

# EXTRACT

## 52. PARENTAL LEAVE

The aims of this Clause are to enhance further the ability of University employees to balance their work and non-work commitments, and to attract and retain female employees.

Parental leave is leave associated with the birth, adoption or permanent care of a child.

For the purposes of this clause, “eligible casual employee” means a casual employee employed by the University on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least 12 months, who has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.

### 52.1 MATERNITY LEAVE

The provisions of this sub-clause apply to full-time, part-time and eligible casual employees but do not apply to other casual employees.

- 52.1.1 An employee who becomes pregnant is entitled to a period of up to fifty-two weeks maternity leave. Such leave will be taken within the period from twenty weeks before the expected date of delivery to fifty-two weeks after the commencement of the period of paid leave.
- 52.1.2 By agreement with the University, the maternity leave may be taken in more than one consolidated period but for not more than two (2) separate periods.

### 52.2 ADOPTION LEAVE AND PERMANENT CARE LEAVE

The provisions of this sub-clause apply to full-time, part-time and eligible casual employees but do not apply to other casual employees.

- 52.2.1 An employee who adopts a child who is under eighteen (18) years of age or becomes the permanent carer of a child is entitled to a period of up to fifty-two (52) weeks of adoption leave or permanent care leave, commencing from the date of placement of the child.
- 52.2.2 Adoption leave may not be accessed for a child who has been living with the employee or the employee's partner (including same-sex partner) of an employee prior to the employee adopting the child, and can only be accessed when the employee becomes the legal parent of the child and is the primary care-giver (i.e. the employee (parent) has dedicated responsibility for the day-to-day care of the child).

### 52.3 CONDITIONS FOR PAID MATERNITY, ADOPTION LEAVE, PERMANENT CARE LEAVE AND ADDITIONAL UNPAID LEAVE

- 52.3.1 Where an employee (other than a casual employee) has completed less than twelve months service at the time the leave is to begin, the employee shall receive a paid pro-rata entitlement based upon fourteen (14) weeks for 12 months, for each completed month of service of maternity, adoption or permanent care leave on full pay. For example an employee with 6 completed months of service at the time the leave is to begin will receive 7 weeks maternity or adoption leave on full pay. A return-to-work bonus does not apply.
- 52.3.2 Where the employee (other than a casual employee) has completed twelve months service at the time the leave is to begin, fourteen weeks of this maternity, adoption or permanent care leave will be on full pay and an additional return-to-work bonus of the equivalent of twelve weeks' salary will be paid. The return-to-work bonus is repayable if the employee does not return to work.
- 52.3.3 Where a staff member does not remain in the employ of the University for a period of at least twelve (12) months after returning to work following a period of maternity, adoption or permanent care leave, the twelve week return to work bonus must be repaid to the University on a proportional basis. The amount to be repaid will be reduced on the basis of a proportional reduction for each completed month of service during the initial twelve months' of the employee's return to work.
- 52.3.4 The return-to-work bonus will be used to facilitate re-entry into the workplace and may be used in any of the following ways:
  - 52.3.1.1 paid as equal instalments over six fortnights;
  - 52.3.1.2 to offset associated costs, such as childcare;

52.3.1.3 working reduced hours on a graduated return to work program; or

52.3.1.4 as a cash grant to re-establish an academic or professional career.

52.3.5 The employee may apply to access all or part of the return-to-work bonus prior to returning to work.

52.3.6 For part-time employees, the paid portion of the leave will be paid at the proportionate part-time rate of pay. Where a full-time employee has converted to part-time employment prior to going on maternity leave for reasons related to the pregnancy, she will be paid at the full-time rate of pay.

52.3.7 An employee may elect to take the paid maternity, adoption, or permanent care leave entitlement at half pay. All leave accruals and superannuation contributions during the period of paid maternity, adoption or permanent care leave at half pay will be calculated on a *pro rata* basis. Where the employee elects to maintain superannuation contributions at a notional full-time rate, they will be responsible for making the necessary arrangements for maintaining the notional full-time rate for both the employee and employer contribution.

52.3.8 In addition to the period of fifty-two weeks leave referred to in sub-clauses 52.1 and 52.2 an employee may apply to the University for additional unpaid leave. Subject to operational requirements, an additional period of up to twelve months unpaid leave will be granted.

52.3.9 If requested by an employee, any paid portion of parental leave may be paid as a lump sum.

## 52.4 PARTNER LEAVE

The provisions of this clause apply to full-time, part-time and eligible casual employees but do not apply to other casual employees.

An employee will be entitled to partner leave as follows:

52.4.1 Where the partner (who is an employee) is not the primary care-giver of the child, the employee will be entitled to ten working days paid partner leave, or ten working days unpaid partner leave in the case of an eligible casual employee, to be taken during the period three months prior to and three months after the birth or at the time of placement. For fractional or part-time employees, the paid portion of the leave will be paid at the appropriate fractional rate of pay.

