

SECTION 7 LEAVE PROVISIONS

Employees may be granted leave in accordance with the provisions outlined in this section and as outlined in relevant departmental guidelines.

All existing accrued leave credits of current employees will be retained under this Agreement.

37. Annual leave

- 37.1 Full-time employees will receive an annual leave credit of 20 days (150 hours) for each full year that they are employed. Part-time employees will be credited with annual leave on a pro rata basis. Annual leave will accrue and be credited to employees on a daily basis.
- 37.2 The grant of annual leave is subject to approval by the Clerk. When considering requests for annual leave, the Clerk will have regard to the operational requirements of the work area and the employee's personal circumstances and preferences. The grant of annual leave will not be unreasonably refused.
- 37.3 Consistent with the purpose of annual leave, and subject to clause 37.7, employees are encouraged to utilise their annual leave entitlement within 12 months of it accruing. To assist with the management of annual leave, section heads and supervisors, in consultation with employees, will develop and implement a plan for the clearance of each employee's annual leave credits.
- 37.4 Where an employee has an annual leave credit in excess of 45 days as at 1 April in any year and agreement cannot be reached in identifying suitable dates for the taking of at least two weeks annual leave, the program manager may direct the employee to take a period of annual leave. Such a direction shall only be given after consultation has taken place between the program manager and the employee. The employee should be given minimum notice of one month. Alternatively, and subject to clause 37.7, the employee may seek approval to cash out the excess credit.
- 37.5 Employees may elect to take their annual leave at half pay. Where a public holiday falls within a period of annual leave taken at half pay, the rate of pay for the public holiday will be full pay.
- 37.6 Where an employee is granted in excess of 30 days discretionary leave without pay not to count as service within a calendar year, the employee's accrual of annual leave will be reduced proportionate to the number of days leave without pay taken in that year.
- 37.7 Employees may apply to "cash out" their annual leave credits in accordance with the following:
- (a) the employee has taken a minimum of two weeks (10 days) annual leave in the previous 12 months;

- (b) the minimum amount that may be paid out in any 12 month period is one week (five days);
 - (c) the cashing out of the leave must not result in the employee annual leave balance after the cashing out being less than four weeks; and
 - (d) salary for this purpose will be an employee's ongoing salary, except where an employee has been on temporary assignment at a higher level for a continuous period in excess of 12 months.
- 37.8 Where an employee's approved annual leave is cancelled without reasonable notice, or an employee is recalled to duty from leave, he or she will be entitled to be reimbursed reasonable travel costs and incidental expenses not otherwise recoverable under any insurance or from any other source.
- 37.9 If during a period of annual leave, an employee is medically unfit for duty, or for other reasons personal/carer's leave is considered appropriate, and the period is for one day or longer, he or she may apply for personal/carer's leave providing a medical certificate, or other documentary evidence, is provided. Annual leave will be re-credited to the extent of the period of personal/carer's leave granted.
- 37.10 Unused annual leave will be paid out where an employee resigns or retires from the Parliamentary Service or his or her employment is otherwise terminated.

38. Personal/carer's leave

- 38.1 Personal/carer's leave may be granted by the Clerk in the following circumstances:
- (a) where an employee is ill or injured or for attendance at a medical or dental appointment;
 - (b) to provide care or support to a member of the employee's immediate family, or household, who requires care or support because of a personal illness, injury or unexpected emergency;
 - (c) to attend the funeral of a close friend or relative not covered by compassionate leave;
 - (d) to attend to other emergencies as considered appropriate; or
 - (e) where the period of compassionate leave granted to an employee is not sufficient and the employee requires additional leave.
- 38.2 Ongoing employees will be granted an initial personal/carer's leave credit of 18 days on the date of their engagement. Thereafter, personal/carer's leave will accrue at the rate of 18 days per year, with the leave being credited on a daily basis.
- 38.3 Non-ongoing employees will accrue personal/carer's leave at the rate of 18 days per year from the date of commencement, and will be credited with the leave on a daily basis.
- 38.4 Part-time employees will accrue personal/carer's leave credits (whether under clause 38.2 or 38.3) on a pro rata basis.

- 38.5 Where an employee is granted in excess of 30 days discretionary leave without pay not to count as service within a calendar year, the employee's accrual of personal/carer's leave will be reduced proportionate to the number of days leave without pay taken in that year.
- 38.6 Where personal circumstances require, an employee may apply to convert full pay personal/carer's leave credits to half pay personal/carer's leave credits. Where a public holiday falls within a period of personal/carer's leave taken at half pay, the rate of pay for the public holiday will be full pay.

