

# Parental leave requirements – during leave



## *Requirements during a period of parental leave.*

### Paid work during parental leave

If the employer and the employee agree, the employee may be engaged to perform casual or fixed term work for the first employer during a period of parental leave, without such work amounting to a return to work from parental leave. The employee is entitled to be paid the employee's ordinary rate of pay (minus any and all allowances) for the pre-parental leave position for any such work. Such work counts as service for the purpose of leave accruals.

The employee must not perform work for the first employer during any period for which the employee receives payment from the first employer (for example, paid parental leave (including half pay leave), long service leave and annual leave).

This provision is an exception to the rule that the employee must take leave in a single continuous period. Work with the first employer does not extend the period of parental leave beyond the end date of the leave or the maximum period of 156 weeks.

If, during a period of parental leave, an employee engages in paid work for one or more Catholic education employers in Victoria (second or subsequent employer) other than the first employer, the employee must inform the first employer prior to commencement of the position. This requirement does not apply to work performed for a second or subsequent employer on a casual basis (including Emergency Teaching and Casual Relieving work).

If, while employed by the second or subsequent employer, the employee becomes entitled to a subsequent period of parental leave:

- the employee shall comply with the notice and evidence requirements in relation to the first employer and the second or subsequent employer;
- the employee will be entitled to paid parental leave only if the employee meets the eligibility requirements;
- if the employee is eligible for paid parental leave, such leave is to be paid by the second or subsequent employer whilst the employee is employed by the second or subsequent employer up to and including the end date of the contract. The balance of any paid parental leave is to be paid by the first employer.

If an employee becomes entitled to paid parental leave in circumstances other than those above, the first employer must provide the paid parental leave.

If, during a period of parental leave, an employee wishes to engage in paid work with an employer outside of Victorian Catholic education, the employee must first obtain the consent of the first employer. The first employer must not unreasonably withhold consent.

### Keeping in touch days

An employee may perform paid work for the first employer on a keeping in touch day during a period of parental leave. Such a day is a keeping in touch day if:



- the purpose of performing the work is to enable the employee to keep in touch with his or her employment in order to facilitate a return to work after the end of the period of parental leave; and
- both the employee and the employer consent to the employee performing paid work for the employer on that day; and
- the day is not within:
  - if the work is at the request of the employee 14 days after the date of birth, or day of placement, of the child; or
  - Otherwise 42 days after the date of birth, or day of placement, of the child; and
- the employee has not already performed work for the first employer on 10 days during the period of leave that were keeping in touch days.

An employee is entitled to be paid the employee's ordinary rate of pay plus an 18% loading for work performed on a keeping in touch day. Such work does not count as service for the purpose of leave accruals.

An employee must not perform paid work on a keeping in touch day during any period for which the employee receives payment from the first employer (for example, paid parental leave (including half pay leave), long service leave and annual leave.

Work performed on a keeping in touch day does not break the continuity of the period of parental leave and does not extend the period of parental leave beyond the end date of the leave or the maximum period of 156 weeks.

## Subsequent pregnancy or adoption during leave

If an employee is on parental leave and either:

- the employee or the employee's spouse gives birth to another child; or
- another child is placed with the employee for adoption, and the employee has responsibility for the care of the child, the employee will be entitled to a subsequent period of parental leave,

the subsequent period of parental leave is a separate period of leave of up to 156 weeks. The subsequent period of parental leave commences on the date of birth or day of placement of the child.

The employee shall comply with the notice and evidence requirements under the VCMEA in relation to the subsequent period of parental leave. The employee is not required to return to work to be eligible for the subsequent period of parental leave, but will only be eligible for paid parental leave if they satisfy the requirements of clause 4(3) of Appendix 1 of the VCMEA which requires that an employee complete either four school terms or 42 school weeks of continuous service before the relevant date.

## Introducing change during parental leave

When an employee is on parental leave and there has been a definite decision made to introduce a significant change in the workplace, the employer should take reasonable steps to:

- make information available regarding the effect the change will have on the status, responsibility level, pay or location of the pre-parental leave position; and
- provide an opportunity for the employee to discuss the significant effects the change will have on the pre-parental leave position.



## References

- *Victorian Catholic Education Multi-Enterprise Agreement 2018 (Appendix 1)*

*Note: This document provides a summary of the conditions in the VCEMEA related to parental leave requirements during leave. However, it is recommended that reference be made to the specific provisions in the VCEMEA when make decisions regarding any of the above matters.*