52.4.2 In addition to 52.4.1 a further ten working days unpaid partner leave or, if birth is by caesarean section, twenty working days unpaid partner leave will also be available to enable access to the Australian Government's Dad and Partner Pay where the employee meets the Australian Government's eligibility requirements. This leave may be taken at any time during the fifty-two weeks following the date of birth or date of adoption however in the case of birth by caesarean section it must be taken within the six (6) week period immediately following the date of birth.

52.4.3 Where the partner (who is an employee) is the primary care-giver of the child, the employee will be entitled to a further unbroken period of unpaid leave in addition to the leave provided in sub-clauses 52.4.1 and 52.4.2 above, provided the total period of partner leave under 52.4.1, 52.4.2 and 52.4.3 does not exceed 52 weeks. Leave under this sub-clause shall be reduced by any period of maternity or adoption leave taken by the other partner and shall not be taken at the same time as that maternity or adoption leave, except during the eight weeks following the birth or placement of the child.

52.4.4 In addition to the periods of partner leave referred to in sub-clause 52.4.3 above, a partner who is an employee (other than a casual employee) may apply to their supervisor for additional unpaid partner leave. Subject to operational requirements, an additional period of up to twelve months unpaid leave will be granted.

52.4.5 Paid partner leave cannot be taken concurrent to the Australian Government's Dad and Partner Pay. An eligible working dad or partner may receive up to two weeks' Dad and Partner Pay at the National Minimum Wage when on approved unpaid leave from the University. Dad and Partner Pay is administered directly between the Employee and the Department of Human Services, and does not involve the University.

## 52.5 FOSTER PARENT LEAVE

From the time that the child enters their care, an employee (other than a casual employee) acting as the primary carer of a foster child on a long-term placement will be entitled to:

52.5.1 three weeks leave on full pay or six weeks leave on half pay if the child is younger than five; or

52.5.2 two weeks leave on full pay or four weeks leave on half pay if the child is five and over.

## 52.6 GENERAL CONDITIONS OF LEAVE

- 52.6.1 Unless it is impracticable, an employee will provide their supervisor with at least ten weeks' notice of the intention to take parental leave and at least four weeks' notice of the date on which the parental leave will commence.
- 52.6.2 An employee who has taken maternity leave will not be eligible for partner leave in respect of the same child.
- 52.6.3 Adoption leave and permanent care leave may be taken by either parent, except that where both parents are employed by the University, one employee's paid adoption leave entitlement or permanent care leave will be reduced by any period of paid adoption leave taken by the employee's partner (including same-sex partner).
- 52.6.4 Appropriate certification relating to the birth, adoption or permanent care of the child and, where appropriate, the employee's legal responsibility must be produced if required by the University.
- 52.6.5 The University may direct an employee to commence maternity leave at any time within six weeks before the expected date of birth, provided that:
  - 52.6.1.1 written notice of such a direction of at least fourteen working days shall be given to the employee; and
  - 52.6.1.2 the employee shall be entitled to remain on duty upon the submission of a certificate from a registered medical practitioner stating that she is fit to work.

## 52.7 FIXED-TERM APPOINTMENTS

- 52.7.1 An employee employed on a fixed-term contract of employment will cease to have an entitlement to parental leave upon the expiration of the contract, except as provided for in sub-clauses 52.7.2 and 52.7.3 below.
- 52.7.2 An employee employed on a fixed-term contract of employment whose contract expires when she is at least twenty weeks pregnant, and whose employment is not continued beyond the expiry date of the contract, will be entitled to payment of the fourteen week paid maternity leave entitlement subject to fulfilling any eligibility requirements unless:
  - 52.7.1.1 she was offered and refused another contract of employment (on grounds other than pregnancy) broadly comparable to her existing position; or
  - 52.7.1.2 a significant majority of the duties and responsibilities of the existing position are no longer being performed.
- 52.7.3 An employee employed on a fixed-term contract who is on maternity leave at the expiry of the contract and who is subsequently employed on a further employment contract for the same position after a gap in time, not being longer than twelve months from the date of taking maternity leave, will be entitled to the fourteen week paid maternity leave entitlement subject to fulfilling the eligibility requirements set out in this Clause.

