

Leave to participate in the First Peoples' Assembly of Victoria

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Authority and Application

Clause 68 of the *Victorian Public Service Enterprise Agreement 2024* ('the Agreement') applies to Victorian Public Service (VPS) Departments and Agencies (Employers) and their Employees covered by the Agreement.

Overview

Clause 68 of the Agreement outlines an Employee's entitlements to leave to fulfil official functions during their term as an elected member of the First Peoples' Assembly of Victoria (Assembly).

An Employee who is a member of the Assembly is able to access up to 10 days unpaid leave per calendar year to support the fulfilment of their official functions (for example, attending sessions of the Assembly or participate in community consultations on Assembly business) during their term of office.

Relevant provisions of the Agreement

Clause 68. Leave to participate in the First Peoples' Assembly of Victoria

Supplementary Guidance Information

1. Employer Approval to participate as a member of the Assembly

- 1.1. The Code of Conduct for Victorian Public Sector Employees 2015 (The Code) states that 'public sector Employees may only engage in other employment where the activity does not conflict with their role as a public sector Employee'. The *Public Administration Act 2004* (Vic) (the Act) also states that VPS Employees are required to seek approval to engage in any other paid employment. Representation on the Assembly is considered 'other employment' and Employees require approval by their Employer to engage as an Assembly representative as they will be paid by the Assembly while they fulfil their official functions, commensurate with their part time role on the Assembly.
- 1.2. Because representation on the Assembly would be considered 'other employment' for the purposes of the Code and under the Act, Employees are required to obtain approval from the Employer before participation on the Assembly or risk being in breach of their obligations under the Code and the Act.
- 1.3. As part of the approval process, a Conflict of Interest Declaration form must be completed and approved by the appropriate delegate.

2. Leave to participate as a member of the Assembly

- 2.1. Notwithstanding section 1 above, and subject to the Employee obtaining approval by their Employer to participate as a member of the Assembly, an Employee will be entitled to up to 10 days of unpaid leave per calendar year to perform their duties as an Assembly member.
- 2.2. Where in any calendar year, an Employee exhausts their entitlement under section 2.1 above, further paid, or unpaid leave, may be approved by their Employer under clause 77 (Other Leave) of the Agreement to perform their duties as an Assembly member.
- 2.3. Leave under this section, will be refreshed at the beginning of each calendar year, and will not accrue from year to year.
- 2.4. Leave to participate in the First People's Assembly of Victoria, not taken in a calendar year, will not be cashed out on termination of employment.

3. Utilising Flexible Working arrangements

- 3.1. In addition to the leave available under section 2 above, an Employee with the approval of their Employer, may also utilise flexible working arrangements, to help support their representative functions as a member of the Assembly.

4. Assembly member obligations and types of activities

- 4.1. Under the Assembly's constitution, members are required, at minimum, to attend all Assembly meetings (meetings held over one to two days, on four to six occasions per year) and hold regular community meetings, including at least one community meeting before each Assembly meeting.
- 4.2. Leave under this provision will be made available to a member of the Assembly to assist them to carry out their official functions including:
 - 4.2.1. attending formal Assembly sessions, and
 - 4.2.2. participating in community consultations relevant to their role, and

4.2.3. participating in constituent consultations for any other ancillary purpose as agreed with the Employer, and

4.2.4. reasonable travel time.

5. Requests to access leave to participate in the Assembly

5.1. An Employee seeking to make a request for leave under clause 68 of the Agreement, must in the first instance discuss their leave request with their manager or supervisor.

5.2. Following the Employee discussing their request for leave with their manager or supervisor, the Employee must submit their leave request/application in writing for approval, as soon as is reasonably practicable and prior to any leave being taken.

5.3. A request for leave under clauses 68 of the Agreement, must include evidence confirming:

5.3.1. approval from their Employer to engage in outside employment to participate as an Assembly member, and

5.3.2. evidence confirming the Employee's election as an Assembly member, and

5.3.3. the date/s the Employee seeks leave to participate as a member of the Assembly or fulfil official functions, and

5.3.4. evidence of the scheduling of official functions (for example Assembly meetings) during the Employee's ordinary working hours.

