

Reproductive Health Leave Clause

Clause 1 Entitlement

- (1) An employee, including a casual employee, is entitled to 10 days of paid reproductive health leave in a 12 month period if—
 - (a) the employee has a reproductive health reason; and
 - (b) the employee needs to take reproductive health leave as a result of the reproductive health leave reason.
- (2) An employee is not required to use their sick leave prior to accessing paid reproductive health leave.
- (3) Without limiting subsection (1), the employee may need to take reproductive health leave if the employee is—
 - (a) unfit for work because of the reproductive health reason; or
 - (b) attending an appointment, undergoing a medical procedure or surgery, or receiving treatment related to the reproductive health reason; or
 - (c) attending an appointment related to a preventative reproductive healthcare measure.
- (4) Reproductive health leave may be taken for part of a day.
- (5) Paid reproductive health leave:
 - (a) is available in full at the start of each 12 month period of the employee's employment; and
 - (b) does not accumulate from year to year; and
 - (c) is available to part-time and casual employees on a pro-rata basis.
- (6) Pro rata leave for a part time or casual employee shall be calculated and accrue on the highest of the following –
 - (a) the employee's contracted ordinary weekly hours of work; or
 - (b) one-fifth of the number of the employee's ordinary hours of work for a week, averaged over each completed 6 weeks of employment with the employer.

Clause 2 Definitions

preventative healthcare measure includes a measure to monitor the prostate or for cervical or breast screening.

reproductive health reason includes:

- i. a condition or illness, whether temporary or permanent, related to reproductive health, including endometriosis, the menopause, dysmenorrhea; or
- ii. a medical treatment or procedure related to reproductive health such as IVF or IUI treatment, a hysterectomy or a vasectomy; or
- iii. any other experience of pain or discomfort relating to menstruation.

Clause 3 Notice Requirements

- (1) An employee's entitlement to reproductive health leave is conditional on the employee giving the employer notice of—
 - (a) the employee's absence from work; and
 - (b) if it is possible to notify the employer before the leave is taken—the approximate period the employee will be absent.
- (2) The employee must give the employer notice under subsection (1)—
 - (a) before or on the day the employee is to take the leave; or
 - (b) if it is not possible to notify the employer before the leave is taken—during the leave or as soon as possible after the leave ends.

Clause 4 Evidence and Confidentiality

- (1) An employer may ask an employee to give the employer evidence that the employee has a reproductive health reason and needs to take leave as a result.
- (2) The employee must comply with the request.
- (3) Without limiting subsection (2), the employee may comply with the request by giving the employer evidence from a doctor or other health practitioner.
- (4) Where an employee has a chronic or recurring reproductive leave issue, evidence could include pre-existing evidence from a doctor or other health practitioner.
- (5) An employer who receives evidence under this clause must not disclose the evidence to someone else unless the disclosure is required or permitted under an Act.

Clause 5 Flexible Work Arrangements

- (1) An employee who has a reproductive health reason may apply for a flexible work arrangement, including a variation to their -
- (a) ordinary hours of work; or
 - (b) places where the employee works.

Note: a variation to ordinary hours of work may include changes to ordinary weekly hours of work, the span of hours of work, or rest breaks and periods.

- (2) The request must be –
- (a) in writing;
 - (b) state the change in the way the employee works in sufficient detail to allow the employer to make a decision about the request;
 - (c) state whether the change is temporary or permanent and/or the period of time for the change; and
 - (d) state the reasons for the change.
- (3) The employer may grant the request in part or subject to conditions or refuse the request, only on reasonable business grounds.
- (4) The employer must make a decision and provide reasons for its decision within 21 days of the employee making the request.