

## PARENTAL LEAVE

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Parental Leave is an unpaid statutory entitlement consisting of maternity, paternity and adoption leave, and applies to all full time, part time and "long term" casual employees.



### NES & Parental Leave

To be eligible for parental leave employees must have completed at least 12 months continuous service with the employer. The National Employment Standards (NES) provides that each parent is entitled to be absent from work for separate periods of up to 12 months unpaid parental leave, and also allows employees to request additional unpaid leave for up to another 12 months, a total of 24 months.

Employees are able to take less than 12 months unpaid parental leave, although a pregnant employee may be required to take unpaid maternity leave within 6 weeks of the expected date of birth of the child, which period comes out of the employee's entitlement to 12 months unpaid parental leave.

To access unpaid parental leave, employees must:

- provide 10 week's notice of their intention to take unpaid parental leave (unless this is not reasonably practical)
- specify the intended starting and finishing dates of the unpaid parental leave

Employees must also provide reasonable evidence of their eligibility for unpaid parental leave where the employer requests this e.g. a medical certificate confirming pregnancy.

Unpaid parental leave must be taken in a single continuous period, that is, the employee cannot take a period of unpaid parental leave, return to work and then start another period of unpaid parental leave. In taking unpaid parental leave:

- a female employee may start unpaid leave up to 6 weeks prior to the expected birth of the child, or must commence unpaid leave from the date of birth of the child
- a male employee must start paternity or adoption leave from the date of birth or date of placement of the child
- an employee taking a period of unpaid leave after their spouse has taken leave, must commence unpaid leave immediately after the end of the first employee's leave

Employees may request from the employer to extend the unpaid parental leave for up to a further 12 month period immediately following the end of the first 12 month period. Only one extension (up to a maximum period of unpaid parental leave totalling 24 months) is allowed, unless the employer agrees to further extensions. The request for an extension must:

- be in writing
- be given to the employer at least 4 weeks before the end of the first period of unpaid parental leave
- must state the end date for the requested additional unpaid parental leave

Where an employer agrees, employees who have taken unpaid parental leave may also request a reduction of the period of unpaid leave.

The National Employment Standards also entitles employees returning from unpaid parental leave to return to work to the position they held immediately prior to commencing the unpaid parental leave. If this position no longer exists, the employee is entitled to return to a position that is comparable (in both status and pay) to the former position.

Please note: Special maternity leave and transfer to safe job / paid no safe job leave is covered in a separate article.

Contact us for further assistance with meeting your human resource, industrial relations and OHS obligations

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0428 929696