



LEAVE GUIDELINES

Responsible:	Head Employee Relations, People & Culture
Last Updated:	January 2023

PURPOSE OF THESE GUIDELINES

These Guidelines provide an overview of the leave entitlements available to ABC employees and outline the processes for applying and documenting each type of leave.

WHO THESE GUIDELINES APPLY TO

All ABC employees, other than those employed under the ABC Actors Agreement. For the avoidance of doubt, the Guidelines apply to employees covered by the applicable enterprise agreement for Senior Employees (**SE Agreement employees**) and employees covered by the enterprise agreement for the majority of the ABC's workforce (**Enterprise Agreement employees**).

Please note that casual employees are not entitled to paid leave because they are paid a 25% loading (20% for SE Agreement Employees) in lieu of paid leave benefits provided under the [National Employment Standards](#) and their applicable enterprise agreement.

Casual employees are entitled to some forms of unpaid leave, as set out in the applicable sections of these Guidelines.

NOTIFICATION REQUIREMENTS

Many types of leave require supporting documentation to be provided by an employee before the leave can be approved. Managers and leave approvers must ensure they have sighted the supporting documentation where it is required. The documentation requirements for the various types of leave are set out in these Guidelines.

CONSEQUENCES OF BREACH

Breaches of these Guidelines will be dealt with in accordance with the relevant enterprise agreement and may lead to disciplinary action. Repeated failures to follow these Guidelines, such as failing to provide notification of absences or supporting documentation as requested, may result in termination of employment.

GENERAL

These Guidelines may be amended by the ABC at any time. They are not contractual in nature, and do not form part of your contract of employment. If there is any inconsistency between these Guidelines and an applicable enterprise agreement, the applicable enterprise agreement prevails.

If you have any questions about these Guidelines, please contact the [People & Culture Helpdesk](#).

DOCUMENT HISTORY

- Reviewed January 2022 to add entitlement to compassionate leave in the event of miscarriage (Approved by Head Employee Relations 14 January 2022)
- Reviewed September 2021 to amend minimum period of long service leave from 15 to 7 days (Approved by Head Employee Relations 24 September 2021)
- Reviewed in line with Enterprise Agreement conditions and revised Policy Framework and transitioned to guideline format August 2020
- Reviewed 2016 (Endorsed by PRG Oct 2015; Approved by Executive 1 Mar 2016)
- Reviewed 2015 (Endorsed by PRG 13 May 2015; Approved by Executive 9 June 2015)
- Reviewed 2014 (Endorsed by PRG 26 Mar 2014; Approved by Executive 9 May 2014)
- Reviewed 2011 (Endorsed by PRG 20 Jun 2011; Approved (not required))
- Reviewed 2007 (Endorsed by PRG 23 Oct 2007; Approved by OSG 31 Oct 2007)

DETAILS OF GUIDELINES APPLYING TO TAKING LEAVE

1. Annual leave
2. Purchased leave
3. Personal/ carer's leave
4. Parental leave
5. Public holidays
6. Miscellaneous paid leave
7. Leave without pay
8. Long service leave

1. Annual leave

1.1 WHO IS COVERED BY THIS SECTION OF THE GUIDELINES?

All employees, other than casual employees, are entitled to annual leave.

1.2 ENTITLEMENT TO ANNUAL LEAVE

Annual leave is calculated as follows:

- (a) **Enterprise Agreement employees (Schedule A), and Senior Executives** - Four weeks' annual leave, accrued at the rate of 152 hours per year for full time employees (pro-rated for part time employees).
- (b) **Enterprise Agreement employees (Schedule B)** - Six weeks' annual leave, accrued at the rate of 228 hours per year for full time employees (pro-rated for part time employees).
- (c) **Additional annual leave for some Enterprise Agreement employees** - Some employees are entitled to additional annual leave in the following circumstances:
 - (i) **Additional leave for Sundays Worked**
Schedule A employees who are rostered to work regular shift work on Sundays are entitled to additional paid annual leave at the rate of one-tenth of a working week for each Sunday worked up to a maximum of one week's leave (equivalent to their ordinary weekly hours) entitlement per twelve months. For more information, refer to clause 37 of the [ABC Enterprise Agreement](#).
 - (ii) **Seven-day continuous shift workers**
Schedule B Employees who were employed prior to 3 July 2000 and who continue to be employed as seven-day continuous shift workers in Radio Australia (that is, shift workers who are rostered to work regularly on Sundays) are entitled to one additional week's annual leave.
 - (iii) **Working in Isolated Localities**
ABC Enterprise Agreement Employees who work in a prescribed locality are entitled to additional annual leave. Please refer to the [Isolated Locality Guidelines](#) for further information.

1.3 WHEN AND HOW TO REQUEST ANNUAL LEAVE

Annual leave may be taken at the request of an employee and approval by ABC, or, in certain circumstances, at the direction of the ABC.

You should make a request for annual leave as far in advance as possible. You can do this through [Employee Self Service](#) (ESS) or if you don't have access to ESS, through a [Leave Application Form](#).

Granting of annual leave is subject to the approval of your manager.

When considering a request for annual leave the ABC will:

- seek to balance the needs of the employee with the operational requirements of the ABC. For instance, the manager may need to decline a request to take leave during a peak operational period;
- not unreasonably refuse a request for annual leave; and
- consider annual leave applications in the order they are received for one calendar year at a time.

1.4 ANNUAL CLOSE DOWN

In order to meet the operational needs of the business during periods of low activity and/or downtime in production or operations, the ABC may direct you to take a period of annual leave or paid time off in lieu at any time between 15 December and 15 January (**Annual Close Down**). The amount of leave the ABC can require you to take is 3 to 10 days.

The ABC will notify you of the requirement to take annual leave or paid time off in lieu no later than one month in advance of the Annual Close Down.

If you do not have sufficient accrued annual leave or paid time off in lieu to cover the period, you may take annual leave in advance, long service leave, or leave without pay, but the ABC will not require you to do so.

If you have sufficient accrued annual leave or paid time off in lieu to cover the Annual Close Down but there are exceptional circumstances which mean that taking it would significantly adversely affect you, you may request to make other arrangements with the ABC. The ABC will not unreasonably refuse that request.

1.5 EXCESS LEAVE

(a) Direction to take Excess Leave

The ABC may direct you to take some or all of your accrued annual leave if you have “Excess Leave”. Excess Leave is defined as having an annual leave credit in excess of one and a half years’ accrual, for full-time employees that is:

- Annual leave in excess of 6 weeks (228 hours) for Schedule A employees and SE Agreement employees; and
- Annual leave in excess of 9 weeks (342 hours) for Schedule B employees

You can check your accrual through [Employee Self Service](#).

Where you have Excess Leave, the ABC may provide written notification to you that you are required to liquidate some or all of your Excess Leave (**Liquidation Amount**). The ABC can only notify you of this once every 12 months.

Where you receive a written notification that you are required to liquidate some or all of your Excess Leave, you have one month to submit an application to liquidate your Liquidation Amount either by:

- applying to take annual leave – the leave must be taken within the six-month period after the notification, unless the ABC agrees in writing to a longer period;

- offering to agree to cash out annual leave (please refer to Cashing Out of Annual Leave in this Guideline, below); or
- a combination of both, provided that the total amount of annual leave liquidated is the Liquidation Amount required by the notification.

