**PARENTAL LEAVE POLICY**

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Our experienced workplace relations consultants can also provide assistance to both members and non-members on a range of more complex matters for a fee-for-service. The consultants can, among other things, provide training to employees, conduct investigations and provide representation at proceedings at the Fair Work Commission.

For assistance or more information, please contact the Workplace Relations Advice Line on (03) 8662 5222.

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# PARENTAL LEAVE POLICY

Date of issue:

Policy approved by:

Contact person:

## 1 PURPOSE

The purpose of this policy is to establish procedures and guidelines for employees who wish to take parental leave. The entitlement to parental leave is at all times provided in accordance with the *Fair Work Act 2009* (Cth), as amended from time to time.

This policy is intended to be a summary of the basic entitlement to parental leave and should be read in conjunction with the *Fair Work Act 2009* (Cth). It also outlines procedures relevant to **[INSERT COMPANY NAME]**.

## 2 APPLICATION

This policy applies to all permanent and regular and systematic casual employees of **[INSERT COMPANY NAME]**.

The Policy is not intended to override the terms of any award, enterprise agreement or contract that applies to an employee.

## 3 POLICY

### Available Unpaid Parental Leave (up to 12 months)

After 12 months continuous service employees are entitled to a period of 12 months unpaid parental leave if the leave is associated with the birth of a child or the placement of a child with the employee for adoption, and where the employee has or will have a responsibility for the care of the child. Evidence must be provided to **[INSERT COMPANY NAME]** as outlined in further detail below.

Where an employee has started an original period of parental leave which is less than the available 12 months, the employee may extend their original period of parental leave once (up to the available maximum of 12 months).

The employee must provide **[INSERT COMPANY NAME]** with written notice of this extension at least 4 weeks before the end date of the original leave period. This notice must also specify the new end date for the leave (which is to be a total of no more than the available maximum of twelve months). At its sole discretion, **[INSERT COMPANY NAME]** may allow additional extensions within the 12 month period.

Under the *Fair Work Act 2009*, both parents (or caregivers) are entitled to separate periods of up to 12 months unpaid parental leave if they have a responsibility for the care of the child. The period of the second parent’s/caregiver’s unpaid parental leave must start immediately after the end of the first parent’s/caregiver’s period of parental leave.

The total period of parental leave taken by both parents/caregivers must not exceed 24 months and this includes any other approved leave (e.g. annual, concurrent leave) except special maternity leave.

### Additional Unpaid Parental Leave (in excess of the original available 12 months)

An Employee who takes available unpaid parental leave for 12 months can request an extension of unpaid parental leave for a further period of up to 12 months immediately following the end of their available unpaid parental leave period. (The total parental leave period taken by both parents/caregivers must not exceed 24 months however).

Such a request must be made to **[INSERT COMPANY NAME]** in writing at least four weeks prior to the end of the available parental leave period. Additional evidence may be requested by **[INSERT COMPANY NAME]** (as outlined in further detail below). **[INSERT COMPANY NAME]** will consider all such requests and respond in writing by no later than 21 days after the request is made.

Such requests will require General Manager approval. In cases where extensions cannot be granted, **[INSERT COMPANY NAME]** will provide the employee reasons for the refusal.

### Concurrent Unpaid Parental/Adoption Leave

A period of concurrent unpaid parental leave of up to 8 weeks can be taken concurrently (by both caregivers). This concurrent unpaid leave of 8 weeks must not start before the date of the birth of the child or the day of placement of the child (if adoption related), but must be taken within the first 12 months of the birth or adoption. This concurrent leave may be taken in separate periods of at least 2 weeks, or a shorter period if agreed to by **[INSERT COMPANY NAME]**.

A notification period of 10 weeks applies to employees wishing to take concurrent unpaid parental leave, or if the leave is to be taken in separate periods of 2 weeks or less, a 4 week notification period applies.

### Reduction of approved parental leave

An employee whose period of unpaid parental leave has started may request to reduce the period of their unpaid parental leave. Approval of such requests will be at **[INSERT COMPANY NAME]**’s sole discretion.

In such cases the employee on parental leave is required to submit a written request to **[INSERT COMPANY NAME]** as soon as reasonably practicable before their requested return date, preferably no later than four weeks prior to their requested return date.

