

PARENTAL LEAVE FOR WORKING PARENTS: SAMPLE POLICY



[The Company) aims to be an employer of choice and to fully comply with our obligations under Federal and State/Territory laws regarding parental leave and providing flexible working conditions.

This may include eligibility for Government funded paid parental leave.

1. Government funded paid parental leave and Government funded Dad and Partner Leave

- > The Company will facilitate payment of the Government Paid Parental Leave Scheme and the Government Dad and Partner Pay where an employee meets the eligibility criteria. These schemes are managed by the Government.
- > Employees can find more information at the [MyGov](#) or [Services Australia](#) websites.
- > *Please note that the Company must be registered with Services Australia to facilitate these payments.*

2. [Insert this section if applicable otherwise delete] Company paid parental leave

- > The Company provides paid parental leave for permanent and casual employees who are eligible for parental leave in accordance with the *Fair Work Act 2009* (FW Act). An eligible employee will receive a parental leave payment of [insert number] weeks' pay from the Company.
- > Company paid parental leave payment is paid at an employee's base rate of pay for the number of hours they would ordinarily have worked in the period immediately before taking parental leave (excluding any allowances, loadings, overtime etc.). An employee working reduced hours prior to taking parental leave due to pregnancy related illness will receive the parental leave payment based on their usual number of hours (not the temporary period of reduced hours).

3. Unpaid parental leave under the Fair Work Act

- > Under the FW Act, employees are entitled to unpaid parental leave (maternity, paternity, adoption and related kinds of leave).
- > The primary entitlement to unpaid parental leave is 12 months following birth/placement, to be shared between both parents.
- > In addition to the basic entitlement to unpaid parental leave, one parent may request an additional 12 months of leave, which will only be refused after discussing the request with the employee and based on reasonable business grounds.
- > Employees who are parents or who have the responsibility for the care of a child who is school age or younger may also request flexible working arrangements which will be considered taking into account business needs.
- > The policy provisions below are intended to be a summary of the parental leave entitlements under the FW Act and the flexible working arrangements provisions of both Federal and State/Territory law.

Eligibility

To be eligible for unpaid parental leave under the FW Act, an employee must, immediately before the due date of birth or the expected placement date of adoption of the child:

- For a permanent employee: have completed at least 12 months of continuous service.
- For a casual employee: have been employed by us on a regular and systematic basis for at least 12 months and have a reasonable expectation of on-going employment on the same basis.

Additional eligibility rules apply in respect of adoption-related leave.

To be eligible to take unpaid parental leave, the employee must have a responsibility for care of the child.

Prior to the Date of Birth/Placement

UNPAID SPECIAL MATERNITY LEAVE

An eligible pregnant employee may also take unpaid special maternity leave in certain circumstances for example if the employee is not fit to work because of a pregnancy-related illness.

PRE-ADOPTION LEAVE

Employees are eligible for unpaid parental leave associated with the placement of a child for adoption are also entitled to 2 days' unpaid pre-adoption leave to attend relevant interviews and examinations. This leave cannot be used if the employee could instead take another form of leave and the Company directs the employee to take another type of leave (e.g. paid annual leave).

TRANSFER TO A SAFE JOB OR 'NO SAFE JOB LEAVE'

A pregnant employee is entitled to be transferred to an appropriate safe job if they provide medical evidence that states the employee is fit for work, but it is inadvisable for the employee to continue working in their present position for a certain period (the risk period).

Permanent employees who are entitled to parental leave are transferred into a safe job will be paid for their full rate of pay for the position they were in before the transfer. Unless otherwise agreed, the safe job must have the same ordinary hours of work.

Where the pregnant employee is unable to work their usual role and there are no appropriate safe jobs available, the employee is entitled to take 'no safe job leave' for the relevant risk period. If the employee is entitled to parental leave under the FW Act, 'no safe job leave' will be paid by the Company.

FITNESS FOR WORK—PREGNANT EMPLOYEES

If a pregnant employee continues to work within six weeks before the estimated date of birth, an employer may ask the employee to provide a medical certificate, stating:

- Whether the employee is fit for work.
- If they are fit for work, whether it is inadvisable for the employee to continue working in her present position during a stated period because of any of the risk factors specified below.

The risk factors include any illness or risks arising out of the employee's pregnancy, or hazards connected with the employee's position.

If the employee fails to provide the certificate within seven days, or if the certificate states that the employee is not fit for work, an employer may require an employee to start unpaid parental leave as soon as practicable.

