

HR BRIEFING SESSION – MATERNITY LEAVE

Monash University Enterprise Agreement (Academic and General Staff) 2005 – Relevant Clauses

14. CONSULTATION ABOUT CHANGE

- 14.1 The University will notify affected staff, and where the staff member chooses a nominated Representative, and MUSIC where a proposed significant or substantial change will affect staff. Such change includes, but is not limited to, outsourcing or contracting out and changes to University Policies that have a significant and substantial impact on staff terms and conditions of employment.
- 14.2 If a decision to proceed is made by the University, management will consult with the affected staff and where the staff members choose, with their Representatives or where the staff members choose, with MUSIC about the implementation of that change, particularly where the change is likely to have an impact on the work, conditions or career prospects of staff. The consultations will be conducted within a frame-work which acknowledges the statutory obligations and responsibilities of the University management and there will be no power of veto over the University's decision-making processes.

31. VOLUNTARY REDUCED WORKING YEAR

- 31.1 A voluntary reduced working year scheme is available to all continuing and fixed-term staff who wish to extend their leave options for personal and/or family responsibility reasons. A staff member may apply to reduce his/her current working year by multiples of two weeks up to eight weeks, with salary proportionately reduced to fund an increase in additional paid leave over a 52 week period. This additional leave will not attract annual leave loading and must be taken during the 12-month term of the reduced working year arrangement. Such leave will be taken by application, except where the staff member gives at least 3 months' notice.
- 31.2 Operation of the scheme is subject to the following conditions:
- (a) Staff with any excess annual or long service leave balance under clauses 36 or 38 are not eligible to participate or remain in the scheme.
 - (b) The term of the arrangement will be negotiated and may be varied by either the University or the staff member, subject to three months' notice or shorter notice by the staff member where agreed by the University.
 - (c) Leave accrued during the term of the scheme will be paid at the reduced rate provided that:
 - leave accrued prior to the scheme will be available at the rate at which it accrued;
 - long service leave will be paid at the average service fraction over the leave accrual period;
 - staff may choose to have employer and employee superannuation contributions paid on the full or reduced working year salary.
 - (d) Schedule 5 paragraph (a) and Clause 36 will not apply and all annual leave accrued during the term of the reduced working year arrangement must be taken during that 12-month period.

34. DEFINITIONS AND GENERAL CONDITIONS

- 34.1 For the purposes of this Part:
- (a) "paid leave" refers to leave at the ordinary rate of pay.

- (b) "days" means working days.
- (c) "spouse" includes spouse, de facto spouse, former spouse and former de facto. "De facto spouse" means a person of the opposite or same sex who lives with the staff member as husband, wife or partner of the staff member on a bona fide domestic basis although not legally married to that person.
- (d) "family member" means either:
 - a member of the staff member's household; or
 - a member of the staff member's immediate family which includes spouse, child, grandparent, grandchild, sibling or any other person with whom the University is satisfied that the staff member has a bona fide family relationship.

34.2 All applications for leave must be accompanied by relevant documentary evidence satisfactory to the University that the staff member is entitled to the leave requested.

34.3 Leave entitlements and arrangements in this Agreement do not apply to casual or sessional staff, and no casual or sessional service will count as service in determining entitlements to leave or for any other purpose.

WorkCover and Leave to Count as Service

34.4 The following periods will count as service for leave entitlements and accruals and for severance, termination and resignation purposes:

- (a) Any period of paid leave, including long service leave taken on half pay;
- (b) No more than 20 days unpaid sick leave continuously or in aggregate in any year of service;
- (c) No more than 26 weeks continuous paid or unpaid parental leave;
- (d) No more than 20 days unpaid Election or Arbitration leave, or any other unpaid leave continuously or in the aggregate in any year of service.
- (e) Time worked on WorkCover rehabilitation with the University after the expiry of make-up pay.

Recognition of Prior Service

34.5 Where the staff member claims recognition of prior service for long service leave purposes, the University will notify the staff member of the amount of recognised service as soon as possible but no later than 12 months after the date of appointment. Where previous service is recognised the University may require that the staff member complete up to 3 years' service with the University before long service leave may be taken.

