

DETERMINATION UNDER THE TEACHING SERVICE ACT 1980

DETERMINATION NO. 5 OF 2006

**CASUAL SCHOOL TEACHERS – ADOPTION, BEREAVEMENT, MATERNITY
PARENTAL AND PERSONAL CARERS ENTITLEMENTS**

I, Andrew Cappie-Wood, Director-General of Education and Training make the following determination pursuant to section 13 of the *Teaching Service Act 1980*.

1. Application

- 1.1 This determination rescinds and replaces the Casual Teachers Payment in Lieu of Maternity Leave section of Determination Number 203 of 1987 Maternity and Adoption Leave Education Teaching Service.
- 1.2 This determination applies to casual school teachers.
- 1.3 This determination does not apply to teachers employed at Bradfield College or the Saturday School of Community Languages.
- 1.4 Casual school teachers are not eligible for leave under Determinations 2, 3 or 4 of 2006.
- 1.5 The provisions of this determination will apply where the anticipated date of birth or date of taking custody of the child is on or after 1 January 2006.
- 1.6 Definitions

“Anticipated date of birth” means a date specified by a medical practitioner to be the date on which the medical practitioner expects the teacher to give birth.

“Birth” for the purpose of this determination shall include stillbirth.

“Continuous service” for the purposes of subclause 3.1 includes:

- all periods of paid leave, previous adoption, parental and maternity leave without pay, sick leave without pay, school vacations, public holidays and up to a total of five days leave without pay; and

- full time and part time permanent and temporary service and full time casual service under the *Teaching Service Act 1980*.

The following periods are not counted as service but they do not break the continuity of service:

- any absence from duty for a period or periods of leave without pay which exceeds a total accumulated period of five days;
- an absence of a casual teacher from full time service at the beginning of the school year, for a period of not longer than 21 calendar days where service is otherwise continuous

“Director-General” means the Director-General of the Department of Education and Training.

“Department” means the Department of Education and Training.

2. Maternity Payment

2.1 Eligibility

2.1.1 Casual teachers who become pregnant and have completed at least 40 weeks continuous service prior to the anticipated date of birth of the child, may qualify for a maternity payment.

2.1.2 A casual teacher may qualify for a maternity payment if she has employment prior to ceasing duty.

2.1.3 A casual teacher who is not employed for a period of up to four weeks prior to the anticipated date of birth will have this period deemed as continuous service for the purposes of eligibility for maternity payments.

2.2 Payment

2.2.1 Eligible casual teachers will receive a maternity payment equivalent to 14 weeks pay at the same rate of the final week of service prior to ceasing duty for maternity purposes.

2.2.2 The maternity payment will be made in a lump sum.

2.2.3 A casual teacher will not be paid more than a permanent teacher on the same status.

2.3 Application

2.3.1 An application for a maternity payment should be submitted at least four weeks prior to ceasing duty.

2.3.2 The application must be accompanied by a medical certificate stating the anticipated date of birth.

3 Personal Carers Entitlements for Casual Teachers

3.1 Subject to the evidentiary and notice requirements in clause 5 of this determination casual teachers are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in clause 5 of this determination who is sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

3.2 The Department and the teacher shall agree on the period for which the teacher will be entitled to not be available to attend work. In the absence of agreement, the teacher is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual teacher is not entitled to any payment for the period of non-attendance.

3.3 The Department must re-engage a casual teacher who has accessed the entitlements provided for in this clause. The rights of the Department to engage or not to engage a casual teacher are otherwise not affected.

4 Bereavement Entitlements for Casual Teachers

4.1 Subject to the evidentiary and notice requirements in clause 5 of this determination, casual teachers are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in clause 5 of this determination.

4.2 The Department and the teacher shall agree on the period for which the teacher will be entitled to not be available to attend work. In the absence of agreement, the teacher is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual teacher is not entitled to any payment for the period of non-attendance.

- 4.3 The Department must re-engage a casual teacher who has accessed the entitlements provided for in this clause. The rights of the Department to engage or not engage a casual teacher are otherwise not affected.
5. The entitlement to leave in accordance with clauses 3 and 4 above is subject to:
- 5.1 the teacher being responsible for the care of the person concerned; and
- 5.2 the person concerned being:
- 5.2.1 a spouse of the teacher; or
- 5.2.2 a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- 5.2.3 a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the teacher or spouse or de facto spouse of the teacher; or
- 5.2.4 a same sex partner who lives with the teacher as the de facto partner of that teacher on a bona fide domestic basis; or
- 5.2.5 a relative of the teacher who is a member of the same household, where for the purposes of this paragraph:
- a) "relative" means a person related by blood, marriage, affinity or aboriginal kinship structure;
- b) "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
- c) "household" means a family group living in the same domestic dwelling.
- 5.3 The teacher shall, wherever practicable, give the Department notice prior to the absence of the intention to take leave, the name of the person requiring care and their relationship to the teacher, the

reasons for taking such leave and the estimated length of absence. If it is not practicable for the teacher to give prior notice of absence, the teacher shall notify the Department by telephone of such absence at the first opportunity on the day of absence.

5.4 The casual teacher shall, if required,

5.4.1 establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or

5.4.2 establish by production of documentation acceptable to the Department or a statutory declaration, the death of the family member.

6 Parental and Adoption Leave.

6.1 Unpaid Parental and Adoption leave of one week may be granted at the time of taking custody or actual date of birth.

6.2 The provision shall apply to teachers and related employees who have employment at the time of taking leave.

6.3 Applications for leave must be submitted as soon as possible.

7. Date of Effect

This determination shall come into effect from 1 January 2006 and remain in operation until varied or repealed.

Signed:


Director-General of Education and Training

Date:

24/04/06.