You are only entitled to cash out more than half of the Liquidation Amount if you have taken at least three weeks' annual leave in the previous 12 months.

If you do not make an application as required, the ABC may direct you to take some or all of your Excess Leave by giving one month's notice in writing.

(b) Cashing out Excess Leave

The ABC recognises the importance of employees taking an appropriate break from work. If you wish to apply to cash out annual leave, you will need to provide an explanation as to why you have been unable to take the leave.

There is no automatic entitlement to cash out annual leave. Cashing out can only occur by agreement between you and the ABC. The request will need to be recommended by the relevant director and approved by the Chief People Officer.

You may apply to cash out an amount of Excess Leave provided that the cashing out does not result in your remaining annual leave balance being less than six weeks. Each cashing out must be by a separate agreement.

You will be paid the full amount that you would have received if you had taken the leave, and your accrued annual leave entitlement will be reduced by the amount of the annual leave cashed out.

1.6 ANNUAL LEAVE LOADING

Employees are entitled to annual leave loading, except for:

- SE Agreement employees;
- casual employees; and
- Enterprise Agreement employees who are in receipt of a salary package or annual buyout that includes an amount in lieu of shift penalties.

Where you are entitled to annual leave loading, it will be calculated and paid for each full day of annual leave taken and will be the greater of either:

- the daily equivalent of 17.5% of base salary up to the prescribed maximum set by the Australian Statistician; or
- the daily equivalent of average shift penalties earned in the previous (rolling) 52-week period less any periods during which you were on leave.

On termination of employment, eligible employees will be paid annual leave loading in respect of any accrued and unused annual leave credits.

1.7 GENERAL CONDITIONS RELATING TO ANNUAL LEAVE

(a) Accrual and Credits

Annual Leave is accrued progressively in hours during a year of service and is credited on a fortnightly basis. You can access your pro rata entitlement as it accrues. Annual leave is cumulative, that is, any accrued and unused annual leave credits will be carried forward.

Annual Leave will only be granted in accordance with actual rostered hours for rostered employees, or if granted in advance of the roster, in accordance with the prescribed hours for the employee. For full-time employees, the prescribed daily hours are either:

- 7 hours 36 minutes (for employees working a two-weekly cycle); or
- 8 hours (for employees working a four-weekly cycle).

(b) **Service**

Annual leave does not break your continuity of service. Periods of annual leave count as service for all purposes.

(c) **Rate of pay**

Annual leave is paid at your base salary according to your ordinary hours of work. That means the rate of pay does not include loadings, monetary allowances, penalty rates, or other similar separately identifiable entitlements.

However, if at the time of taking annual leave, you are in receipt of an annual buyout, salary package or market allowance, the rate of pay will be at the all-inclusive rate.

If you are on higher duties, the higher duties rate of pay will be paid during a period of annual leave if had you been at work instead of on leave, you would have been on higher duties, subject to delegate approval.

(d) **Half day Annual Leave**

You may request a half day of annual leave.

(e) **Payment on termination**

All employees will be paid in lieu of accrued but unused annual leave credits on termination of employment.

(f) **Effect of Public Holidays**

For SE Agreement employees and Schedule A Enterprise Agreement employees, where a public holiday falls during a period of approved annual leave, the period of the public holiday is not deducted from your annual leave credits.

Where Schedule B employees are rostered to work a public holiday, and they wish to take the public holiday off and this is approved, this will be deducted from their annual leave balance.

(g) **Pre 1966 Employees**

Where you were made 'permanent' prior to 26 October 1966, your entitlement to pro rata annual leave payment on termination will be adjusted to take into account any credits or payments for annual leave for your pre-1966 period of employment.

(h) **Additional Annual Leave**

If you have worked an excessive amount of unpaid overtime, the Managing Director or ABC delegate may grant you an additional period of annual leave.

(i) **Cancellation of Annual Leave**

Where approved annual leave is cancelled, or where you are recalled to work from annual leave, you will be re-credited your annual leave credits to the extent of the affected period.

Where your approved annual leave is cancelled without reasonable notice, you will be eligible to be reimbursed any reasonable expenses incurred as a result of cancellation of travel fares and/or accommodation expenses not otherwise recoverable via insurance or other sources.

2. Purchased Leave

2.1 WHO IS COVERED BY THIS SECTION OF THE GUIDELINES?

Employees who have ongoing status are covered by this section of the Guidelines.

2.2 WHAT IS PURCHASED LEAVE?

An employee and the ABC can agree that the employee can "purchase" additional leave. This leave is "paid for" by fortnightly deductions from your salary spread evenly over the 12-month period during which you will take the leave.

2.3 APPLYING FOR PURCHASED LEAVE

You may apply to purchase leave, however, there is not an automatic entitlement to purchased leave.

You must have six weeks' or less annual leave credits when you make your application.

A maximum of four weeks additional leave per year may be purchased by eligible employees.

If you wish to apply for purchased leave, please complete

- a [Purchased Leave Agreement form](#) (The PLA form); and
- a [Leave Application form](#)

at least three weeks prior to the start of the leave you wish to take.

Employees may wish to seek independent financial advice prior to requesting a Purchased Leave Agreement (PLA).

Approval of an application will be subject to operational requirements and must involve no additional cost to the ABC (i.e. compared with the employee's current arrangements).

The PLA must specify:

- the amount of leave to be purchased (in weeks);
- the amount of salary to be deducted each fortnight; and
- the anticipated dates when the purchased leave will be taken.

Please use the [Purchase Leave Deduction calculator](#) to see your fortnightly deductions.

The PLA will typically last for a 12-month period (unless either party terminates it earlier). The PLA will conclude 12 months from the date it is signed, at which time leave paid for and taken will be audited and any necessary adjustments made.

Modifications to the PLA can be made with agreement between you and the ABC. Normally, employees pay for purchased leave over a period of 12 months; however, you can elect to pay for purchased leave in a shorter time frame.

The PLA can be terminated at any time, by you or the ABC, with two weeks' notice.

2.4 GENERAL CONDITIONS RELATING TO PURCHASED LEAVE

Your fortnightly salary deductions for purchased leave will be calculated on the basis of your ongoing salary (including any annual buyout, district, first aid or clothing allowance where applicable) at the time of purchase. That is, the ongoing salary rate at the time you purchase the leave is the rate you will be paid when the leave is taken.

Any higher duties allowance will not be included in the purchase cost and will not be paid to you during periods of purchased leave.

Unless otherwise agreed in writing, purchased leave not taken in accordance with a PLA will be reimbursed to you in a lump sum at the rate at which it was purchased.

The ABC's approval of purchased leave applies to the position you hold at the time of application. If you take on a different role, the PLA will automatically cease to operate, and you will either be paid out any outstanding purchased leave or be required to repay amounts owing to the ABC, unless otherwise agreed with your new manager. For the agreement to continue, there must be agreement in writing which specifies the amount of purchased leave approved and the time remaining on the PLA. The new manager must also receive a copy of the original PLA.

