

Clause 26

26.0 Sick leave

In applying the provisions of this clause, the parties note:

- their agreed intent to have healthy staff and a healthy workplace;
- that staff attending work unwell is to be discouraged and the focus is on patient and staff safety;
- that they wish to facilitate a proper recovery and a timely return to work;
- and that staff can have sick leave and domestic absences calculated on an hourly basis.

26.1 On appointment to a DHB, a full-time employee shall be entitled to ten (10) working days leave for sick or domestic purposes during the first twelve months of employment, and up to an additional ten (10) working days for each subsequent twelve-month period. The entitlement shall be pro-rated for part time employees except that a part-time employee shall receive no fewer than five (5) working days paid sick leave for the first twelve months of employment and a minimum of five (5) additional working days for each subsequent twelve-month period. The employee shall be paid as prescribed in the Holidays Act 2003. A medical certificate may be required to support the employee's claim

26.2 An RMO who becomes bound by this Agreement during its term shall retain their existing sick leave balance and will receive the next 10 days entitlement under clause 26.1 on their anniversary.

26.3 An employee who ceases employment at one DHB and commences employment at another DHB may transfer to their new employment a maximum of up to 20 days (at their normal/ordinary rate of pay, T1) of their unused sick leave entitlement from their previous DHB employment, provided that any break in service between finishing at their previous DHB and commencing employment at the new DHB is not more than one calendar month.

Any unused sick leave entitlement that is transferred shall be in addition to the sick leave entitlement the employee will receive on commencement of employment with the new DHB under clause 26.1, and shall not impact on their anniversary date for future sick leave entitlements.

26.4 Additional Discretionary Sick Leave

In the event an employee has no entitlement left, they are entitled to apply for up to 10 days discretionary sick leave per annum. The employer recognises that discretionary sick and domestic leave is to ensure the provision of reasonable support to staff having to be absent from work where their entitlement is exhausted.

The first five days of discretionary sick leave shall be approved on the same basis as leave under clause 26.1.

For the next five days of discretionary sick leave, requests should be considered at the closest possible level of delegation to the employee and in the quickest time possible, taking into account the following:

- The employee's length of service
- The employee's attendance record
- The consequences of not providing the leave
- Any unusual and/or extenuating circumstances

Reasons for a refusal shall, when requested by the employee, be given in writing and before refusing a request, the decision maker is expected to seek appropriate guidance.

Leave granted under this provision may be debited as an advance on the next years' entitlement up to a maximum of 5 days.

26.5 At the employer's discretion an employee may be granted further anticipated sick or domestic leave. Any anticipated leave taken in excess of an employee's entitlement at the time of cessation of employment may be deducted from the employee's final pay.

26.6 Where an employee is suffering from a minor illness which could have a detrimental effect on the patients or other staff in the employer's care, the employer may, at its discretion, either:

26.6.1 Place the employee on suitable alternative duties; or

- 26.6.2 Direct the employee to take leave on full pay. Such leave shall not be a charge against the employees sick and domestic leave entitlement.
- 26.7 The employee can accumulate their unused sick leave entitlement from year to year.
- 26.8 The provisions of this clause are inclusive of the sick leave provisions of the Holidays Act 2003.
- 26.9 Domestic leave as described in this clause is leave used when the employee must attend a dependent of the employee. This person would, in most cases, be the employee's child, partner or other dependent family member.
- 26.9.1 It does not include absences during or in connection with the birth of an employee's child. Annual leave or parental leave should cover such a situation.
- 26.9.2 At the employer's discretion, an employee may be granted leave without pay, where the employee requires additional time away from work to look after a seriously ill member of the employee's family.
- 26.9.3 The production of a medical certificate or other evidence of illness may be required.
- 26.10 Sickness during paid leave:
- When sickness occurs during paid leave, such as annual leave, the leave may be debited against the sick leave entitlement, (except where the sickness occurs during leave following the relinquishment of office) provided that:
- 26.10.1 The period of sick leave is more than three days and a medical certificate is produced.
- 26.10.2 In cases where the period of sickness extends beyond the approved period of annual leave, approval will also be given to debiting the portion, which occurred within the annual leave or long service leave period, against sick leave entitlement, provided the conditions in 26.10 and 26.10.1 above apply.
- 26.10.3 Annual leave may not be split to allow periods of illness of three days or less to be taken.
- 26.11 During periods of leave without pay, sick leave entitlements will not continue to accrue.
- 26.12 Where an employee has a consistent pattern of short-term Sick Leave, or where those absences are more than 10 working days/shifts or more in a year, then the employee's situation may be reviewed in line with the DHB's policy and Sick Leave practices. The focus of the review will be to assist the employee in establishing practical arrangements to recover from sickness or injury.
- 26.13 Where an employee is incapacitated as a result of a work accident, and that employee is on earnings related compensation, then the employer agrees to supplement the employee's compensation by 20% of base salary during the period of incapacitation. This payment shall be taken as a charge against Sick Leave up to the extent of the employee's paid sick leave entitlement. The employer may agree to reimburse employees for treatment and other expenses or for financial disadvantage incurred as a result of a work-related accident. This agreement will be on a case-by-case basis.
- 26.14 For non-work-related accidents, where the employee requests, the employer shall supplement the employee's compensation by 20% of base salary and this shall be debited against the employee's sick leave up to the extent of the employee's paid sick leave entitlement.