5.4. Notwithstanding the requirements set in section 5.3 above for making a request for leave, an Employee may include in one request/application all the leave requested to be taken in the calendar year.

5.5. Where additional leave with or without pay to support the Employee's representative function is requested under clause 77 of the Agreement, the Employee would be expected to comply with the same notice and evidence requirements to support their request. Additional leave with or without pay is at the Employer's discretion.

6. Effect of leave to participate in the Assembly on other entitlements

6.1. Unpaid leave to participate as a member of the Assembly will not break the Employee's continuity of employment and will count as service for leave accrual and other purposes (see clause 68.6 of the Agreement).

7. Payment for fulfilment of official functions of a member in the First Peoples' Assembly of Victoria

7.1. Under clause 68.1 of the Agreement, an Employee who is a member of the Assembly is entitled to up to 10 days unpaid leave per calendar year to fulfil their official functions during their term of office.

7.2. Where the Employee takes unpaid leave under clause 68.1 of the Agreement, and where any payment received by the Employee from the Assembly for the Employee's fulfilment of their official functions is below the Employee's VPS Salary for that period of unpaid leave, the Employer will pay to the Employee make-up pay for the period of leave.

7.3. An Employee who is entitled to be paid make up pay for the period of leave under clause 68.1 of the Agreement, must provide their Employer with written details of any payment paid to the

Employee for fulfilling their official functions as a member in the Assembly (this may include a document that evidences the payment received).

7.4. The Employer on receiving evidence on any payment received by the Employee from the Assembly for the Employee's fulfilment of their official functions, will pay the Employee make-up pay for the period of leave.

8. Costs associated with participation as a member of the First Peoples' Assembly of Victoria

8.1. All costs associated with participation as a member of the Assembly, in all circumstances, are the sole responsibility of the Employee. Such costs may include, but are not limited to, travelling and accommodation expenses.

Making decisions under this policy

Under s.20(1) of the *Public Administration Act 2004*, the public service body head has all the rights, powers, authorities and duties of an Employer, which will usually be delegated to staff within their Department or Agency. Employers should ensure that any actions under this policy are only taken by an Employee with the delegation to do so. Each Department and Agency should give effect to this policy in accordance with its own delegations.

Dispute resolution

An Employee who is directly affected by a decision made or action taken pursuant to clause 68 of the Agreement may apply for a review of actions under the Employer's review of actions policy or seek to resolve a dispute through the Resolution of Disputes procedure at clause 13 of the Agreement.

Further Information

Employees should refer to their Department or Agency's intranet for information on procedural requirements, systems and approval delegations.

For further information and advice please contact your local Human Resources or People and Culture Unit (or equivalent).

Related policies or documents

Common Policies

- Annual Leave
- Flexible Working Arrangements
- Other Leave
- Review of Actions

All policies can be found at <https://www.vic.gov.au/common-policies-victorian-public-service-enterprise-agreement>.

Advancing the Treaty process with Aboriginal Victorians Act 2018

A copy of the Act is available at <https://www.legislation.vic.gov.au/in-force/acts/advancing-treaty-process-aboriginal-victorians-act-2018/001>.

Conflict of interest and leave guidance for nominees and members of the First People's Assembly of Victoria

For further information on conflict of interest and leave guidance for nominees and members of the First People's Assembly of Victoria see the Practice Guide at <https://vpsc.vic.gov.au/ethics-behaviours-culture/conflict-of-interest/additional-guidance-that-applies-to-some-employees/nominating-for-the-first-peoples-assembly-of-victoria-election-as-public-servants/>.

Code of Conduct for Victorian Public Sector Employees 2015

The Code can be found at <https://vpsc.vic.gov.au/resources/code-of-conduct-for-employees/>.

Constitution – First Peoples Assembly of Victoria Limited

Please see - <https://www.firstpeoplesvic.org/reports-resources/first-peoples-assembly-of-victoria-constitution/>.

Authorised by Industrial Relations Victoria:

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If you print and store this document, you may be looking at an obsolete version. Always check the latest version of this document at <https://www.vic.gov.au/common-policies-victorian-public-service-enterprise-agreement>.