



New South Wales

# Health Services Amendment (Transfer of Accrued Leave Entitlements) Regulation 2006

under the

Health Services Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Health Services Act 1997*.

JOHN HATZISTERGOS, M.L.C.,  
Minister for Health

## Explanatory note

The object of this Regulation is to provide for the transfer, on a reciprocal basis, of accrued leave entitlements for employees in the public health system who move between the NSW Health Service and affiliated health organisations that are not part of the NSW Health Service. The Regulation also removes provisions relating to the election of the staff member of the board for a board governed health corporation. These provisions are redundant as a consequence of the amendments made to the *Health Services Act 1997* by the *Public Sector Employment Legislation Amendment Act 2006* which provide for the staff member of the board to be a member of the NSW Health Service.

This Regulation is made under the *Health Services Act 1997*, including sections 64A and 140 (the general regulation-making power).

**2006 No 634**

Health Services Amendment (Transfer of Accrued Leave Entitlements)  
Clause 1 Regulation 2006

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**Health Services Amendment (Transfer of Accrued Leave Entitlements) Regulation 2006**

under the

Health Services Act 1997

**1 Name of Regulation**

This Regulation is the *Health Services Amendment (Transfer of Accrued Leave Entitlements) Regulation 2006*.

**2 Amendment of Health Services Regulation 2003**

The *Health Services Regulation 2003* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Clause 2)

[1] **Clause 3 Definitions**

Omit the definitions of *casual employee*, *close of nominations*, *close of the ballot* and *Department*.

[2] **Part 3**

Omit the Part. Insert instead:

### **Part 3 Transfer of accrued leave entitlements**

#### **9 Definitions**

In this Part:

*accrued leave* means leave of any description that is owing to a person (but not taken), and includes any leave to which a person would have been entitled in the event of illness.

*non-declared AHO* means an affiliated health organisation that is not a declared affiliated health organisation within the meaning of section 62A of the Act.

#### **10 Transfer of accrued leave—moving from non-declared AHO to NSW Health Service**

(1) **Period between employment must be continuous**

This clause applies in relation to a person only if the person's employment in the NSW Health Service immediately follows the person's employment with a non-declared AHO. However, this clause does apply in relation to a person's accrued long service leave entitlement if the break in employment is no longer than 2 months.

(2) **Transfer of existing leave balance**

If a person:

- (a) ceases to be employed by a non-declared AHO, and
- (b) commences employment in the NSW Health Service in connection with a public health organisation,

the person is taken to have the amount of any accrued leave to which the person was entitled immediately before ceasing to be employed by the non-declared AHO.

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Schedule 1 Amendments

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(3) **Election to cash-out accrued annual or long service leave**

In the case of any such accrued leave that comprises annual leave or long service leave, the person may, instead of retaining the entitlement to that accrued leave, elect to be paid the money value of that accrued leave.

(4) **Limit on how much accrued annual leave can be retained**

The amount of any accrued annual leave that a person may retain under this clause cannot, except with the approval of the Director-General, exceed the amount of annual leave that the person was entitled to over a 2-year period as an employee of the non-declared AHO.

(5) **Liability for cost of existing annual or long service leave**

The non-declared AHO is liable for the cost of any annual or long service leave entitlements in respect of the person concerned that have accrued up until the date on which the person ceases to be employed by the non-declared AHO.

(6) **Orders under section 64 of the Act**

This clause does not apply in relation to a person who ceases to be employed by a non-declared AHO by the operation of an order under section 64 of the Act.

**11 Transfer of accrued leave—moving from NSW Health Service to non-declared AHO**

(1) **Period between employment must be continuous**

This clause applies in relation to a person only if the person's employment with a non-declared AHO immediately follows the person's employment in the NSW Health Service. However, this clause does apply in relation to a person's accrued long service leave entitlement if the break in employment is no longer than 2 months.

(2) **Transfer of existing leave balance**

If a person:

(a) ceases to be employed in the NSW Health Service in connection with a public health organisation, and

(b) commences employment with a non-declared AHO,

the person is taken to have the amount of any accrued leave to which the person was entitled immediately before ceasing to be employed in the NSW Health Service.

**(3) Election to cash-out accrued annual or long service leave**

In the case of any such accrued leave that comprises annual leave or long service leave, the person may, instead of retaining the entitlement to that accrued leave, elect to be paid the money value of that accrued leave.

**(4) Limit on how much accrued annual leave can be retained**

The amount of any accrued annual leave that a person may retain under this clause cannot, except with the approval of the non-declared AHO, exceed the amount of annual leave that the person was entitled to over a 2-year period as a member of the NSW Health Service.

**(5) Liability for cost of existing annual or long service leave**

The Government of New South Wales is liable for the cost of any annual or extended leave entitlements in respect of the person concerned that have accrued up until the date on which the person ceases to be employed in the NSW Health Service.

**[3] Schedule 1 Counting of votes**

Omit the Schedule.