

**INDUSTRIAL RELATIONS (SICK LEAVE) AMENDMENT ACT
1992 No. 87**

NEW SOUTH WALES



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**INDUSTRIAL RELATIONS (SICK LEAVE) AMENDMENT ACT
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NEW SOUTH WALES



Act No. 87, 1992

An Act to amend the Industrial Relations Act 1991 with respect to the cashing-in of accumulated sick leave. [Assented to 2 December 1992]

The Legislature of New South Wales enacts:**Short title**

1. This Act may be cited as the Industrial Relations (Sick Leave) Amendment Act 1992.

Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of Industrial Relations Act 1991 No. 34

3. The Industrial Relations Act 1991 is amended by inserting after section 99 the following section:

Prohibition on cashing-in of accumulated sick leave

99A. (1) An award must not allow or require an employee to cash-in the employee's accumulated sick leave.

(2) Accumulated sick leave is cashed-in if the leave is not taken and a payment is made by the employer to or on behalf of the employee of the amount of salary for the period of accumulated leave or of any other amount calculated by reference to that period.

(3) This section applies whenever the accumulated sick leave is to be cashed-in, including on termination of employment (whether by resignation, retirement, death or otherwise) or during the period of employment.

(4) A provision of an award, whether made, filed or registered before or after the commencement of this section, does not have any effect to the extent that the provision contravenes this section.

(5) However, this section does not affect the cashing-in of accumulated sick leave under an existing provision on termination of employment (whether by resignation, retirement, death or otherwise), but the maximum number of days (or other periods) of that leave that may be cashed-in is to be calculated as follows:

- Step 1: Calculate the number of days (or other periods) of accumulated sick leave, as at the date of termination of employment, that the employee could cash-in in accordance with the existing provision as in force on that date.
- Step 2: Calculate the number of days (or other periods) of accumulated sick leave, as at the commencement of this section, that the employee could have cashed-in if his or her employment had been terminated immediately before that commencement.

The maximum number of days (or other periods) of accumulated leave that may be cashed-in is the lesser of the numbers calculated under step 1 and step 2.

(6) An existing provision may be duly repealed or varied, but not so as to increase the number of days (or other periods) of accumulated sick leave that may be cashed-in.

(7) This section does not affect any payment made or due to an employee before the commencement of this section.

(8) In this section:

“award” includes:

- (a) a former industrial agreement; and
- (b) any order of the Commission; and
- (c) a determination under section 63 of the Public Sector Management Act 1988 or an agreement under section 64 of that Act, or any similar determination or agreement relating to employment in the public sector; and
- (d) a contract determination (in which case references in this section to employers and employees are to be read as references to the parties to relevant contracts of bailment or carriage);

“existing provision” means a provision of an award that allows or requires an employee to cash-in the employee’s accumulated sick leave on termination of employment (whether by resignation, retirement, death or otherwise), being a provision that commenced before the commencement of this section.

*[Minister’s second reading speech made in—
Legislative Council on 24 September 1992
Legislative Assembly on 29 October 1992]*