34.6 Prior service with the following employers will be recognised (subject to application within 6 months of appointment) for up to 10 years

- (a) Any Australian University or TAFE Institutes;
- (b) The Commonwealth or any State/Territory Public Service and instrumentalities including the armed forces and bodies with which the Public Services have reciprocal relations as published from time to time in the regulations of the Public Service.
- (c) Institutions listed in Schedule 2 of the Post-Secondary Education Act which have agreed to reciprocity of recognition of service for long service eligibility purposes.
- (d) Other employers by negotiation between the staff member and the University at the time of the staff member's appointment.
- (e) The aggregate of any periods of non-continuous recognised service;
- (f) Service with CSIRO, Monash University companies, Australian inter-university bodies (e.g. AV-CC) and the TAFE Board (general staff only).

34.7 The following will not count as service for long service leave purposes:

- (a) Any period of service subsequent to the date from which a pension is payable under the provision of the Superannuation Act or of such other pension schemes as may apply where the staff member retires on the grounds of age or ill-health;

- (b) Any period of service for which payment in lieu of long service leave has been made by a previous employer or for which a staff member has an entitlement to payment in lieu by a previous employer, provided that any such period of service will be included for the purpose of satisfying the requirement that a minimum of ten years be served before long service leave may be taken.

- 34.8 No deduction will be made from annual, sick or long service leave credits for holidays observed by the University which occur during a period of leave.
- 34.9 Sick leave credits with employers recognised for long service leave prior service purposes will be transferable up to a maximum of 30 days, and previous service with the University will be counted for sick leave purposes provided any break in service does not exceed 12 months.

Continuity of Service

- 34.10 Service as an academic fixed-term research-only staff member will be regarded as continuous, provided that any break in service does not exceed 3 months and such breaks do not count as service.

39. APPLICATION OF PARENTAL LEAVE

- 39.1 Four weeks notice of parental leave will be required.

Maternity Leave and Adoption Leave

- 39.2 Maternity leave will commence no earlier than 6 weeks prior to an expected birth date unless medical evidence recommends otherwise. On at least 14 days' notice, a supervisor may direct a pregnant staff member to commence maternity leave at any time within 6 weeks prior to the expected birth date. All adoption and maternity leave on full pay must be taken as a continuous period.
- 39.3 A staff member's annual leave management obligations under clause 36 continue to apply regardless of any absence on parental leave.

Return to Work After Maternity Leave

- 39.4 At the end of a period of paid or unpaid maternity leave, a staff member is entitled to resume work on the same substantive classification, fraction of employment, and salary and with commensurate duties as applied prior to the commencement of the maternity leave subject to the provision of at least 4 weeks' prior confirmation of return.
- 39.5 With 6 weeks' notice prior to return, a staff member returning from parental leave and who remains as the child's primary caregiver may request a reduced working year arrangement in accordance with Clause 31, or a reduced fraction for a specified period of time.

38 Weeks Maternity Leave (Return to Work Conversion Option)

- 39.6 At the time of applying for leave, a staff member entitled to 38 weeks' leave at 60% of pay (or a monthly pro rata equivalent) in accordance with Schedule 5, paragraph (m) who intends to return to work prior to the expiry of some or all of the 38 week period, may choose to use the unexpired period (or its equivalent cash value) for any of the following return to work options:
 - (a) Returning to work on a reduced fraction at full salary, subject to having taken at least 26 weeks' paid parental leave, for the duration of the unexpired period or until the staff member returns to his/her substantive fraction, whichever is the earlier.
 - (b) Payment of the unexpired period as a lump sum, a fortnightly allowance or child care fees for University-provided child care (subject to the staff member assuming liability for any FBT costs)

- (c) Where the staff member reduces his/her intended period of parental leave with the University's agreement, banking of the unexpired period for use as salary payment during any future period of unpaid parental leave, with payment at the ordinary rate of pay applying when the banked leave is taken.

- 39.7 Provided that the staff member may change his/her election on 14 days' written notice and the University may charge the staff member an administration fee to cover any costs incurred. Any unused portion of the staff member's entitlement to leave at 60% of pay remaining at the termination of employment will be foregone and the University will have no liability to make any payment in lieu for such entitlement foregone.

Right to Share 38 Weeks Leave with Spouse

- 39.8 Where a staff member and his or her spouse are employed by the University and share primary care responsibility for the child, either staff member may use some or all of the 38 weeks leave at 60% pay. Provided that the combined entitlement taken by both partners will be limited to a maximum of 38 weeks subject to the adoption leave limitation in Schedule 5, paragraph (n).