Granting of personal/carer's leave

- 38.7 The grant of personal/carer's leave is subject to approval by the Clerk. Access to paid personal/carer's leave is subject to availability of credits and the provision of a medical certificate, or other documentary evidence, where required.
- 38.8 Employees will be required to provide a medical certificate, or other documentary evidence, in the following circumstances:
- 38.8.1 where the absence exceeds three consecutive working days; or
- 38.8.2 where a total of 37 hours and 30 minutes personal/carer's leave (five days for full-time employees), not supported by a medical certificate, or other documentary evidence, has been taken in the calendar year;
- otherwise the grant of personal/carer's leave shall be without pay.
- Note: for the purposes of clause 38.8.2, the number of hours personal/carer's leave that a part-time employee may use without the support of a medical certificate, or other documentary evidence, in a calendar year will be equal to his or her agreed weekly hours of duty.*
- 38.9 The relevant program manager may, as an alternative to the grant of personal/carer's leave without pay under clause 38.8.2, grant the employee flex leave, annual or purchased leave.
- 38.10 The relevant program manager may waive the requirement for a medical certificate, or other documentary evidence, in special circumstances, such as where an employee is suffering a recurring or chronic medical condition, or where the employee has ongoing caring responsibilities.
- 38.11 Notwithstanding clause 38.8.2 a supervisor or manager may require the provision of a medical certificate, or other documentary evidence, for future personal/carer's leave absences where there is a pattern of the employee taking regular or significant part-day absences.
- 38.12 Medical certificates from registered health practitioners will only be accepted for personal/carer's leave purposes where they are issued in respect of the area of practice in which the practitioner is registered or licensed.

- 38.13 Where an employee has exhausted his or her paid personal/carer's leave credit and is granted personal/carer's leave without pay, the period of leave will count as service for all purposes.
- 38.14 In accordance with the relevant legislation, the Clerk may require an employee to undergo a medical examination to determine fitness for continued duty.
- 38.15 An employee will not be entitled to access paid personal/carer's leave while also entitled to paid leave under the *Maternity Leave (Commonwealth Employees) Act 1973*.
- 38.16 Personal/carer's leave will not be debited where an employee is medically unfit for duty on a public holiday which the employee would otherwise have observed.

Extended periods of personal/carer's leave

- 38.17 An employee will not, without his or her consent, have his or her employment terminated on the grounds of physical or mental incapacity before that employee's personal/carer's leave credit has expired.
- 38.18 An employee who is absent from work because of illness is not normally able to use leave other than personal/carer's leave to cover the absence. However, where the employee has exhausted all paid personal/carer's leave, the Clerk may, as an alternative to the grant of personal/carer's leave without pay, approve the use of annual leave and/or long service leave for personal/carer's leave purposes. Periods of personal/carer's leave without pay in excess of 78 weeks will not count as service for any purpose except long service leave.
- 38.19 The Clerk may, where such treatment is justified, allow employees with long service a grant of additional personal/carer's leave with pay (usually on half pay) where all paid personal/carer's leave and other leave entitlements have been exhausted.

Unpaid carer's leave

- 38.20 An employee, including a sessional or casual employee, will be entitled to the grant of unpaid carer's leave of up to two days on each caring occasion where he or she has exhausted his or her paid personal/carer's leave credits.
- 38.21 Periods of unpaid carer's leave granted to a sessional or casual employee will be treated as leave not to count as service.

39. Compassionate leave

- 39.1 Up to three days paid compassionate leave may be granted for the purposes of spending time with a person who is a member of the employee's immediate family, or household:
- (a) who contracts or develops a personal illness that poses a serious threat to his or her life; or
 - (b) sustains a personal injury that poses a serious threat to his or her life; or
 - (c) dies.
- 39.2 A sessional or casual employee will be entitled to the grant of unpaid compassionate leave in the circumstances outlined in clause 39.1.

40. Other types of leave

Long service leave

- 40.1 The entitlement to long service leave is provided for under the Long Service Leave (Commonwealth Employees) Act 1976.
- 40.2 Eligible employees may access long service leave for a minimum period of seven calendar days at any one time.
- 40.3 An employee who is medically unfit for duty for one day or longer while on long service leave and who provides satisfactory medical evidence, or other documentary evidence, may apply for personal/carer's leave. Long service leave will be re-credited to the extent of the period of personal/carer's leave granted.

Purchased leave

- 40.4 The Clerk may approve an application from an ongoing employee for the purchase of between one and four additional whole weeks leave per year. Salary payments for the purchased leave are averaged over a maximum period of 12 months.
- 40.5 The taking of purchased leave is subject to operational requirements. The purchased leave should be taken within 12 months from the date of purchase.
- 40.6 The Clerk will consider proposals to vary the initial application on a case by case basis.
- 40.7 Purchased leave will be subject to the same provisions as apply to annual leave in terms of effect on other entitlements. The salary for superannuation purposes will not be affected by an application for purchased leave.
- 40.8 A reconciliation, and any necessary adjustments to the salary deductions, will be made following a salary increase, and where the employee leaves the department, takes a period of leave in excess of six months, or transfers temporarily to another Commonwealth department or agency.