Where, during the 12-month period in which the salary deductions for purchased leave are scheduled, you cease employment, or the PLA ceases to operate, and payments for the purchased leave are outstanding, you must repay the outstanding amount in full. Any outstanding amount may be deducted from any termination payment or amount owing to you.

Purchased leave will count as service for all purposes.

Purchased leave does not attract an annual leave loading.

3. Personal/ Carer's Leave

3.1 WHO IS COVERED BY THIS SECTION OF THE GUIDELINES?

All employees excluding Actors Agreement Employees but including casual employees, are covered by this section of the Guidelines, to the extent applicable.

3.2 WHAT IS PERSONAL/ CARER'S LEAVE?

Personal/ Carer's leave includes:

- leave taken by an employee because of personal injury or illness; and
- carer's leave taken by an employee to provide care or support to a member of their immediate family or household because of illness or injury, or because of an unexpected emergency affecting the member.

3.3 ENTITLEMENT TO PERSONAL/CARER'S LEAVE

Employees, both under the Enterprise Agreement and Senior Employment Agreement, have up to 18 days' paid personal/carers' leave per year.

The 18 days' leave comprises:

- 10 days' personal/carers leave accrued under the National Employment Standards; and
- 8 days' Additional Personal Leave.

Unused personal/carers' leave accumulates from year to year.

Personal leave may be used for absences, subject to available credits, medical certification (as applicable), and, if required, the opinion of a medical practitioner nominated by the ABC. Please note that carer's leave taken due to an "unexpected emergency" will generally be limited to the duration of the emergency.

The ABC may approve personal/carers' leave without pay when personal leave credits are exhausted.

All employees, including casual employees, are entitled to two days unpaid carer's leave in accordance with the National Employment Standards for each occasion when a member of the employee's immediate family or household requires care or support because of a personal illness, injury, or an unexpected emergency.

Untaken personal/carers' leave is not paid out on termination.

3.4 HOW TO REQUEST PERSONAL/CARER'S LEAVE

If you will be absent from work, you must notify your manager as soon as practicable. Your manager may specify the means by which you are to notify any absence.

You can make a request for personal/carers' leave by either:

- submitting a request via [Employee Self Service \(ESS\)](#); or
- completing a [Leave Application](#) and submitting it to your manager as soon as reasonably practicable.

You will need to make the request, and provide any supporting documentation (as applicable), as soon as practicable.

Approval is subject to you:

- having the available personal/ carer's leave credits;
- advising the ABC as soon as reasonably practicable of any absence; and
- providing suitable supporting documentation (as described below) when requested by the ABC.

In any personal/ carer's leave credit year, up to a total of five (5) working days (maximum three consecutive) paid personal/ carer's leave can be granted without production of suitable supporting documentation. Otherwise, the leave will be without pay.

Where the absence is due to illness or injury, suitable supporting documentation includes documentation from a registered health practitioner such as medical practitioner, dentist, osteopath or similar health practitioner recognised by a health fund.

A medical certificate must state, in the registered health practitioner's opinion, that:

- the employee was, or is unfit for work during the period because of personal illness or injury; or
- that the member of the employee's immediate family or household has, or will have, an illness or injury during the period and requires or required the employee to care for them.

A statutory declaration will only be sufficient where the absence is due to an unexpected emergency, or where it is not reasonably practicable for you to obtain one of the documents mentioned above.

If you wish to submit a statutory declaration as supporting documentation, it must state:

- that you are (or were) unfit for work due to personal/ carer's illness or injury; or
- that you are (or were) required to provide care or support to a member of your immediate family or household; and
- the nature of the emergency and/ or why it is (or was) not reasonably practicable for you to obtain a medical certificate or other documentation from a registered health practitioner.

If you are requesting carer's leave, you may be required to identify your relationship with the individual requiring your care or support.

3.5 DEFINITION OF 'IMMEDIATE FAMILY'

The ABC Enterprise Agreement defines immediate family as any person dependent on you for care and support such as relation by blood (child, sibling, parent, grandparent), marriage (including de facto relationships), adoption, fostering or traditional kinship, without discrimination in interpretation as to race or sexual orientation

In these Guidelines, this definition provides further guidance with immediate family referring to:

- de facto partner or former de facto partner regardless of gender
- child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner (or former spouse or de facto partner) regardless of gender.
- step-relations (e.g. stepparents and stepchildren) as well as adoptive relations or a member of the employee's household, or if the employer agrees to this.

3.6 GENERAL CONDITIONS RELATING TO PERSONAL/CARER'S LEAVE

(a) Credits

Employees receive their annual personal/carer's leave credits on their date of commencement and on each subsequent anniversary. Part-time employees accrue a proportional credit according to their part-time hours. The date of an employee's anniversary will change if the employee has taken any type of leave that does not count as service, such as LWOP.

Credits and debits will be recorded in hours and minutes, and absences will be deducted in accordance with actual rostered hours for rostered employees, and in accordance with the prescribed hours for non-rostered employees.

(b) Service

Paid personal/carer's leave does not break continuity of service and counts as service.

For Enterprise Agreement employees, the maximum continuous period of personal/carer's leave without pay to count as service is 78 weeks.

For SE Agreement employees, the maximum continuous period of leave to count as service that can be granted for personal/sick leave is 78 weeks, of which no more than 52 weeks can be with pay (this excludes paid workers' compensation and war service leave).

Any leave taken that does not count as service will affect the next leave accrual date following the unpaid leave period.

(c) Advancement of credits

If special circumstances exist, you can apply to your manager for consideration of advancement of personal/ carer's leave credits.

(d) Conversion to half pay

At the employee's request, the ABC may approve the conversion of some or all of the employee's full pay personal/ carer's leave to half pay.

(e) Fitness for work

In circumstances where an employee has been on extended or regular periods of leave due to illness or injury, or where the condition of the employee may be of concern to the ABC, the employee may be directed to attend an independent medical assessment concerning their fitness for duty.

(f) Interaction with Annual or Long Service Leave

An employee absent on annual or long service leave who provides suitable supporting documentation for a period of leave that would otherwise be considered personal/carer's leave can be re-credited for the period of the documented absence, where they have appropriate personal/ carer's leave credits.

(g) Interaction with Maternity Leave

An employee is not entitled to take personal/carer's leave whilst they are entitled to paid maternity leave under the *Maternity Leave (Commonwealth Employees) Act 1973* (Cth).

An employee on unpaid parental leave can be granted personal/carer's leave for a period supported by suitable supporting documentation and as outlined in this section.

(h) Interaction with Worker's Compensation

An employee is not entitled to paid personal/carer's leave for a period during which they are receiving workers compensation.

An original medical certificate from a registered medical practitioner (i.e. doctor) will be required where an absence is related to a claim for worker's compensation.

An employee in receipt of worker's compensation in excess of 45 weeks will only accrue personal/carer's leave on the basis of hours actually worked.

(i) Special War Service provisions

Where an employee produces evidence that a period of sickness is for a condition accepted by the Department of Veterans' Affairs as a result of war service, the employee will be eligible for war service sick leave at full pay subject to a maximum credit balance of 90 days.

War Service sick leave is accrued as follows:

- 45 days on commencement (less any previous grants); and
- 15 days per year where required.

(j) Recognition of previous service

Previous service with government organisations will be recognised as service for personal/carer's leave crediting purposes provided that the break between those periods of service is no greater than two months.

