

## **SECTION 5: LEAVE PROVISIONS**

### **28. Annual leave**

- 28.1 Full-time employees will accrue an annual leave credit of 20 days for each full year of service. Annual leave will accrue and be credited to employees on a daily basis.
- 28.2 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.
- 28.3 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 will only be given after consultation has taken place between the program manager and the employee. The employee should be given minimum notice of the direction of one month. Alternatively, and subject to clause 28.5, the employee may seek approval to "cash out" the excess credit.
- 28.4 Employees may request to use up to 5 days of their accrued annual leave entitlement to take annual leave at half pay (over a period twice as long as the number of days of leave deducted) in each 12 month period ending 30 April. 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.
- 28.5 Employees may apply to "cash out" their annual leave credits subject to the following:
- (a) the cashing out of the leave must not result in the employee's annual leave balance after the cashing out being less than four weeks;
  - (b) a separate written agreement is made between the Clerk and the employee for each period of "cashed out" annual leave; and
  - (c) the employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone.
- 28.6 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.

### **29. Personal/carer's leave**

- 29.1 Personal/carer's leave may be granted by the Clerk in the following circumstances:
- (a) where an employee is ill or injured and for a related 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 by the Clerk; or
  - (e) where the period of compassionate leave granted to an employee is not sufficient and the employee requires additional leave.
- 29.2 Personal/carer's leave must not be used for the purposes of subclause 29.1(c), (d) and (e) if it would be detrimental to an employee in any respect, when compared to the NES under the *Fair Work Act 2009*.
- 29.3 Ongoing employees (other than an employee who has unused accrued personal/carer's leave, however described, recognised in accordance with clause 32) will receive an initial personal/carer's leave credit of 18 days on the date of their engagement. Thereafter, personal/carer's leave will accrue and be credited on a daily basis, at the rate of 18 days for each year of service.
- 29.4 Non-ongoing employees will accrue personal/carer's leave at the rate of 18 days for each year of service from the date of commencement, and will be credited with the leave on a daily basis.
- 29.5 Where personal circumstances require, an employee may request to convert full pay personal/carer's leave credits to half pay personal/carer's leave credits to receive twice the amount of personal/carer's leave. Where a public holiday falls within a period of personal/carer's leave taken at half pay, the employee will not be taken to be on paid personal/carer's leave and the rate of pay for the public holiday will be full pay.

*Granting of personal/carer's leave*

- 29.6 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.
- 29.7 Employees will be required to provide a medical certificate, or other documentary evidence, in the following circumstances:
- (a) where the absence exceeds three consecutive working days; or
  - (b) where a total of five days (37 hours and 30 minutes) personal/carer's leave 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 will be without pay.
- 29.8 The Clerk may, as an alternative to the grant of personal/carer's leave without pay under subclause 29.7(b), grant the employee flex leave or annual leave.
- 29.9 Notwithstanding subclause 29.7(b), a supervisor or manager may require an employee to provide a medical certificate, or other documentary evidence, for future personal/carer's leave absences where there is a pattern of regular or significant absences by the employee.

- 29.10 Medical certificates from registered health practitioners will only be accepted for personal/carer's leave purposes where they are issued in accordance with relevant guidelines of the Australian Medical Association.
- 29.11 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.
- 29.12 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*.
- 29.13 Personal/carer's leave will not be debited where an employee is medically unfit for duty on a public holiday, or other closedown day, which the employee would otherwise have observed.

*Extended periods of personal/carer's leave*

- 29.14 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 an absence because of illness.
- 29.15 The Clerk may, where such a grant is justified, allow employees with a significant period of service with the Commonwealth, 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*

- 29.16 An employee who has exhausted his or her paid personal/carer's leave credits, is entitled to two days' unpaid carer's leave on each caring occasion.
- 29.17 A sessional or casual employee will be entitled to the grant of unpaid carer's leave in accordance with the *Fair Work Act 2009*.
- 29.18 Periods of unpaid carer's leave granted to a sessional or casual employee will be treated as leave not to count as service for any purpose.

**30. Compassionate leave**

- 30.1 An employee is entitled to three days' paid compassionate leave for each occasion when a member of the employee's immediate family, or household:
- (a) 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.

- 30.2 A sessional or casual employee will be entitled to three days' unpaid compassionate leave in the circumstances outlined in clause 30.1.
- 30.3 Periods of unpaid compassionate leave granted to a sessional or casual employee will be treated as leave not to count as service for any purpose.

### **31. Other types of leave**

#### *Long service leave*

- 31.1 The entitlement to long service leave is provided for by the *Long Service Leave (Commonwealth Employees) Act 1976*.
- 31.2 Long service leave will only be granted in blocks of at least seven calendar days at full pay, or at least 14 calendar days at half-pay, per occasion. It is not to be broken by other forms of leave unless required by legislation.