## 52.8 CONTINUITY OF SERVICE AND OTHER CONDITIONS OF EMPLOYMENT

- 52.8.1 Absence on parental leave will not break continuity of service with the University.
- 52.8.2 Absence on paid parental leave will count as service for all purposes. Annual and long-service leave will accrue during periods of paid parental leave at the rate salary is earned.
- 52.8.3 Incremental progression will continue during periods of paid parental leave and will not be affected by periods of unpaid parental leave where that leave is for periods of less than six months.
- 52.8.4 Absence on unpaid parental leave will not count as service for the purposes of:
  - 52.8.1.1 long-service leave unless the employee has completed ten years' service with the University and the period of unpaid parental leave taken is less than 6 months; or
  - 52.8.1.2 annual leave.
- 52.8.5 An employee may elect to cover any of the period of unpaid parental leave by taking accrued annual leave and/or long-service leave.
- 52.8.6 The return to work bonus will not be treated as part of an employee's ordinary time earnings unless it is in accordance with prevailing legislation and Australian Tax Office rulings.
- 52.8.7 Where a public holiday occurs during the period that an employee is absent on paid parental leave of up to fourteen (14) weeks as provided by the above provision, and such holiday is observed by the

University, then that day or days shall be added to the amount of paid parental leave that is due to the employee.

## 52.9 UNPLANNED CESSATION OF PARENTAL LEAVE

52.9.1 If parental leave has commenced, or has been approved but not commenced, and:

52.9.1.1 in the case of maternity leave, the pregnancy of the employee terminates other than by the birth of a living child, or the employee's child dies during the period that the employee is on leave; or

52.9.1.2 in the case of adoption leave, the child dies during the period that the employee is on leave.

the employee will be entitled to a maximum of fourteen weeks paid leave from the date or expected date of birth or placement of the child and to other unpaid leave as will bring the aggregate leave to a continuous period not exceeding six calendar months or to such longer periods as may be certified by a medical practitioner up to a maximum of twelve months.

52.9.2 A medical certificate will be required to support any period of leave pursuant to sub-clause 52.9.1 above.

## 52.10 RESUMPTION OF DUTY

52.10.1 An employee shall confirm their intention to return to work by providing written notice to the relevant supervisor of not less than eight weeks prior to the expiration of the period of parental leave.

52.10.2 One of the benefits of providing effective leave around maternity and child rearing is to encourage employees to return to work in normal circumstances. Good practice industrial principles should apply, including guaranteeing that employees can return to their existing position and level or alternative position and level with no disadvantage after embarking on parental leave.

52.10.3 Where the employee's parental leave absence is twelve months or less, the employee is entitled to return to the position held immediately before taking parental leave. If that position no longer exists, or if the employee is returning to work after an absence of more than twelve months, the University shall endeavour to employ the employee in a position commensurate with the classification and duties for which the employee is qualified, provided that the position is at the substantive grade held prior to commencement of parental leave. If this is not feasible, it may be necessary to implement redundancy provisions as outlined in this Agreement.

52.10.4 An employee on parental leave will be consulted concerning any significant change in responsibilities of the position the employee held before commencing parental leave.

52.10.5 An employee returning to duty after working a reduced time fraction because of the pregnancy shall be returned to the position and time fraction held immediately prior to working part-time. Where it is not feasible to return the employee to the same position, the employee shall be placed in a position as nearly comparable to that of the former position.

52.10.6 Employees may negotiate return to work from a period of parental leave earlier than the date originally approved.

52.10.7 An employer must not fail to re-engage a casual employee because:

52.10.1.1 the employee or employee's spouse is pregnant; or

52.10.1.2 the employee is or has been immediately absent on parental leave.

## 52.11 RETURN TO WORK ON A PART-TIME BASIS FOLLOWING PARENTAL LEAVE

52.11.1 The University is committed to family-friendly work practices and will give due consideration to assisting employees to balance work and family needs subject to the requirements of the work unit.

52.11.2 A full-time employee may apply to return to work from a period of parental leave on a part-time basis until the child reaches school age, to assist the employee in reconciling work and family responsibilities.

52.11.3 An application to return to work on a part-time basis must be made at least eight weeks prior to the completion of the parental leave.

52.11.4 If it is not practicable for an employee to resume work on a part-time basis in the position which the employee held prior to taking parental leave, the employee will be so advised and provided with justifiable reasons as to why the request cannot be complied with. However, if in such circumstances the University identifies a suitable vacant position in which the employee may be placed on a part-

time basis, and the employee agrees, the employee will be placed in the alternate position and be paid the appropriate proportion of the salary applicable to that position for the period of part-time employment.

- 52.11.5 Where a period of part-time employment and a period of parental leave are for a total period of twelve months or less, the employee is entitled to return to the position held immediately before taking parental leave. If that position no longer exists, or if the total of part-time employment and parental leave is more than twelve months, the employee will return to a position commensurate with the classification and duties for which the employee is qualified, provided that the position is at the substantive grade and same time-fraction held prior to commencement of parental leave. If this is not feasible, it may be necessary to implement redundancy provisions as outlined in this Agreement.

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