Types of Parental Leave and Leave Arrangements

PERIOD OF LEAVE

Unpaid parental leave must be taken in a single continuous period (not broken periods)—subject to specific exceptions about:

- Concurrent leave (which is currently 8 weeks unpaid leave) around the time of the child's birth or placement for the other parent. Concurrent leave reduces the total available period of unpaid parental leave.
- Keeping in touch days.
- Flexible parental leave.
- Premature birth or infant hospitalisation.

COMMENCEMENT OF UNPAID PARENTAL LEAVE

Unpaid parental leave (excluding concurrent leave) starts:

- For a pregnant employee, up to 6 weeks before the expected date of birth of the child, but no later than the date of the child's birth.
- For an employee other than the pregnant employee, unpaid parental leave starts on the child's date of birth.
- For adoption leave, on the day of placement of the child.
- Immediately following the period of unpaid parental leave taken by the employee's spouse under one of the options above, if one or both employees are employed by either the Company or another business.
- If the employee's spouse or de facto partner is not an employee of the Company or any other business, anytime within 12 months of the date of birth or day of placement of the child.

NOTICE AND EVIDENCE REQUIREMENTS

An employee must give us at least 10 weeks' written notice before starting unpaid parental leave or, if that is not practicable, provide notice as soon as practicable (which may be a time after the leave has started).

For example, it may not be practical for an employee to give the requisite notice in relation to the premature birth of a child, but valid notice could still be given as soon as practicable after the child's birth.

The notice must specify the intended start and end dates of the leave.

An employee must confirm the intended start and end dates of the leave (or advise of any changes) at least 4 weeks before the intended start date, unless it is not practicable to do so.

An employer may require an employee who has given notice of the taking of unpaid parental leave to provide evidence of:

- The child's actual or expected date of birth.
- The day or expected day of placement for adoption and that the child is or will be under 16 years of age as at that date.

The evidence must be sufficient to satisfy a reasonable person and, in the case of birth-related leave, we may require that this be a medical certificate.

Separate notice and evidence requirements apply in relation to special maternity leave and unpaid pre-adoption leave (see below).

FLEXIBLE PARENTAL LEAVE

Subject to the Company's agreement, an employee may take up to 30 days of unpaid parental leave (flexible unpaid parental leave) during the 24-month period starting on the date of birth or day of placement of the child. Flexible unpaid parental leave may be taken as:

- A single continuous period of one or more days.
- Separate periods of one or more days each.

Flexible unpaid parental leave comes out of the employee's entitlement to 12 months of unpaid parental leave. Other unpaid parental leave must be taken before the flexible unpaid parental leave commences.

STILLBIRTHS AND INFANT DEATHS

In the tragic event an employee who is entitled to parental leave experiences:

- A stillbirth.
- The death of a child during the first 24 months of life.

The employee remains entitled to take 12 months' unpaid parental leave. Additionally, permanent employees may take paid compassionate leave while on unpaid parental leave in these circumstances.

PREMATURE BIRTHS

Parents of premature babies, or newborns that experience birth-related complications that result in immediate hospitalisation, are able to go back to work while their child remains in hospital, and then restart their unpaid parental leave when their baby comes home.

INTERACTION WITH PAID LEAVE

Subject to certain exceptions, an employee may take paid leave at the same time the employee is taking unpaid parental leave. The period of unpaid parental leave runs concurrently with the period of paid leave taken by the employee. The requirements for taking the other form of leave would still apply – e.g. the Company agreeing to the employee taking paid annual leave.

An employee is not eligible to take paid personal/carer's leave or compassionate leave while taking unpaid parental leave.

Keeping in Touch During Leave

An employee may perform up to ten days of paid work for the Company during a period of unpaid Parental Leave for the purposes of facilitating a return to work.

These are known as ‘keeping in touch days’ and are subject to the agreement of the employee and the Company. Keeping in touch days do not extend the period of parental leave.

Returning to Work

THE RETURN TO WORK GUARANTEE

At the end of their unpaid parental leave, an employee is entitled:

- To return to their pre-parental leave position.
- If that position no longer exists—an available position for which the employee is qualified and suited that is nearest in status and pay to the employee’s pre-parental leave position.

FLEXIBLE WORKING ARRANGEMENTS

Employees who are returning to work from parental leave are eligible to make a request for flexible working arrangements. Please refer to the Flexible Working Arrangements policy for more detail.

NOTE TO EMPLOYER: Where supplementing existing company policies from this policy, or making modifications to this policy, please seek legal advice to ensure it meets minimum legal requirements.