The personal/carer's leave credit is to be calculated according to the total period of recognised service, less any previous periods of absence (not to count as service) or leave granted or paid in lieu.

In order for any relevant prior service to be recognised for personal/carer's leave crediting purposes, you will need to provide details of an appropriate contact for the government department you previously worked for, and any other supporting documentation the ABC requires.

An employee who was previously retired on grounds of invalidity and is recommencing as a result of action taken under Section 75 of the *Superannuation Act 1976* is entitled to be credited with personal/carer's leave equivalent to the balance at the time of retirement.

4. Parental Leave

4.1 WHO IS COVERED BY THIS SECTION OF THE GUIDELINES?

This section applies to all employees except Actors Agreement employees, regardless of gender, relationship status or sexual orientation.

4.2 WHAT IS PARENTAL LEAVE?

Employees who become parents, including via adoption or surrogacy, or foster care for at least 12 months, may be entitled to parental leave.

Parental leave is for the purpose of providing care for a newly born or adopted child.

Parental leave entitlements are drawn from a variety of sources including:

- the National Employment Standards (NES) in the *Fair Work Act 2009* (Cth);
- the *Maternity Leave (Commonwealth Employees) Act 1973* (Cth) (MLCE Act);
- an applicable enterprise agreement; and
- this section of the Leave Guidelines.

4.3 TYPES OF PARENTAL LEAVE

Employees may be entitled to one or more of 6 types of parental leave, subject to eligibility:

- unpaid parental leave;
- paid maternity leave;
- paid Adoption, Foster care or Surrogacy leave;
- paid Supporting Partner Leave;
- paid No Safe Job leave;
- unpaid special maternity leave.

Further information about each of these forms of leave is detailed below.

In addition, employees may be granted other forms of leave in appropriate circumstances. For instance, you may apply for Discretionary Leave or Special Leave for ante-natal care (see section 6 ‘Miscellaneous Paid Leave’). Any leave request needs to be discussed with your manager as soon as possible. A manager will not unreasonably refuse a request for time off for ante-natal care. However, Discretionary Leave or Special Leave cannot be taken at the same time as any other paid leave.

4.4 ENTITLEMENT TO UNPAID PARENTAL LEAVE

Full time and part time employees are entitled to unpaid parental leave in accordance with the NES.

Casual employees are also entitled to unpaid parental leave if:

- they have been employed by the ABC on a regular and systematic basis for at least 12 months immediately prior to the date of birth (or expected date of birth) or placement; and
- had it not been for the birth (or expected birth) or placement of the child, they would have a reasonable expectation of continuing employment by the ABC on a regular and systematic basis.

Unpaid parental leave can be taken in the following circumstances:

- the leave is associated with the birth of a child of the employee or the employee's spouse or de facto partner, including through surrogacy;
- the leave is associated with the adoption of a child under 16;
- the leave is associated with the death of the child in the first 24 months of life or the child is stillborn¹; or
- the leave is associated with the placement of a child with the employee as a foster carer, where the placement is for at least 12 months.

Employees on unpaid parental leave can be granted personal/carer's leave if such a request satisfies the personal/carer's leave requirements under the NES and section 2 of these Guidelines.

Both parents (an 'employee couple') may be eligible to take unpaid parental leave from their employer(s). An employee couple is where two employees are in a spousal or de facto relationship including same sex couples. It includes:

- couples where both people are employees of the ABC; and
- couples where one person is employed by the ABC and the other person is employed by another organisation.

4.5 WHAT ARE THE RULES FOR TAKING UNPAID PARENTAL LEAVE?

Where only one member of an Employee Couple is taking unpaid parental leave, the following rules apply:

- the leave must be taken in a single continuous period (paid leave, such as annual leave, may be taken at the same time);
- the leave starts at the birth or placement of the child or, in the case of a pregnant employee, up to six weeks before the expected date of birth; and
- the leave may start at any time within 12 months after the birth or placement of the child if:
 - ➔ the employee has a spouse or de facto partner who is not an employee; and
 - ➔ the spouse or de facto partner has responsibility for the care of the child for the period between the date of birth or placement and the start date of the leave.

Where both members of an Employee Couple are taking leave, the following rules apply:

- Both employees may at the same time take up to eight weeks' unpaid parental leave (reducing their overall entitlement) either immediately after the birth or placement of a child or earlier, by agreement with the ABC. Leave taken at the same time may be taken in separate periods, but each period must not be shorter than two weeks unless the ABC otherwise agrees.
- The remaining leave must be taken separately in a single continuous period (paid leave, such as annual leave, may be taken at the same time).

¹ The definition of stillborn will be in accordance with the *Fair Work Act 2009* (Cth)

- If the employee who takes leave first is pregnant or gives birth, they may start their leave up to six weeks before the expected date of birth.
- If the employee who takes leave first is not pregnant, their leave must start on the date of birth or placement of a child.
- The second employee must start their leave immediately after the first employee's leave finishes.
- They are entitled to no more than 24 months' parental leave between them.

4.6 CAN AN EMPLOYEE EXTEND THEIR UNPAID PARENTAL LEAVE?

An employee taking unpaid parental leave may request a further 12 months' leave (up to 24 months in total) unless they are a member of an Employee Couple and the other member has already taken 12 months of leave.

The request must be in writing and given to the employee's manager at least four weeks before the end of the employee's initial period of parental leave.

The ABC will respond in writing within 21 days, stating whether the request is refused or granted. The ABC will only refuse if there are reasonable business grounds to do so and will detail the reasons for any refusal in writing. If the ABC refuses the request the written response to the employee will include details of the reasons for the refusal.

4.7 COMMENCING PARENTAL LEAVE AND RETURNING TO WORK

For employees who are giving birth to a child, they may continue to work within the six-week period before the expected date of birth and within the six-week period following the birth if *they provide a medical certificate*.

4.8 PAID MATERNITY LEAVE UNDER THE MLCE ACT

- (a) A pregnant employee's entitlement to paid maternity leave is determined by their period of continuous service.
- (b) All employees, other than casual employees and Actors Agreement employees, with more than 12 months' continuous service immediately before the commencement of the leave, are entitled to have the first 16 weeks of their maternity leave paid in accordance with the MLCE Act and applicable enterprise agreement. Service as a casual employee does not count towards an employee's 12 months' continuous service.
- (c) Employees who are eligible for paid maternity leave may elect to take their paid leave at half pay over a period of 32 weeks. Where an employee elects to take their paid maternity leave at half pay, only half of the paid period will count as service. For example, where an employee who chooses to spread their 16 weeks paid leave over 32 weeks, only the first 16 weeks of the period will count as service. Taking a period of maternity leave at half pay will not extend the total amount of parental leave available to an employee beyond their entitlement under the NES.

- (d) If employees or their spouse or de facto partner experience a miscarriage, they may access compassionate leave in accordance with these Guidelines.
- (e) Prior to commencing paid maternity leave, pregnant employees may access paid personal/carer's leave to which they are entitled for any pregnancy-related illness.
- (f) Employees are not entitled to paid personal/carer's leave when they are on paid maternity leave.
- (g) Employees may also be eligible for other benefits under the Federal Government scheme. Further information is available from Centrelink and the Department of Human Services.

