

Federal Court decision: accrual of personal/carer's leave

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On 21 August 2019, the Full Federal Court of Australia handed down a decision in *Mondelez Australia Pty Ltd v AMWU* [2019] FCAFC 138 (Mondelez decision). The decision deals with the method of accruing and taking paid personal/carer's leave for the purposes of the National Employment Standards under the Fair Work Act 2009.

Read on for more information.

Appeal

The Australian Government and the company involved in the case, Mondelez Australia Pty Ltd, applied to the High Court of Australia to appeal this decision. The High Court granted these applications on 13 December 2019. This means an appeal of the Mondelez decision will be heard by the High Court. In the meantime, the decision made on 21 August 2019 is the current state of the law and applies to affected employers and employees.

What does the Mondelez decision mean?

In the Mondelez decision, the majority of the Full Federal Court determined:

- Full-time and part-time employees are entitled to 10 working days of paid personal/carer's leave for each year of employment.
- The leave protects those employees' income when they are entitled to be absent from work due to illness or injury (or providing care or support to a family or household member who is ill, injured or suffering from an unexpected emergency).
- The leave must be calculated in working days, not hours. A working day is the portion of a 24 hour period that an employee would otherwise be working.
- An employee's entitlement is expressly based upon time working for the employer and is expressly calculated in days.
- For every day of personal/carer's leave taken, an employer deducts a day from the employee's accrued leave balance. If an employee takes a part-day of leave, then an equivalent part-day is deducted from the employee's accrued leave balance.

More information

Read more about accumulating and taking paid sick and carer's (personal/carer's) leave on our [Paid sick & carer's leave \(www.fair-work.gov.au/leave/sick-and-carers-leave/paid-sick-and-carers-leave\)](http://www.fair-work.gov.au/leave/sick-and-carers-leave/paid-sick-and-carers-leave) page.

We will continue to update information on our website with any significant changes.

See the High Court's [results of applications](https://www.hcourt.gov.au/assets/registry/special-leave-results/2019/13-12-19_Determin.pdf) [☞](https://www.hcourt.gov.au/assets/registry/special-leave-results/2019/13-12-19_Determin.pdf) (https://www.hcourt.gov.au/assets/registry/special-leave-results/2019/13-12-19_Determin.pdf) to grant leave to Mondelez and the Australian Government to appeal *Mondelez Australia Pty Ltd v AMWU* [2019] FCAFC 138 [☞](https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/full/2019/2019fcafc0138) (https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/full/2019/2019fcafc0138) .

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