Return to Work Deed

- 39.9 A staff member shall enter into a return to work deed as a condition of payment for some or all of the 38 weeks leave at 60% of pay available under clause 35.1 and Schedule 5.
- 39.10 Such a deed will specify that return to work must be for a period equivalent to the period of leave at 60% of pay (or the value of any return to work conversion option) taken, and the staff member will repay any shortfall in the event of resignation prior to this period's expiry, with any balance outstanding to be deducted from any entitlements otherwise due to the staff member on resignation.
- 39.11 A staff member's parental leave will be cancelled where the staff member:
- returns to work following parental leave;
 - ceases as the adopted child's primary caregiver following the date of placement;
 - ceases to accept responsibility for the ongoing care of the child in the case of domestic partner birth leave;
 - has applied for maternity leave and her pregnancy ends other than by the birth of a living child, whether or not maternity leave has commenced; and/or
 - ceases as the child's primary caregiver during maternity leave and any entitlement to paid maternity leave at her full ordinary rate of pay has been exhausted.

Termination or Still Birth

- 39.12 Where a staff member's pregnancy has proceeded for at least 20 weeks and her pregnancy either terminates or results in a still born child, the staff member will be entitled to a maximum aggregate continuous period of 26 weeks' paid and unpaid leave comprising either:
- (a) paid leave equivalent to that in Schedule 5, paragraph (m) of this Agreement as applicable; or
- (b) where the staff member has already commenced such leave, the balance remaining of such leave and unpaid leave. Provided that the maximum aggregate continuous period may be extended to 52 weeks where certified by a medical practitioner. The staff member will resume duty at a time agreed upon in consultation with her supervisor.
- 39.13 A staff member on unpaid maternity leave who has an accrued sick leave entitlement and becomes ill as a result of her pregnancy or childbirth is entitled to be placed on sick leave for the period of illness subsequent to the expiration of her paid maternity leave, provided she submits a medical certificate or statutory declaration in support.

Adoption Leave – Specific Conditions

- 39.14 For the purposes of adoption leave, “child” means a child or children of the staff member through an adoption process who is not the birth child of the staff member or the staff member’s partner and who has not lived continuously with the staff member for a period of six months or longer.
- 39.15 The provisions for maternity leave apply *mutates mutandis* to adoption leave.

Parental Leave During Holidays

- 39.16 Where Labour Day, Queen’s Birthday or Melbourne Cup Day, fall during a period of parental leave counting as service, the staff member will accrue an entitlement to 1 2/3 days holidays in lieu for each day. Where the staff member returns to work in the same year that the entitlement is accrued, it will be taken at the next Christmas/New Year closedown. If not, the accrued holiday entitlement is required to be taken prior to the next closedown period.
- 39.17 All other holiday entitlements will be foregone by staff on parental leave.

SCHEDULE 5 – LEAVE ENTITLEMENTS

All paid and unpaid leave as referred to in clause 34.

Purpose of leave	Application and eligibility	Leave entitlement
Staff member applying for leave must specify it is for the purpose listed below.	All staff members are eligible for the entitlements in this Table provided that for any specific category of leave, the staff member has been or is:	A staff member’s entitlement is subject to the conditions set out in clauses 34-40 of the Agreement.
(m) Parental Leave (Maternity) Birth and care of a child	A birth mother with continuous service of:	Paid leave for a continuous period of 14 weeks (to conclude no later than 14 weeks following the birth) and additional leave of 38 weeks at 60% of pay. The 38 week leave period may be converted to other options under the return to work scheme.
	• at least 24 months;	
	• 12 –24 months;	Paid leave for a continuous period of 14 weeks (to conclude no later than 14 weeks following the birth) and additional leave at the rate of 3.16 weeks for each completed month of service between 12 and 24 months at 60% of pay.
	• less than twelve months	Paid leave for a continuous period at the rate of 1.16 weeks for each month of service and to conclude no later than 14 weeks following the birth.
	Period of paid leave is exhausted	Additional unpaid leave taken within 52 weeks of the commencement of maternity leave which will bring the aggregate period of paid and unpaid leave to a maximum of 52 weeks