4.9 TRANSFER TO A SAFE JOB

Transferring to a safe job is available for all employees except Actors Agreement employees but including casual employees.

Where a pregnant employee produces a medical certificate from a medical practitioner stating that the employee is fit to work, but that it is inadvisable for her to continue in her present position for a stated period because of:

- illness or risks arising out of her pregnancy; or
- hazards connected with that position,

the ABC will, where reasonably practicable, transfer the employee to an appropriate safe job.

An appropriate safe job is a job that is:

- the same ordinary hours of work as the employee's present position; or
- a different number of ordinary hours agreed to by the employee.

Where you produce a medical certificate, as described above, the ABC may seek an independent medical opinion.

4.10 NO SAFE JOB LEAVE

If there is no appropriate safe job available, and you are entitled to unpaid parental leave (see section 4.4 of these Guidelines), and you have complied with notice and evidence requirements, you are entitled to take paid leave.

This type of paid leave is called No Safe Job Leave.

This leave is in addition to any of your other leave entitlements and any such period of leave ends on the earlier of either:

- the end of the period stated on the medical certificate;
- the day before the date of birth; or
- if the pregnancy ends otherwise than with the birth of a living child, the day before the pregnancy ends.

4.11 ADOPTION, FOSTER CARE OR SURROGACY LEAVE

ABC employees, other than casuals and Actors Agreement employees, who have completed 12 months' continuous service immediately prior, are entitled to take adoption, foster care or surrogacy leave in relation to:

- the birth of a child of the employee or the employee's spouse or de facto partner through surrogacy; or
- the adoption of a child; or
- the placement of a child with the employee as a foster carer, provided the proposed foster care placement is for at least 12 months

Employees may take up to 2 days' unpaid leave to attend interviews or examinations required to obtain approval for the adoption or foster care arrangements, and 16 weeks' paid leave (6 weeks for SE Agreement employees) from the date they assume responsibility as the primary carer of the child. The leave may be taken over a longer period that is twice as long at half-pay, but only half the weeks will count as service.

However, the period of leave will be reduced by the length of any Supporting Partner Leave that the employee has already taken in relation to the child, and any Adoption, Foster Care or Surrogacy Leave that any other employee has already received in relation to the child.

4.12 PAID SUPPORTING PARTNER LEAVE

All employees, other than casual employees and Actors Agreement employees, are eligible to request Paid Supporting Partner Leave if they have completed at least 12 months' continuous service upon commencement of the leave,

You may take up to 4 weeks' paid leave to care for the child, subject to the ABC's operational requirements, if:

- Your spouse or partner gives birth;
- Your spouse or partner is the primary carer of the child of the employee or your spouse or partner born through surrogacy; or
- Your spouse or partner is the primary carer of the child that you or your spouse or partner has adopted, or in relation to whom you or your spouse or partner has a foster care arrangement of more than 12 months.

The period of Supporting Partner Leave you are entitled to take will be reduced by the length of any paid maternity leave, or adoption, foster care or surrogacy leave you have already taken, and any Supporting Partner Leave that any other employee has received in relation to the child.

Paid Supporting Partner Leave must be taken within 12 months of the birth or placement of the child, and unless the ABC otherwise agrees, must be taken in minimum periods of one week.

You are not required to be the primary carer of the child to use paid Supporting Partner Leave, but the child must be in your care.

Paid Supporting Partner Leave cannot be taken during a period in which you are receiving Dad and Partner Pay under the *Paid Parental Leave Act 2010* (Cth) and is in addition to unpaid concurrent parental leave under the NES.

An employee who is eligible for Paid Supporting Partner Leave may also use up to 10 days of their personal/carers leave for caring purposes.

You may take up to 4 weeks' of paid supporting partner leave if your child is stillborn or dies within the first 24 months of life.

If Paid Supporting Partner Leave is taken during a period which a Public Holiday occurs, the employee will not receive additional day/s in lieu of the Public Holiday during this period.

4.13 KEEPING IN TOUCH DAYS

You can come back to work for up to ten “keeping in touch” days during your parental leave (at least two weeks after the birth or adoption of your child), without it affecting your unpaid parental leave entitlements.

A keeping in touch day should be used to refresh your skills, stay up to date with the workplace and assist you in returning to work. Activities that can be undertaken during a keeping in touch day include (but are not limited to):

- Participating in a team planning day;
- Participating in training; and
- Performing work to help the employee become familiar with the role or workplace before returning to work.

You are entitled to be paid your normal wage for the day's (or part day's) work. However, if you are in the paid portion of your parental leave, you will not be paid twice in relation to the same day. Keeping in touch days can be taken one day at a time or all at once. How the days are taken is subject to the prior approval of your manager. Employees do not have to perform any keeping in touch days if they do not wish to, or if it is not viable for them to do so. Keeping in touch days do not extend an employee's entitlement to unpaid parental leave.

Please note, if an employee accesses more than 10 keeping in touch days or resumes regular work activities outside of keeping in touch days, they are considered to have returned to work.

4.14 UNPAID SPECIAL MATERNITY LEAVE

An eligible employee is entitled to take unpaid special maternity leave if the employee is not fit for work because of:

- a pregnancy-related illness; or
- the pregnancy ends, not in the birth of a living child, within 28 weeks of the expected date of birth.

You must give the ABC notice that you are taking unpaid special maternity leave as soon as possible (which may be after the leave has started), and the expected period of leave.

The ABC may require you to provide evidence to satisfy the above requirements. This may include a medical certificate.

Any unpaid special maternity leave you take whilst pregnant will be deducted from your leave period associated with the birth of the child.

4.15 GENERAL CONDITIONS RELATING TO PARENTAL LEAVE

(a) **Continuous period**

Parental leave (paid and unpaid) must be taken in a single continuous period, with the exception of “Keeping in Touch Days”, referred to above.

(b) **Other forms of paid leave while on unpaid parental leave**

You may access a form of paid leave such as annual leave, during a period of unpaid parental leave. However, accessing other leave during the period of unpaid parental leave will not extend the total amount of parental leave available.

(c) **Restrictions on patterns of leave in some cases**

In some cases, there are some restrictions on the pattern of leave that can be taken. For example, if you are on any type of LWOP for a period in excess of six weeks, you may not be eligible to take a period of paid maternity leave under the MLCE Act immediately following a period of LWOP. Employees can contact the [People & Culture Helpdesk](#) for more information.

(d) **Changes to primary carer**

If you have had parental leave approved on the basis that you are the child’s primary carer, and you cease to be the primary carer, you must inform the ABC and the ABC may cancel the remaining period of parental leave.

(e) **Paid leave to count as service**

Paid leave (with the exception of half of a period of leave if taken at half pay) will count as service. Unpaid parental leave does not count as service; however, it does not break continuity of service.

(f) **Varying a period of Parental Leave**

If you are within the first 12 months of parental leave, you may initially extend your leave by giving at least four weeks’ notice for the first extension. Any further extensions must be by agreement with the ABC. Any reductions to the period of leave must be by agreement with the ABC.

