management body will be granted leave with pay for the period of time required to fulfil the requirements of the training course pertaining to these qualifications, provided that such training can be undertaken without unduly affecting the operations of the Employer.
- 8.2. The Employee must provide the Employer with reasonable notice of:
 - 8.2.1. their intention to access the leave; and
 - 8.2.2. the expected duration of their attendance at the training course.
- 8.3. Prior to an Employee accessing paid leave for training purposes, the Employee must provide the Employer with evidence of enrolment in the training and the requirement to attain the qualification.
- 8.4. As soon as reasonably practicable following the training the Employee is to provide the Employer with evidence of completion of the training.

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 59 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 12 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

- Defence Reserve Leave
- Jury Service

All policies in the VPS Enterprise Agreement Common Policies collection, can be found at <https://vpsc.vic.gov.au/vps-enterprise-agreement-common-policies/>