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Tuesday 27 June 2006

THE AUSTRALIAN
FINANCIAL REVIEW

Way open to cash in sick leave

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Publication: Australian Financial Review (4,Tue 27 Jun 2006)

Edition: First

Keywords: **Australian (1),Council (1),of (1),Trade (1),Union (1)**

The federal government has quietly changed the Work Choices regulations to allow employees to "cash out" some of their personal sick leave and carer's leave under workplace agreements or contracts.

The ability to cash out personal sick leave only applies to leave accrued above the minimum entitlement of 10 days per year, which is for many employees an improvement from the eight days previously provided under common federal and state awards.

However, the change gives employers a means to negotiate deals that stop such leave accumulating from year to year. An employee provided with 15 days of paid personal sick leave/carers leave under an employment contract could, for example, cash out up to five days of that leave if the contract allowed it.

The **Australian Council of Trade Union's** "work and family" test case last year in the Australian Industrial Relations Commission led to unions and employers agreeing on greater flexibility in using personal leave to care for sick family members.

The federal government later set personal leave/carers leave at 10 days per year with two days compassionate leave per occasion, as part of its new minimum standards for pay and conditions.

Workplace Relations Minister Kevin Andrews announced on June 5 that the Work Choices regulations had been amended to ease the requirement for employers to keep records of working hours for employees earning more than \$55,000 a year, but the press release did not mention the changes to personal sick leave/carers leave.

A spokesman for Mr Andrews said last week that the amendment would protect an employee's personal/carers leave entitlement from being traded off or cashed out under the minimum standard.

But opposition industrial relations spokesman Stephen Smith said the fact that Mr Andrews "hid this change to the regulations" meant the government was either trying to redefine employees' entitlements to sick leave or the change was too complex for the minister to explain.

"Knowing the ideological obsession of the Howard government when it comes to industrial relations, together with the complicated regulatory dog's breakfast the government has created, there is every chance that both may be the case," Mr Smith said.

"Either way, the minister now needs to provide a detailed explanation on the change to sick leave arrangements."

But the Australian Chamber of Commerce and Industry has argued the new minimum standard was more generous than provided under many awards before Work Choices came into force.

"Some employees are better off and no employees are worse off," ACCI national workplace policy director Peter Anderson said.

"In addition, the government has incorporated into the standard an entitlement to use the whole of that 10 days each year for personal sickness or the sickness of immediate family members, which for many employees is a significant increase.

"Employers are looking at the changes with some degree of caution because we don't want to see personal leave increase significantly . . . because that would have consequences for productivity.

"Previously all personal leave [and] sick leave in the federal system could be cashed out."

KEY POINTS

* Workers can sell back personal sick leave accrued above the minimum entitlement of 10 days per year.

* The change gives employers a means to negotiate deals that stop such leave accumulating.

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Section: News

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