If you have completed the first 12 months of parental leave and you wish to vary the period of your leave, you must seek agreement from the ABC. If you would like to extend your period of leave further, you must request this in writing at least four weeks before your initial period of parental leave is due to finish. The ABC may approve or refuse such a request, or request to shorten a period of leave. In particular, the ABC may refuse a request to shorten a period of leave where the ABC has engaged someone to backfill your position for a specified period.

(g) **Reducing the period of parental leave if the pregnancy ends (other than with the birth of a living child) or a child born alive passes away.**

Generally, an employee in this situation may have leave entitlements under the MLCE Act and the NES. For further information please contact the [People & Culture Helpdesk](#).

(h) **Backfilling parental leave**

An employee backfilling another employee on parental leave must be advised that the work is temporary and be made aware of the right of the employee for whom they are backfilling to return to their role.

(i) **Casuals are not eligible for any paid leave**

For the avoidance of doubt, casual employees are not eligible for any form of paid parental leave.

(j) **ABC Employee Couples**

Two ABC employees cannot both receive the same type of paid leave under this part of the Guidelines in relation to a child at the same time.

(k) **ABC requests for evidence**

An employee seeking to take any paid leave must provide any notice and evidence reasonably required by the ABC from time to time in relation to any matter relevant to this clause (including whether the employee is the primary carer of the child).

4.16 RETURNING TO WORK FROM PARENTAL LEAVE

An employee returning from parental leave is entitled to return:

- to the position they held prior to the start of that leave; or
- if they were promoted or voluntarily transferred to a new position during the period of that leave, to the new position; or
- if prior to parental leave they transferred to another position or reduced their working hours because of their pregnancy, to the position they held immediately before reducing their working hours or transferring to the other position.

If the employee's pre-parental leave position no longer exists, the employee is entitled to return to an available position for which they are qualified and suited nearest in status and pay to the pre-parental leave position.

4.17 FLEXIBLE WORKING ARRANGEMENTS

An employee returning from parental leave may request flexible working arrangements, including working part-time. A request for flexible working arrangements will be given due consideration and will only be refused on reasonable business grounds. If the request cannot be facilitated, the manager must include the reasons for refusal in the written response to the employee.

If you are making a flexible working request, please take the following steps:

- set out the details of the flexible working arrangements being sought and the reasons for the request. Your manager must provide a written response to your request within 21 days of receiving the request.

- initiate the proposal as early as practicable and at least two months prior to resuming work.

The proposal, if approved, will be for a period of up to 12 months.

Please note that the part time position may not necessarily be the same position you held prior to taking parental leave.

4.18 NOTICE AND DOCUMENTATION REQUIREMENTS

(a) Documents to provide

If you wish to take a form of leave under this part of the Guidelines, you must provide the following:

- For birth-related parental leave and Supporting Partner Leave, a medical certificate confirming the pregnancy and the expected date of birth;
- For adoption-related leave, confirmation of the expected placement date and that the child will be under 16 at that time;
- Completed [Parental Leave form](#) no later than ten weeks before the expected date of birth/placement or if this is not practicable, as soon as practicable, and
 - at least four weeks before the start date specified in the parental leave form, you must, unless it is not practicable to do so,
 - ⇒ confirm the intended start and end date of the parental leave; or
 - ⇒ advise the ABC of any changes to the intended start and end dates of the leave

For Supporting Partner Leave, you are also required to provide a statutory declaration stating the period(s) of leave to be taken by your partner or spouse, and a completed Parental Leave form at least four weeks before the anticipated commencement date of such leave.

(b) Working within the six-week period either side of the birth

For pregnant employees, a medical certificate is required before you may work within six weeks either side of the birth of your child. The medical certificate must state whether you are fit for work and whether or not it is advisable (in the medical practitioner's opinion) for you to continue in your present position for a stated period because of illness or risks arising out of her pregnancy or hazards connected with that position.

(c) Pregnancy-related illness

An employee who requires leave because of a pregnancy-related illness must provide:

- a medical certificate confirming the pregnancy and expected date of birth and containing a statement to the effect that in the medical practitioner's opinion you are, were, or will be unfit to work for a stated period because of a pregnancy-related illness; and

- a completed Leave Application form [[hyperlink](#)].

The ABC may request any additional documentation it reasonably requires.

4.19 FORMS

Employees applying for any form of Parental leave are required to complete a [Parental Leave Application form](#).

Employees can contact the [People & Culture Helpdesk](#) for assistance in completing a parental leave application.

5. Public Holidays

5.1 WHO IS COVERED BY THIS SECTION OF THE GUIDELINES?

Schedule A Enterprise Agreement employees and SE Agreement employees are covered by this section of the Guidelines. For avoidance of doubt, Schedule B Enterprise Agreement employees are not covered by this section of the Guideline.

5.2 ENTITLEMENT TO PUBLIC HOLIDAYS

The following designated paid public holidays apply each calendar year for Schedule A Enterprise Agreement employees, and SE Agreement employees. To avoid doubt, they do not apply to Schedule B Enterprise Agreement employees.

- 1 January (New Year's Day), or, if that day falls on a Saturday or Sunday, the following Monday;
- 26 January (Australia Day) or, if that day falls on a Saturday or Sunday, the following Monday;
- Good Friday and the following Saturday and Monday;
- 25 April (Anzac Day) (or substitute);
- the relevant Queen's Birthday observance day;
- the 'Labour Day' or equivalent in the respective location;
- 25 December (Christmas Day) or, if that day falls on a Saturday or Sunday, 27 December;
- 26 December (Boxing Day) or, if that day falls on a Saturday or Sunday, 27 December; and
- the additional Commonwealth nominated post-Christmas holiday.

5.3 ADDITIONAL BENEFITS FOR SCHEDULE A ENTERPRISE AGREEMENT EMPLOYEES

(a) Local public holidays

Up to two further local paid public holidays (or summation of part days), where recognised by the ABC, may also apply at the respective locality.

The total of all public holidays applied in any locality in any calendar year cannot exceed thirteen, unless a greater number is provided for in the NES or there is a "Special Additional Public Holiday" referred to below.

(b) Special Additional Public Holidays

Where a federal, state or territory government gazettes a public holiday as a once only event to mark a special occasion and where it is not in substitution for any existing public holiday, the public holiday will be observed in addition to those specified above.

(c) Substituted days

Where a designated public holiday falls on a Saturday or Sunday and is substituted by a different day, the subject Saturday or Sunday will no longer be regarded as a public holiday for remuneration purposes.

Where an employee works on both Christmas Day and a substitute holiday, one day will attract payment at the public holiday rate and the other day will be paid at the non-holiday Saturday or Sunday rate as appropriate.

Where the ABC and an employee agree, another day may be substituted for any of the public holidays prescribed above. In this circumstance the original public holiday will no longer be regarded as a holiday for the employee.

(d) Day off in lieu

A rostered full-time employee who is rostered off on a public holiday will be credited with 7 hours 36 minutes as a day off in lieu for this day ("DILPH"). Where practicable, this day off is to be taken off within one month of accrual. Where it is not practicable to grant the day off within one month of accrual, the employee will be paid for the hours credited in the next pay period.

A part-time employee who does not ordinarily work on a day on which a public holiday falls will be credited with a one-tenth of their agreed fortnightly hours as leave in lieu of the public holiday. By mutual agreement, hours credited in this way may be accumulated and taken later as extra leave, including if necessary, in conjunction with annual leave. Where it is not practicable to grant the extra leave, the employee will be paid for the hours credited.