#### *Purchased leave*

- 31.3 The Clerk may approve an application from an ongoing employee for the purchase of up to a maximum of two weeks of purchased leave per 12 month period ending 30 April. Salary payments for the purchased leave are averaged over a maximum period of 12 months.
- 31.4 Salary for superannuation purposes will not be affected by an application for purchased leave.

#### *Maternity leave*

- 31.5 The entitlement to maternity leave is provided for under the *Maternity Leave (Commonwealth Employees) Act 1973*.
- 31.6 Employees entitled to paid leave by 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 leave does not extend the total allowable absence under the Act (i.e. 52 weeks).
- 31.7 An employee who has an entitlement to paid leave under the *Maternity Leave (Commonwealth Employees) Act 1973* and clause 31.6 may elect to have the payment for that leave spread over a maximum period of 28 weeks at a rate no less than half of the normal salary. When payment is spread over a greater period, a maximum of 14 weeks will count as service.

#### *Parental leave – birth of a child – supporting partner*

- 31.8 An employee who is entitled to unpaid parental leave under the *Fair Work Act 2009* associated with the birth of a child of the employee's spouse or partner, and who is not entitled to paid maternity or adoption leave, will be entitled, under 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*

- 31.9 An employee who is entitled to unpaid adoption leave under the *Fair Work Act 2009*, and who is the primary caregiver for an adopted child, will be entitled to 14 weeks of paid parental leave when an adopted child is placed with the employee. Periods of unpaid parental leave will be treated as leave not to count as service.

*Community service leave – jury service*

- 31.10 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 other than an amount that is, or that is in the nature of, an expense related allowance.

*Community service leave – voluntary emergency management activity*

- 31.11 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 that the employee's absence is reasonable in all the circumstances.

*National Aboriginal and Islanders Day Observance Committee week leave*

- 31.12 The Clerk may grant an employee paid leave for one day per calendar year to enable participation in National Aboriginal and Islanders Day Observance Committee events.

*Discretionary leave*

- 31.13 The Clerk may grant discretionary leave with or without pay as set out in the relevant departmental guidelines.
- 31.14 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 and personal/carer's leave will be reduced proportionate to the number of days of discretionary leave without pay taken in that year.

*Defence Reserve leave*

- 31.15 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.
- 31.16 Reservists (including new recruits who have been granted leave to attend recruit/initial employment training) may be granted leave with pay for up to 20 working days per year for peacetime training and deployment. Where all

20 working days are not utilised in a calendar year, the remaining days may be carried forward and used the following year.

- 31.17 Where further leave for training and deployment is required, leave without pay may be granted as set out in the relevant departmental guidelines.

*Leave for full-time defence service*

- 31.18 An employee may be granted leave to enable him or her to perform full-time defence service. Leave may be granted as set out in the relevant departmental guidelines.

*War service sick leave*

- 31.19 Employees with Defence Force service prescribed by relevant legislation are eligible for a credit of additional sick leave as follows:
- (a) a special one-off credit of nine weeks on commencement; and
  - (b) an annual credit of three weeks. A further credit will accrue on completion of each year of service with the department. This credit will accumulate but is subject to a maximum credit balance of nine weeks.

- 31.20 This additional leave may be granted when an eligible employee is unfit for duty because of a medical condition accepted by the Department of Veterans' Affairs to be war-caused or defence-caused within the meaning of the relevant legislation.

*Certain leave substitution arrangements*

- 31.21 If during a period of annual or long service leave, an employee would otherwise be entitled to another form of leave, the Clerk may grant that other leave if satisfactory evidence is provided to support the employee's entitlement to the other form of leave. Annual or long service leave will be re-credited to the extent that any other leave is granted.

**32. Portability of accrued leave entitlements and recognition of prior service**

- 32.1 Where an employee moves (including on promotion or for an agreed period) from another Australian Parliamentary Service department, where he or she was an ongoing employee, the employee's unused accrued annual leave and personal/carer's leave (however described) may be recognised, provided there is no break in continuity of service.
- 32.2 Where an employee is engaged as either an ongoing or non-ongoing Australian Parliamentary Service employee immediately following a period of ongoing employment in the Australian Public Service, another Commonwealth agency or the Australian Capital Territory Government Service, the employee's unused accrued annual leave and personal/carer's leave (however described) may be recognised.
- 32.3 Where a person is engaged as an ongoing employee, and immediately prior to the engagement the person was employed as a non-ongoing Australian Public Service employee, the Clerk may, at the employee's request, recognise any accrued annual

and personal/carer's leave (however described), provided there is no break in continuity of service. Any recognised annual leave excludes any accrued leave paid out on separation.