Overview – Application

Transition to STONZ MECA

An RMO who becomes bound by the STONZ MECA during its term shall retain their existing sick leave balance and will receive the next 10 days entitlement under clause 26.1 on their anniversary.

Sick Leave Entitlements

The MECA sets out that an RMO is granted 10 sick days per year on commencement of employment. This can be used for sick or domestic* purposes. Where an RMO is part time they will receive no fewer than 5 working days paid sick leave for the first twelve months of employment and a minimum of 5 additional working days for each subsequent twelve-month period.

On 24 July 2021 the Holidays (Increasing Sick Leave) Amendment Act 2021 came into effect and all employees, including those working part time became entitled to 10 sick days per annum after 6 months of continuous employment and their anniversary date for the next 10 day entitlement will be 12 months from this date (18 months from commencement of employment). For any RMO who was an existing part time employee at 24 July 2021, they will be granted 10 days sick leave on their next sick leave anniversary date.

DHBs have an obligation to comply with the minimum requirements set out in the Holidays Act (and amendments) in relation to sick leave entitlements for employees.

RMOs are entitled to apply for up to 10 days discretionary sick leave per annum where sick leave entitlements have been exhausted. The first five days of discretionary sick leave will be approved on the same basis as clause 26.1. For the next five days of discretionary sick leave, requests should be considered at the closest possible level of delegation to the employee and in the quickest time possible, taking into account the following:

- The employee's length of service
- The employee's attendance record
- The consequences of not providing the leave
- Any unusual and/or extenuating circumstances

Note: guidance on interpretation of the attendance record is that this relates to the quantum and pattern of sick leave usage, not their use or unused balance of other forms of leave.

Reasons for a refusal shall, when requested by the RMO, be given in writing and before refusing a request, the decision maker is expected to seek appropriate guidance. Discretionary leave may be debited as an advance on the next years' entitlement up to a maximum of 5 days.

Payment of sick leave will be in accordance with the Holidays Act and a medical certificate may be required to support any claim for sick leave.

*Domestic purposes mean occasions when an RMO must attend to someone who is dependent on them for care. In most cases this will be the RMO's child, partner or other dependant family member.

Sickness During Paid Leave

When sickness occurs during paid leave, such as annual leave, the leave may be debited against the sick leave entitlement (except where the sickness occurs during leave following the relinquishment of office) provided that the period of sick leave is more than three days and a medical certificate is produced. Where this applies, in cases where the period of sickness extends beyond the approved period of annual leave, approval will also be given to debiting the portion, which occurred within the annual leave or long service leave period, against sick leave entitlement. Annual leave may not be split to allow periods of illness of three days or less to be taken.

SNEF Project Outcomes – Senior Registrar Leave

Background

During STONZ and DHB bargaining in November 2020, access to leave and leave cover for Senior Registrars was identified as a priority area requiring further review. It was noted that Senior Registrars are often required to swap their on call /after-hours shifts in order to take leave as it is difficult to provide a reliever due to the level and nature of their work.

A project was established to understand how leave is accessed and covered for RMOs and to develop recommendations to support a consistent and transparent approach enabling access to, and management of leave for this group.

As an outcome from this project a guide for Registrars who take on the roster writing and leave management role was developed. This included updates to the RMO roster and relief review and improvement framework to capture some of the challenges for services without relief roles and to include best practice guidelines and relief models to mitigate some of these challenges.

Purpose of the Roster Writing and Leave Management Guide for Registrars

The guide has been developed to ensure Registrars in the roster writing and leave management role have access to the required resources and that there are appropriate processes in place to support and maximise leave access. The guide may also be useful for induction of new RMO unit staff or other staff who take on the roster writing and leave management role within the service.

The guide and updated RMO roster and relief review and improvement framework were released nationally on 19 July 2022. This included recommendations around next steps for Districts.