In the case of an employee whose ordinary hours are confined to Monday to Friday, this clause does not apply when a public holiday falls on a Saturday or Sunday.

(e) Half Day Public Holiday

A half day public holiday will cover a period of 12 hours and will either cease at midday or commence at midday, depending on the event being celebrated.

The minimum additional payment for ordinary duty performed on a public holiday pursuant to the clause 'Shift Penalties for Public Holidays' in the ABC Enterprise Agreement (as varied) will, in the case of a half day public holiday, be reduced by any periods of ordinary duty worked prior to the commencement or after the finish of the half day public holiday.

Where in a regular cycle of rostered work an employee is rostered off on a day on which a half day public holiday occurs, the ABC will grant a nominal half day's leave in lieu of the holiday, together with a credit of the hours for a half day. Where this is not practicable, the employee will be paid a half day's pay at the ordinary rate.

6. Miscellaneous Leave

6.1 WHO IS COVERED BY THIS SECTION OF THE GUIDELINES?

All employees, other than Actors Agreement employees, are covered by this section of the Guidelines, to the extent applicable.

Please note that although casual employees are not entitled to paid leave, they may in certain circumstances be entitled to unpaid leave, as set out below.

6.2 WHAT IS MISCELLANEOUS PAID LEAVE?

Miscellaneous Paid Leave consists of:

- Compassionate Leave;
- Other Special Leave;
- Discretionary Leave;
- Study Leave;
- NAIDOC Leave;
- Family and Domestic Violence Leave; and
- Gender Affirmation Leave

6.3 ENTITLEMENT TO MISCELLANEOUS LEAVE

(a) Compassionate Leave

Employees (other than casual employees) are entitled to up to three days paid compassionate leave per occasion where a member of the employee's immediate family or household either:

- contracts or develops a personal illness that poses a serious threat to their life; or
- sustains a personal injury that poses a serious threat to their life; or
- dies.

An employee may also access compassionate leave where they or their spouse or de facto partner experience a miscarriage. Miscarriage has the same meaning as defined by the *Fair Work Act 2009* (Cth).²

Casual employees are entitled to two days of unpaid compassionate leave on each occasion.

Compassionate leave may be taken as a single, unbroken period, or as separate periods.

(b) Other Special Leave

Employees (other than casual employees) are entitled to paid leave in relation to the following unforeseen emergency situations or special circumstances:

- attending a court for jury service;

² Section 12 defines miscarriage as a spontaneous loss of an embryo or fetus before a period of gestation of 20 weeks.

- attending as a witness at proceedings on behalf of the Commonwealth or State/Territory Government;
- household emergencies, moving house; or
- attendance for special religious, ceremonial or cultural obligations.

The amount of paid leave that will be granted depends on the nature of the Special Leave that is sought, and the circumstances of each case.

(i) Jury Service

From time to time, employees may be summoned to serve as jurors at a court.

The ABC is required by law to release employees for jury service. An employee's employment will not be prejudiced in any way as a result of serving as a juror in accordance with ABC Procedure and relevant legislation.

You are entitled to special paid leave to attend court for jury service during any period to which you would otherwise be required for work.

You will be paid as normal for jury service. To avoid being overpaid, you must reimburse the ABC any attendance fee they receive from the Court. This includes signing over cheques you receive from the Court for your attendance. Generally, the Court will reimburse jurors for travel, meal and other out-of-pocket expenses incurred.

On the first day at court, you must inform the Clerk:

- you are employed by a government agency;
- you will be paid as normal by the ABC; and
- the ABC requires reimbursement for the jury attendance fee.

If you receive a summons for jury service, you are required to advise your manager as soon as reasonably practicable, including the estimated length of the trial.

There may be times where you are required for a few hours only. In these circumstances, please contact your manager to discuss whether it is practicable for you to return to work for the remainder of the day.

(ii) Attending as a witness at proceedings on behalf of the Commonwealth or State/Territory Government

If you are required to attend as a witness in proceedings on behalf of the Commonwealth or a State or Territory Government, please advise your manager as soon as practicable, including the estimated length of your attendance.

(iii) Household emergencies, moving house

If you wish to apply for special paid leave for a household emergency or moving house, please submit your request as early as practicable.

(iv) Attendance for special religious, ceremonial or cultural obligations

The ABC is aware that staff may have differing cultural, religious and ceremonial obligations. Employees are entitled to paid leave for special cultural, ceremonial and/or religious obligations, other than designated public holidays defined in the ABC Enterprise Agreement and relevant legislation.

Managers may refer to the Calendar of Cultural and Religious Dates on the Department of Home Affairs website in reviewing an employee's leave request, however, this is not an exhaustive list. Generally, one day of paid leave per annum will be approved for attendance for special religious, ceremonial or cultural obligations, however, additional time off may be considered in special circumstances.

(c) NAIDOC Leave

Aboriginal and Torres Strait Islander employees (other than casual employees) may be granted one day's paid leave per year to attend and participate in NAIDOC Week activities, subject to the ABC's operational requirements. If the ABC decides that an Aboriginal and Torres Strait Islander employee cannot take NAIDOC Leave due to operational requirements, the ABC may permit the employee to take one day's paid leave in the following six months to attend a different Indigenous public cultural event instead.

(d) Discretionary Leave

Employees do not have an automatic entitlement to paid discretionary leave. Subject to the individual circumstances and the operations of the ABC, paid leave may be granted to employees (other than casual employees) for:

- Australian Defence Force and Australian Defence Force Cadets requirements (leave at full pay for all reasonable operational requests);
- participation in Government emergency service activities;
- participation in authorised international sporting events;
- participation in ABC approved training, consultative committees or appeal boards; or
- other special circumstances considered appropriate.

(e) Study Leave

This section of the Guidelines must be read in conjunction with the [Study Assistance Guidelines](#).

Study leave is authorised in accordance with the Study Assistance Procedure. Subject to delegate approval, an employee may be granted:

- up to five hours per week paid leave (plus necessary travel time) to attend lectures; and
- paid absence for all required examinations.

(f) Family and Domestic Violence Leave

The ABC recognises that employees may face situations of violence or abuse in their personal life that may affect their attendance or performance at work and is therefore committed to providing support to all employees that experience family and domestic violence including same sex relationships.

“Family and domestic violence” is violent, threatening or abusive behaviour by a close relative of an employee, a member of the employee's household, or a current or former intimate partner of an employee that:

- seeks to coerce or control the employee; and
- causes the employee harm or to be fearful.

An employee who is experiencing family and domestic violence will have access to paid leave if;

- the employee needs to do something to deal with the impact of the family and domestic violence; and
- it is impractical for the employee to do that thing outside of the employee's work hours.

Examples of the things an employee experiencing family and domestic violence might need to do include:

- attending counselling or appointments with a medical or legal practitioner;
- relocating or making other safety arrangements;
- attending urgent court hearings; or
- accessing police services

The paid leave provided is in addition to existing entitlements and may be taken as consecutive or single days, or as a portion of a day.

The paid leave is capped at 10 days per annum and does not accrue.