**[INSERT COMPANY NAME]** will consider such requests for an early return date and notify the employee as to whether their request has been denied or approved. If **[INSERT COMPANY NAME]** determines that it can accommodate an early return of the employee on parental leave, **[INSERT COMPANY NAME**] will notify the employee of the early return date which may be a period which is later than the employee’s requested return date.

### Special Maternity Leave

Female employees can utilise unpaid Special Maternity Leave during pregnancy if they are suffering from a pregnancy related illness or at the end of pregnancy if their pregnancy ended (other than by the birth of a living child) within 28 weeks of the expected date of birth.

An employee who wishes to apply for unpaid special maternity leave should submit a Leave form to their manager together with reasonable evidence, which may include but is not limited to a medical certificate. The employee should advise the period, or expected period of special maternity leave. This period will not reduce the amount of unpaid parental leave they can take.

### Transfer to Safe Job

A pregnant female employee can utilise paid no safe job leave if she provides reasonable evidence that she is fit for work, but that it is inadvisable for her to continue in the position during a stated period (the risk period) because of illness or risk arising out of her pregnancy or hazards connected with that position and there is no appropriate safe job at **[INSERT COMPANY]** for her to perform.

Upon reasonable evidence being provided that it is inadvisable for the female pregnant employee to continue in her usual position, in the event that employee is directed to perform an appropriate safe job, **[INSERT COMPANY NAME]** will transfer the employee to that job for the risk period, with no other change to the employee’s terms and conditions of employment.

Employees that have completed less than 12 months of continuous service are entitled to unpaid no safe job leave.

### Parental Leave and Service

Any period of parental leave does not break an employee’s continuity of service. However, a period of unpaid parental leave does not count as service for the calculation of entitlements and benefits. Regarding Long Service Leave, **[INSERT COMPANY NAME]** will refer to the applicable legislation for calculation of the entitlement, including length of service.

### Employee Obligations during Leave

Employees on parental leave must not engage in any conduct during the period of leave which is inconsistent with their general employee obligations to, and the employee’s contract of employment with, **[INSERT COMPANY NAME]**.

### Procedure and Notice Requirements:

In the case of birth-related parental leave, employees must provide their manager notice of their intention to take unpaid leave (including the intended start and end dates of the leave) accompanied by a medical certificate from a medical practitioner stating that the employee or the employee’s spouse or de facto partner (stipulating the spouse’s or de facto partner’s name) is pregnant, and the expected date of birth. This must be done no later than 10 weeks prior to the expected date of birth as stated in the certificate.

### Birth-related Parental Leave

At least four weeks prior to their intended parental leave commencement date, employees must submit a leave application form to their manager for approval, confirming the first and last days of the period of parental leave. If required by **[INSERT COMPANY NAME]**, the Application must be accompanied by a statutory declaration made by the employee stating:

* the first and last day of the period (or periods) of any other authorised leave intended to be taken (or already taken) by the employee on parental leave;
* the first and last days of the period (or periods) of any parental leave intended to be taken (or already taken) by the employee’s spouse or de facto partner because of the birth or expected birth;
* that the employee has or will have a responsibility for the care of the child;
* that the employee will not engage in any conduct inconsistent with his/her contract of employment while on parental leave.

**[INSERT COMPANY NAME]** may also request the above evidence when considering requests for Additional Unpaid Parental Leave (in excess of 12 months).

### Concurrent Unpaid Parental Leave

To be entitled to 8 weeks of concurrent unpaid parental leave, employees must submit a leave application form at least 10 weeks before starting the leave or as soon as reasonably practicable to their manager for approval, stating the first and last days of the period of short parental leave. If the concurrent unpaid parental leave is to be taken in separate periods of 2 weeks or less, employees must submit a leave application form at least 4 weeks before starting the leave or as soon as reasonably practicable.