Linked Clauses

- The clauses that form part of the Roster Writing and Leave Management Guide for Registrars are;
- Clause 4 Hours of work and Rostering
- Clause 7 Medical Education
- Clause 8 Conference Leave
- Clause 9 Employment relations education leave and union leave
- Clause 16 and Appendix 2 Relief Management
- Clause 17 Limits on hours
- Clause 21 Cover for leave
- Clause 25 Annual leave and Appendix 3 Best Practice Leave Allocation Guidelines
- Clause 26 Sick leave
- Clause 27 Bereavement / Tangihanga leave

The guide is available under the “*Resources for Registrars Writing Rosters and Managing Leave*” section of the National Manual.

Frequently Asked Questions (FAQs)

1. What is my sick leave entitlement?
 - An RMO is granted 10 sick days per year from the commencement of employment.
 - This can be used for sick or domestic (to look after dependants) purposes.
2. Do I need to provide a medical certificate for sick leave?
 - Clause 26.1 of the MECA sets out that a medical certificate may be required to support an employee's claim for sick leave. You need to refer to the DHB Sick Leave policy for further detail around the requirements regarding medical certificates.
3. What happens with my sick leave entitlements when I become a STONZ member and previously my terms and conditions of employment were those detailed in the DHB-NZRDA MECA?
 - When you become a member of STONZ you will retain your existing sick leave balance from your current employment agreement as at 10 December 2018, or from the date you join STONZ if later than 10 December 2018. You will become entitled to your first 10 days under the STONZ MECA on the anniversary of your appointment (annual service date).
4. If I work part time is my sick leave entitlement the same?
 - The MECA sets out that your sick leave will be prorated to your FTE (see clause 13) except that a part time employee will receive no fewer than 5 days per annum.
 - From 24 July 2021 the Holidays (Increasing Sick Leave) Amendment Act 2021 came into effect and all employees, including those working part time became entitled to 10 sick days after 6 months of continuous employment and their anniversary date for the next 10 day entitlement will be 12 months from this date (18 months from commencement of employment). RMOs already in DHB employment at this date who are part time employees will be granted 10 days of sick leave on their next sick leave anniversary date.
 - DHBs have an obligation to comply with the entitlements set out in the MECA and to also meet the minimum requirements set out in the Holidays Act (and amendments) in relation to sick leave entitlements.
5. Do I have to wait a period of time before accessing my sick leave?
 - No, you are granted 10 days sick leave from the date you commence employment noting if you are a part time employment this will be no less than 5 days on commencement of employment.
6. Do I get to accumulate any unused sick leave each year?
 - Yes, you can accumulate unused sick leave from year to year. There is no limit on the amount of unused sick leave you can accumulate from year to year while you remain employed by the same DHB.
7. What happens to my sick leave balance when I change employing DHB? What if I had a break in my service between employers?
 - You are able to transfer up to twenty days of your balance when you leave one DHB and commence employment at another
 - This will apply providing the break in service between DHBs is no more than one calendar month. This differs from the definition of "continuous service" set out in clause 2.0 Interpretations of the MECA which provides a break of 3 months.
 - See FAQ #10 regarding Rural Health Medicine trainees and whether unused sick leave entitlements can be retained when moving between non DHB and DHB employment.
8. What happens if I have used all of my sick leave entitlement?
 - If you have exhausted your entitlement you are entitled to apply for up to 10 days discretionary sick leave per annum.
 - The first 5 days of discretionary sick leave will be approved on the same basis as leave under clause 26.1. For the next 5 days of discretionary sick leave, requests should be considered taking the factors detailed in clause 26.4 into consideration. Noting that the intention of considering the employee's attendance record does not mean consideration of other forms of leave the RMO has taken (Annual Leave or MEL for example) but their quantum and patterns of sick leave usage.

- Where discretionary sick leave is granted this may be debited as an advance on your next years' entitlement up to a maximum of 5 days.
 - At the employer's discretion you may be granted further anticipated sick or domestic leave. Any anticipated leave taken in excess of your entitlement at the time of cessation of employment may be deducted from your final pay.
9. What can I use domestic leave for?
- Domestic leave as described in clause 26.8 is leave used when the employee must attend a dependant of the employee. This person would, in most cases, be the employee's child, partner or other dependent family member.
 - It does not include absences during or in connection with the birth of an employee's child. Annual leave or parental leave should cover such a situation.
10. I am a rural health medicine trainee and resigned my DHB employment to undertake a rural health placement outside of DHB employment for 6 months. I will return to DHB employment following this 6 month placement. Will I get to retain my unused sick leave balance of 7 days from my previous DHB employment?
- Yes, where you move from DHB employment to non DHB employment for a rural health medicine placement and this is within 12 months, provided the gaps between such employment and DHB employment is less than one month (before and after), you are entitled to retain any service related entitlements from your previous DHB employment. Where applicable this includes any unused sick leave balance under clause 26 of the STONZ MECA.
 - Where recognised, the time employed with the non-DHB provider will not count as service for the purposes of calculating entitlements under the MECA,
 - Refer to the examples set out at sick leave [scenario #3](#) for further information regarding eligibility to retain service related entitlements.