Casual employees who access family and domestic violence leave will be paid as if the casual employee had worked the hours in the period for which they were rostered. If a casual employee accesses leave for hours when they were not rostered to work, the ABC is not required to pay the casual employee in relation to such period.

If required by the ABC, an employee must provide evidence that would satisfy a reasonable person that the leave is for the purpose set out above and such evidence may include a document issued by the police, a court, a doctor, district nurse, family and domestic violence support service or lawyer.

(g) Gender Affirmation Leave

The ABC Enterprise Agreement refers to this form of leave as "Gender Transition leave". In these Guidelines, Gender Transition leave will be referred to as "Gender Affirmation leave".

An employee covered by the ABC Enterprise Agreement (other than a casual employee) who is transgender and who is undertaking Gender Affirmation, will have access to:

- up to 10 days' paid Gender Affirmation leave, which counts as service for all purposes; and
- up to 12 months' unpaid Gender Affirmation leave. Unpaid Gender Transition (Affirmation) leave does not count as service.

This paid leave is in addition to existing entitlements and may be taken as consecutive or single days, or as a portion of a day.

As set out in the ABC Enterprise Agreement, 'Gender Transition' means that your gender identity does not match your sex assigned at birth and you wish to adopt a gender identity that is different to the sex assigned at birth.

6.4 GENERAL CONDITIONS RELATING TO MISCELLANEOUS LEAVE

You may be requested to provide suitable supporting documentation for any miscellaneous leave.

Miscellaneous paid leave will count as service for all purposes.

Casual employees are not entitled to Miscellaneous paid leave but may be entitled to some forms of unpaid leave.

Employees are required to provide as much notice as possible of intended leave and, where possible, obtain prior approval.

Employees will be paid their base salary for miscellaneous paid leave. However, for employees on a buyout or salary package the rate of pay will be at the all-inclusive rate.

6.5 HOW TO APPLY FOR MISCELLANEOUS LEAVE

To apply for Miscellaneous Leave, you should discuss your application with your manager or People & Culture and then complete a [Leave Application form](#) or submit your request via Employee Self Service System (ESS).

7. Leave Without Pay

7.1 WHO IS COVERED BY THIS SECTION OF THE GUIDELINES?

All employees of the ABC, other than casual employees and Actors Agreement employees, are covered by this section of the Guidelines.

7.2 REQUESTING LEAVE WITHOUT PAY

Employees are not automatically entitled to Leave Without Pay (LWOP).

The ABC may approve LWOP for periods up to 12 months having regard to operational requirements.

LWOP may be granted for a range of reasons, including:

- study purposes;
- to accompany a partner on a temporary posting;
- compassionate or caring reasons;
- secondments and exchanges;
- additional recreational purposes; and
- other special circumstances considered appropriate to the interests of the ABC and the individual.

Periods of LWOP or extensions of LWOP, in excess of 12 months, may be approved in special circumstances, including but not limited to:

- study reasons in the interests of the ABC;
- for an employee to take up full time service for an extended period with the Australian Defence Force or ally, or the United Nations;
- to accompany a spouse, employed by a Commonwealth organisation, on an overseas or interstate posting.

With the exception of unpaid Parental Leave which can be approved as per the section on Parental Leave, approval of LWOP will be in accordance with the following delegations:

- up to 6 months – approval by your Director, Head or Manager;
- between 6 months and 12 months – approval by your Director;
- unrestricted, including more than 12 months – Director People & Culture.

7.3 GENERAL CONDITIONS RELATING TO LEAVE WITHOUT PAY

LWOP will not normally be approved until available annual leave credits are used.

Unless otherwise approved by the Chief People Officer or required by the *Long Service Leave (Commonwealth Employees) Act 1976*, LWOP will not count as service for any purpose.

Periods of LWOP (not to count as service) will have the following effect on credits:

- Personal/carer's leave and long service leave – credit deferred by the entire period of the absence greater than five days in any personal leave credit year.
- Annual leave – credit reduced by absences totalling more than five days per calendar year.

During a period of LWOP an employee cannot work for the ABC in any capacity unless approval is granted by the appropriate delegate. This includes working as a casual or contractor, or for another division.

If you wish to return from LWOP early, you will need to make the request to your manager at the earliest opportunity, which may be declined due to operational reasons, for instance, the position is currently backfilled.

You will not be paid for any public holidays that occur while you are taking a period of LWOP.

7.4 HOW TO APPLY FOR LEAVE WITHOUT PAY

To apply for LWOP please complete a [Leave Application form](#) or to submit your request via the [Employee Self Service System](#) (ESS).

8. Long Service Leave

8.1 WHO IS COVERED BY THIS SECTION OF THE GUIDELINES?

All employees, including casual employees but excluding Actors Agreement employees, are covered by this section of the Guidelines.

8.2 WHAT IS LONG SERVICE LEAVE?

Long service leave is a statutory entitlement. For ABC employees, this entitlement is regulated by the *Long Service Leave (Commonwealth Employees) Act 1976 (LSL Act)*.

8.3 ENTITLEMENT TO LONG SERVICE LEAVE

Employees, including casual employees, are entitled to three months' long service leave after ten years of qualifying service.

Your rate of pay during Long Service Leave is your current base salary and any eligible allowances.

For eligible casual and part-time employees, payment during your long service leave is based on your average hours per week (this is the average over your periods of eligible service OR the average over the last 12 months – you receive whichever average is greater).

Prior service with other state or federal agencies, which is defined in the LSL Act as 'Government Service', may qualify as service for the purposes of determining eligibility for long service leave.

You must reach ten years of service before you are able to take long service leave.

Accrued and untaken long service leave will be paid out on termination of employment if you have reached at least 10 years of service, or if on exit, you have at least 1 year of service and are over 60 years of age.

Broken periods of service may qualify as 'service' that accumulate for the purpose of long service leave. However, a break in service of greater than one year and one day will break the continuity of service.

A period of unpaid leave or a period where a casual employee is not working will affect the accrual of long service leave and delay the date on which an employee becomes eligible for long service leave.

8.4 GENERAL CONDITIONS RELATING TO LONG SERVICE LEAVE

Long Service Leave may be taken at full or half pay. If taken at half pay, half the number of days within the period of leave will be deducted from your long service leave credits.

Patterns and periods of leave must be in accordance with the LSL Act. For instance, a period of long service leave cannot be split by a period of annual leave (i.e. long service leave/annual leave/long service leave).

The minimum number of days that can be taken as long service leave is 7 calendar days.

Weekends and public holidays that fall within a period of long service leave are deducted from your Long Service Leave credits. This is because Long Service Leave accrues based on calendar days (including weekends and public holidays) and accordingly deductions are made on a calendar day basis.

If you become ill or injured while on long service leave, such that if you had not been on long service leave you would have been unfit for duty, you may apply for your long service leave to be re-credited. You will be required to provide suitable supporting documentation to cover the period, in accordance with the personal/ carer's leave section of this Guidelines. If approved, the leave will be changed to paid or unpaid personal/ carer's leave, as applicable.

8.5 HOW TO APPLY FOR LONG SERVICE LEAVE

To apply for Long Service Leave please complete a Long Service [Leave Application form](#) or submit your request via the [Employee Self Service System](#) (ESS).