Maternity leave

- 40.9 The entitlement to maternity leave is provided for under the *Maternity Leave (Commonwealth Employees) Act 1973*.
- 40.10 Employees entitled to paid leave under the *Maternity Leave (Commonwealth Employees) Act 1973* will also be entitled to two additional weeks of paid leave under the terms of this Agreement. This does not extend the total allowable absence under the Act (i.e. 52 weeks).
- 40.11 In order to provide more flexible administration of maternity leave, an employee may elect to spread the payment for the first 12 weeks of absence and the leave provision in clause 40.10 up to a period of 28 weeks at a rate no less than half normal salary. The maximum period of paid leave to count as service will be 14 weeks in total.

Parental leave – birth of a child – supporting partner

- 40.12 An employee who is entitled to unpaid parental leave under the *Fair Work Act 2009* will be entitled, under the terms of this Agreement, to one week of paid parental leave on the birth of his or her child. Periods of unpaid parental leave will be treated as leave not to count as service.

Parental leave – adoption of a child

- 40.13 Employees who are entitled to unpaid adoption leave under the *Fair Work Act 2009* will be entitled, under the terms of this Agreement, to 14 weeks of paid parental leave when an adopted child is placed with them. Periods of unpaid parental leave will be treated as leave not to count as service.

Community service leave – jury service

- 40.14 An employee is entitled to leave to attend jury service. An employee will continue to be paid by the department but will be required to pay to the department any amount received for jury service.

Community service leave – voluntary emergency management activity

- 40.15 An employee who engages in a voluntary emergency management activity as defined in the *Fair Work Act 2009* is entitled to be absent from work, on paid leave, for such time as is required, including the time engaged in the activity, in regular training and for ceremonial duties, reasonable travelling time and reasonable rest time following such activities, providing the employee's absence is reasonable in all circumstances.

NAIDOC week leave

- 40.16 The Clerk may grant an employee paid leave for one day per calendar year to enable participation in NAIDOC week.

Discretionary leave

- 40.17 There will be a single category of discretionary leave with or without pay. The relevant program manager or delegate will decide on each application after discussion with the employee as appropriate. The relevant departmental guidelines will apply.

Defence reserve leave

- 40.18 New members of the defence force reserves may be granted leave with pay for up to 10 working days to attend recruit/initial employment training.
- 40.19 Reservists (including new recruits who have been granted leave to attend initial recruit training) may be granted leave with pay for up to 20 working days per year for peacetime training and deployment. Where the 20 working days is not utilised in a calendar year, the residual days may be carried forward and used the following year.
- 40.20 Where further leave for training and deployment is required, leave without pay may be granted in accordance with the relevant departmental guidelines.

Leave for full-time defence service

- 40.21 An employee may be granted leave to enable them to perform full-time defence service. Leave may be granted in accordance the relevant departmental guidelines.

War service sick leave

- 40.22 Employees with Defence Force service prescribed by the Veterans' Entitlement Act 1986 are eligible for additional sick leave.
- 40.23 Eligible employees may accrue two separate credits, a non-accumulative credit of nine weeks on commencement and an annual credit of three weeks for each year of service. Unused credits will accumulate subject to a maximum annual credit balance of nine weeks.

41. Portability of accrued leave entitlements and recognition of prior service

- 41.1 Employees recruited to the department from another Australian Parliamentary Service department, an Australian Public Service or other Commonwealth agency or the Australian Capital Territory Government Service without a break in service will retain their existing annual leave and personal/carer's leave credits, however described. Any existing half pay personal/carer's leave credits will be converted to full pay credits.
- 41.2 Employees recruited from a Commonwealth agency (outside the Australian Parliamentary Service or the Australian Public Service) will be eligible to retain their existing annual and personal/carer's leave credits providing the relevant leave liabilities are received from the employee's former agency.

- 41.3 Provisions for the recognition of prior service for long service leave purposes are set out in the *Long Service Leave (Commonwealth Employees) Act 1976*. Employees who wish to have prior service recognised will be required to obtain the necessary documentary evidence of that service from their previous employer(s) and provide it to the department.
- 41.4 Employees who have a period of prior service recognised in accordance with the Long Service Leave (Commonwealth Employees) Act 1976 may also have the period of service recognised for personal/carer's leave, provided that any break in continuous service has not exceeded two months.
- 41.5 Where a period of service is recognised for personal/carer's leave purposes and the accrued personal/carer's leave credit cannot be determined, accrual will be calculated in accordance with clauses 38.1 to 38.3 for the prior service, less any personal/carer's leave taken or paid out in lieu. Where there are no available records of personal/carer's leave taken during a period of prior service, a deduction of five days per year of recognised service will be made.
- 41.6 Approval to use these accrued credits of annual leave, personal/carer's leave and long service leave will be governed by the provisions in the relevant sections of this Agreement.