

## **Subdivision C—Compassionate leave**

### **104 Entitlement to compassionate leave**

- (1) An employee is entitled to 2 days of compassionate leave for each occasion (a *permissible occasion*) when:
  - (a) a member of the employee's immediate family or a member of the employee's household:
    - (i) contracts or develops a personal illness that poses a serious threat to his or her life; or
    - (ii) sustains a personal injury that poses a serious threat to his or her life; or
    - (iii) dies; or
  - (b) a child is stillborn, where the child would have been a member of the employee's immediate family, or a member of the employee's household, if the child had been born alive; or
  - (c) the employee, or the employee's spouse or de facto partner, has a miscarriage.

- (2) Paragraph (1)(c) does not apply:
- (a) if the miscarriage results in a stillborn child; or
  - (b) to a former spouse, or former de facto partner, of the employee.

Note: For the definition of a *stillborn* child, see subsection 77A(2).

## 105 Taking compassionate leave

- (1) An employee may take compassionate leave for a particular permissible occasion if the leave is taken:
- (a) to spend time with the member of the employee's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in section 104; or
  - (b) after the death of the member of the employee's immediate family or household, or the stillbirth of the child, referred to in section 104; or
  - (c) after the employee, or the employee's spouse or de facto partner, has the miscarriage referred to in section 104.
- (2) An employee may take compassionate leave for a particular permissible occasion as:
- (a) a single continuous 2 day period; or
  - (b) 2 separate periods of 1 day each; or
  - (c) any separate periods to which the employee and his or her employer agree.
- (3) If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the employee may take the compassionate leave for that occasion at any time while the illness or injury persists.

Note: The notice and evidence requirements of section 107 must be complied with.

Section 106

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**106 Payment for compassionate leave (other than for casual employees)**

If, in accordance with this Subdivision, an employee, other than a casual employee, takes a period of compassionate leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.

Note: For casual employees, compassionate leave is unpaid leave.