Scenarios

Sick Leave Scenario 1 – Transition provision under clause 26.2

Scenario 1 demonstrates how an RMO transitions to the sick leave provision under the STONZ MECA when they become a STONZ member;

- STONZ membership date 10 February 2019
- Next anniversary of appointment date 10 December 2019
- Sick leave balance under current employment agreement at date of membership is 30 days
- Sick leave taken between date of membership and next anniversary date 5 days

STONZ Membership Date	Starting sick leave balance at membership date	Sick leave taken	Anniversary date of 10/12/19	Sick leave balance at 10/12/19
10 February 2019	30 days	5 days	Granted 10 days	35 days

Sick Leave Scenario 2 – Transferring to another DHB

Scenario 2 demonstrates how much sick leave the RMO in scenario 1 can transfer to their new DHB when changing employer;

- RMO rotates to new employing DHB on 9 December 2019
- Available balance at transfer date is 25 days
- Anniversary date of appointment at new DHB moves to 9 December each year

STONZ Membership Date	Starting sick leave balance at membership date	Sick leave taken	Available balance at transfer date	Max balance that can be transferred	Number of days granted at start date at new DHB	Sick leave balance at 09/12/19
10 February 2019	30 days	5 days	25 days	20 days	10 days	30 days

Sick Leave Scenario 3 – Rural Health Medicine trainees

The following table sets out examples of where Rural Health Medicine (RHM) trainees are eligible to retain service related entitlements, when moving between DHB employment and non DHB employment, as part of their training.

Where service related entitlements are retained, the time employed with the non-DHB provider will not count as service for the purposes of calculating entitlements under the MECA,

Examples	Sick Leave Balance	Eligible	Reason for eligibility / additional detail
<p>Example 1</p> <p>RHM trainee has 12 months or less at a non DHB placement. The gap between non DHB and DHB employment (before and after) has been less than one month.</p>	Unused sick leave balance at time of leaving DHB employment 9 days	Yes	<p>Retains unused sick leave balance of 9 days.</p> <p>Granted 10 days sick leave on commencement of DHB employment in accordance with clause 26.1.</p> <p>Total sick leave balance 29 days.</p>
<p>Example 2</p> <p>RHM trainee has less than 12 months at a non DHB placement. The gaps between non DHB and DHB placement were;</p> <ul style="list-style-type: none"> • 1.5 months between leaving DHB and commencing non DHB placement • Less than one month between leaving non DHB placement and commencing employment at DHB 	Unused sick leave balance at time of leaving DHB employment 9 days	No	<p>Not entitled to retain unused sick leave balance of 9 days.</p> <p>Granted 10 days sick leave on commencement of DHB employment in accordance with clause 26.1. Total sick leave balance 10 days.</p>
<p>Example 3</p> <p>RHM trainee has spent more than 12 months in non DHB placement.</p>	Unused sick leave balance at time of leaving DHB employment 9 days	No	<p>Not entitled to retain unused sick leave balance of 9 days.</p> <p>Granted 10 days sick leave on commencement of DHB employment in accordance with clause 26.1. Total sick leave balance 10 days.</p>

Comparison STONZ and NZRDA MECA

The following table sets out where there are differences between the STONZ MECA and NZRDA MECA. Where there is no difference between clauses no detail has been provided in the comparison table.

	STONZ MECA Clause 26	NZRDA MECA Clause 21
Sick Leave	<p>10 days per annum with ability to accumulate sick leave.</p> <p>Ability to apply for additional discretionary sick leave of up to 10 days per annum once entitlement exhausted. Can transfer up to 20 days between employers.</p> <p>Sick leave deducted for working days only.</p>	<p>Up to 30 days per annum in first 3 years</p> <p>30-day entitlement in Year 4 of service. Additional 9 days in year 5 and year 6 and over.</p> <p>Sick leave deducted in consecutive days, including off duty days (e.g. weekends and week day RDOs).</p>

Forms, Templates and Other Resources

The following resource forms part of clause 26 Sick Leave. The guide is available on the website where the National Manual is hosted under the “Resources for Registrars Writing Rosters and Managing Leave” section.

Resource	Comment
Roster Writing and Leave Management – Guide for Registrars	<p>This document has been developed to ensure Registrars in the roster writing and leave management role have access to the required resources and that there are appropriate processes in place to support and maximise leave access.</p> <p>While this guide has been developed for Registrars who take on the roster writing and leave management role, content may also be useful for induction of new RMO unit staff or other staff who take on the roster writing and leave management role.</p>