



TIMBER TRADE INDUSTRIAL ASSOCIATION

DID YOU KNOW?

That it is only possible to cash personal/ carer's leave if an employee is covered by a modern award or enterprise agreement, and the modern award or enterprise agreement contains an appropriate cashing out provision. **It should be noted that the new modern Timber Award 2010 does not contain a specific clause allowing for the cashing out of personal/carers leave.**

Employees who are not covered by a modern award or enterprise agreement **cannot** cash out personal/carers leave.

The *Fair Work Act* provides that a provision to cash out personal/ carer's leave can be included in an enterprise agreement if it states that:

- Leave cannot be cashed out if it would result in the remaining accrual being less than 15 days;
- Each period of cashing out must be by a separate agreement in writing between the employer and the employee;
- The employee must be paid at least the full amount that would have been payable had the employee taken the leave.

If you get a backdated doctor's certificate that it is firstly necessary to establish that the doctor's certificate is backdated and to ensure that you have proof of this, or a reasonable basis to make this assumption.

It would be generally held that a certificate issued during the absence would be acceptable even though it may be dated days after the commencement of the absence. A certificate dated after the return to work and the occurrence of illness/injury, and after the employer had asked for proof of any illness or injury, would not normally be acceptable.

If an employee falls sick during a period of annual leave or long service leave, they are entitled to paid sick leave.

Generally in the past, under awards, where an employee has fallen sick during a period of leave, including annual leave or long service leave, they have not been entitled to payment of sick leave. However, this is no longer the case under the Fair Work Act and provided an employee produces appropriate evidence that they

were ill during a period of their annual leave, their annual leave will be re-credited for the specific period they are claiming sickness.

The introduction of the new modern awards and indeed the Fair Work Act itself, highlights the importance of business being kept abreast of all these workplace changes.

TTIA can be contacted on (02) 9264 0011 to obtain membership details and general information regarding the new industrial relations system.