



PARENTAL LEAVE SUMMARY UNDER THE FAIR WORK ACT

Where does the entitlement come from?

An employee's entitlement to unpaid parental Leave is strictly in accordance with Chapter 2, Part 2-2, Division 5 of the Fair Work Act 2009. Below is a summary of this entitlement.

Entitlement summary and pre-requisites.

Parental leave differs based upon whether the employee is part of an 'employee couple' or not. Generally the new parents can each take a maximum of 12 months of unpaid leave however the leave can only be taken by one parent at a time and in a single continuous period.

If a parent takes any other related authorised leave, including paid leave such as annual leave, this reduces the total of unpaid leave for the couple.

The employee must have worked for the employer for 12 months or more immediately before the date of birth or placement of the child (or expected date of birth or placement). In regard to casual employees the employee must have worked for the employer on a regular and systematic basis for 12 months and also reasonably expect to have continued working for the employer on a regular and systematic basis if they weren't having or adopting a child.

Process for requesting leave

Where an employee wishes to take parental leave they must follow the below procedure:

- inform the company of their intention to take unpaid parental leave by giving at least 10 weeks written notice (unless it is not possible to do so)
- specify the intended start and end dates of the leave
- at least four weeks before the intended start date:
 - confirm the intended start and end dates or
 - advise the company of any changes to the intended start and end dates (unless it is not possible to do so).

The company may require evidence that would satisfy a reasonable person of the actual or expected date of birth of a child (eg. a medical certificate), or the day or expected day of placement of a child under 16.

Request to extend initial period of leave

There is an option to request to extend one parent's leave to a maximum of 24 months, reduced by the amount of any leave taken by their partner and subject to company approval.

The employee must provide at least 4 weeks' notice in writing before the end of the employee's initial period of leave requesting an extension.

The company will respond in writing to the written request as soon as practicable and not later than 21 days after the request is made.

Government paid parental scheme commences 2011

The Federal Government is introducing a Paid Parental Leave scheme for working parents who are primary carers of children born or adopted from 1 January 2011. The scheme will commence on 1 January 2011, however an employer's role in the scheme (to register and 'hand on' the payments) will be voluntary until 1 July 2011 – whereupon it will be mandatory. This allows a period after the commencement of the Scheme for employers to register and make necessary adjustments.

Parental Leave Pay will be paid for a maximum of 18 weeks.

The Parental Leave Pay under this scheme will be fully funded by the Australian Government. It will be a taxable payment paid at the National Minimum Wage, currently \$570 a week before tax (but altered annually on the basis of the National Minimum Wage Adjustment Decision).

Businesses can register from 1 October 2010 by calling the relevant government department on 13 1158.



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If you have any questions regarding this fact sheet or would like assistance regarding IR/HR/OHS contact IR Assist for more information:

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