### Additional Unpaid Parental Leave

To be entitled to a single, unbroken period of up to 12 months’ unpaid parental leave (‘parental leave’), other than short parental leave, after an employee’s spouse or de facto partner gives birth to a living child where the employee has or will have a responsibility for the care of the child, such employee must, at least 10 weeks prior to their intended parental leave commencement date, submit a leave application form to their manager for approval, stating the first and last days of the period of parental leave. The application must be accompanied by a statutory declaration made by the employee stating:

* the first and last day of the period (or periods) of any other authorised leave intended to be taken (or already taken) by the employee on parental leave;
* the first and last days of the period (or periods) of any parental leave, or any other authorised leave of the same type as parental leave intended to be taken (or already taken) by the employee’s spouse or de facto partner because of the birth or expected birth;
* that the employee has or will have a responsibility for the care of the child;
* that the employee will not engage in any conduct inconsistent with his contract of employment while on parental leave.

**[INSERT COMPANY NAME]** may also request the above evidence when considering requests for Additional Unpaid Parental Leave (in excess of 12 months).

### Concurrent Unpaid Adoption Leave

To be entitled to 8 weeks of concurrent unpaid adoption leave, employees must submit a leave application form at least 10 weeks before starting the leave to their manager for approval, stating the first and last days of the period of short adoption leave. If the concurrent unpaid parental leave is to be taken in separate periods of 2 weeks or less, employees must submit a leave application form at least 4 weeks before starting the leave or as soon as reasonably practicable.

### Additional Unpaid Adoption Leave

To be entitled to a single, unbroken period of up to 12 months unpaid adoption leave (‘long adoption leave’), other than short adoption leave, after the placement of the child where the employee has or will have a responsibility for the care of the child, such employee must, at least 10 weeks prior to their intended long adoption leave commencement date, submit a leave application form to their manager for approval, stating the first and last days of the period of long adoption leave.

As least 4 weeks before the employee begins a period of either short or long adoption leave, the employee must provide a statement from the adoption agency of the day when the placement is expected to start confirming that the child is, or will be, under 16 at the day of placement, or the expected day of placement, of the child. At the same time, the employee is also required to provide a statutory declaration stating:

* the first and last day of the period (or periods) of any other authorised leave intended to be taken (or already taken) by the employee because of the placement of the child;
* the first and last days of the period (or periods) of any parental leave, or any other authorised leave of the same type as parental leave intended to be taken (or already taken) by the employee’s spouse or de facto partner because of the placement of the child;
* that the child is, or will be, under 16 years at the day of placement, or the expected day of placement, of the child;
* if taking long adoption leave, that the employee has or will have a responsibility for the care of the child;
* that the employee will not engage in any conduct inconsistent with his or her contract of employment while on adoption leave.

**[INSERT COMPANY NAME]** may also request any of the above evidence when considering requests for Additional Unpaid Parental Leave (in excess of 12 months).

Once a leave form has been submitted it will require management approval. As set out above, General Management approval is required for ‘Additional Unpaid Adoption Leave’ in excess of the original available 12 months unpaid parental leave.

### Keeping in touch days

An employee who is entitled to unpaid parental leave may perform a maximum of 10 days’ work for **[insert company name]** during the leave period as a “keeping in touch day”.  Work performed on a keeping in touch day will be paid as per an employee’s contract of employment/relevant industrial instrument.  This work will not break the continuity of the period of unpaid leave and it will not extend the period of unpaid parental leave. Keeping in touch days can be worked as a part day, one day at a time, a few days at a time or all at once.

Keeping in touch days are to be taken when performing work which enables the employee to keep in touch with **[insert company name]** in order to facilitate a return to that employment after the end of the period of leave and need to take place by agreement between the employee and **[insert company name]**.  Keeping in touch days may include; participating in a planning day, training or attending a conference. Additional requirements about the work that can be performed on these days can be found in the *Fair Work Act 2009* (Cth) and *Paid Parental Leave Act 2010* (Cth).

An employee can request to work a keeping in touch day 14 days after the date of birth or day of placement of a child in writing to their manager.  **[insert company name]** can request a keeping in touch day be worked 42 days after the date of birth or day of placement of the child.

***[INSERT COMPANY NAME]*** *may amend and vary this policy from time to time.*

WORKPLACE PARTICIPANT ACKNOWLEDGEMENT

## I acknowledge:

## I have received, read and understood the policy

## I am required to comply with the policy; and

## There may be disciplinary consequences if I fail to comply, up to and including the termination of my employment.

Name: Signature:

Date: