



CIRCULAR TO DEPARTMENTS AND AUTHORITIES NO. 13 OF 2010

IMPLEMENTATION OF THE COMMONWEALTH PAID PARENTAL LEAVE ACT 2010

The *Paid Parental Leave Act 2010* (the Act) has introduced a national paid parental scheme which commences operation on 1 January 2011. Employers can opt to be responsible for implementing the scheme from this date. From 1 July 2011 all employers are required under the Act to be involved in the implementation.

It is West Australian Government policy that public sector agencies will administer the scheme from **1 July 2011** for eligible employees who have had **12 months continuous service with the Western Australian public sector**. During the period 1 January 2011 to 30 June 2011 eligible public sector employees will receive parental leave payments direct from the FAO.

The Act entitles eligible employees to claim for 18 weeks 'parental leave pay' at the national minimum wage (currently \$570 per week) on the birth or adoption of a child. The Commonwealth Family Assistance Office (the FAO) is responsible for determining an employee's eligibility to the scheme, not the employing agency.

Western Australian public sector employees who meet the eligibility criteria in the Act will receive parental leave pay in addition to the paid and unpaid parental leave entitlements available under public sector industrial arrangements.

The parental leave pay is funded by the Commonwealth Government. Agencies receive funds direct from the FAO and provide payments to employees in the regular payroll cycle. The Act does not provide for the accrual of leave or other entitlements.

Agencies must ensure that payroll and related systems are ready to process payments by 1 July 2011.

The attached guidelines provide detail on the paid parental leave scheme and its interaction with existing public sector paid and unpaid leave entitlements.

Any requests for information on the scheme from employees should be referred to the FAO on 13 61 50 or www.familyassist.gov.au

Please contact your Labour Relations Adviser if you require further information.

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LABOUR RELATIONS

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COMMONWEALTH PAID PARENTAL LEAVE ACT 2010

IMPLEMENTATION GUIDELINES FOR THE WESTERN AUSTRALIAN PUBLIC SECTOR

INTRODUCTION

1. These guidelines cover the key features of the national paid parental leave scheme established by the Commonwealth *Paid Parental Leave Act 2010* and the interaction of the scheme with existing parental and adoption leave entitlements in the Western Australian public sector.
2. This guide is intended to supplement the information available from the Commonwealth Government via the Family Assistance Office (FAO) website and the Centrelink website. A list of resources and links is provided at the end of the guidelines.

KEY FEATURES

3. The *Paid Parental Leave Act 2010* (the Act) has introduced a national paid parental leave scheme which commences operation on 1 January 2011. Some key features of the scheme are:
 - a) the Commonwealth paid parental leave scheme applies to all eligible Australian based employers and employees in Australia;
 - b) eligible employees receive parental leave pay at the national minimum wage over 18 weeks (as at 1 July 2010 - \$570 per week);
 - c) the Act provides for payments only, it **does not** provide an additional leave entitlement;
 - d) no superannuation is payable on the parental leave pay;
 - e) parental leave pay will be fully funded by the Commonwealth Government;
 - f) employees cannot receive the Baby Bonus or Family Tax Benefits Part B while receiving parental leave pay;
 - g) parental leave pay is taxable;
 - h) parental leave pay can be transferred to a new primary carer if the original carer returns to work;
 - i) all parental leave pay must be received in a continuous 18 week period and within the first 12 months after the date of birth or adoption of a child; and
 - j) employers are required to act as 'paymaster' for the scheme from 1 July 2011 and administer the parental leave payments to encourage ongoing workforce attachment after the birth or adoption of a child.

4. It is the position of the Western Australian Government that public sector agencies will administer the scheme from **1 July 2011** for eligible employees who have had **12 months continuous service with the Western Australian public sector**.
5. Eligible public sector employees who have a baby or adopt a child during the period from 1 January 2011 to 30 June 2011 will receive parental leave pay direct from the FAO.

INTERACTION WITH WA PUBLIC SECTOR PARENTAL LEAVE ENTITLEMENTS

6. Commonwealth parental leave pay is independent from and in addition to paid parental leave provisions in public sector awards and agreements.
7. Eligible public sector employees will be entitled to both the West Australian public sector 14 weeks paid parental leave at full pay and the 18 weeks Commonwealth parental leave pay at the national minimum wage. Agencies cannot offset the 14 weeks public sector paid parental leave against the Commonwealth paid parental leave scheme.
8. The Commonwealth scheme does not provide any additional leave entitlement to employees. A West Australian public sector employee will need to be absent from work on paid or unpaid parental leave, or a period of annual or long service leave substituted for a period of unpaid parental leave, to be eligible for the Commonwealth paid parental leave scheme.
9. Leave or other entitlements do not accrue on Commonwealth parental leave payments.
10. Four example scenarios of interaction of Commonwealth paid parental leave scheme and West Australian public sector paid and unpaid parental leave are provided in Attachment A.

Keeping in touch provisions

11. The *Paid Parental Leave Act* contains 'keeping in touch' provisions under which employees can agree to attend work for up to 10 days during the 18 weeks they are receiving parental leave pay, with the exclusion of the 2 weeks immediately after the birth or adoption of a child, without affecting their entitlement to parental leave pay. If used, these 10 days are to be paid at the employee's normal rate of remuneration for the hours worked in addition to the parental leave pay. Some examples of keeping in touch situations could be: training, attending a conference, team building exercise or planning day. Attendance at work for a part day would count as a full day of the 10 day entitlement.
12. If during a period of parental leave the public sector agency requests the employee to attend the workplace, the agency must ensure the employee's entitlement to parental leave is not affected.
 - a) In circumstances where the employee is receiving the Commonwealth parental leave pay the following would apply (irrespective of whether the employee has elected to take public sector paid parental leave, annual or long service leave concurrently):
 - i. the attendance at work must comply with the keeping in touch provisions; and
 - ii. the employee must be paid for all time worked in accordance with the applicable industrial instrument.

- b) During the period of parental leave when the employee is not accessing the Commonwealth parental leave pay, attendance at the workplace must be done in accordance with the applicable industrial instrument.

OTHER ENTITLEMENTS

Superannuation

13. No superannuation is payable on Commonwealth parental leave pay.

Salary Packaging

14. Employees can salary sacrifice their parental leave pay for non-cash remuneration where the arrangement is offered by the employer. Employees should be advised to seek financial advice before entering into salary packaging arrangements.

Deductions

15. Commonwealth parental leave pay is taxable income. Agencies must deduct tax from the payments made to employees.
16. Agencies can also deduct child support payments and other deductions authorised by the employee.

Workers' Compensation

17. Paid parental leave pay is not regarded as wages for the purpose of calculating workers' compensation premiums in accordance with the *Workers' Compensation and Injury Management Act 1981 (WA)*.

ELIGIBILITY AND CLAIMING PROCESSES

18. Agencies are not responsible for determining an employee's eligibility to the parental leave pay. This will be done by FAO.
19. Employees must lodge their claim for the 18 weeks parental leave pay direct with the FAO. This can be done up to three months before the expected date of birth or adoption. Employees expecting a child on or after 1 July 2011 can commence making claims from 1 April 2011. The FAO will contact the agency if they are required to provide parental leave pay to an eligible employee from this date onwards. Agencies can register with Centrelink prior to 1 July 2011 in order to streamline the process.
20. The paid parental leave period start date cannot be before the child's birth or adoption and all parental leave pay must be received within the first 12 months after the date of birth or adoption. Payments must be in a continuous 18 week period.

Providing advice to employees

21. Any requests for information or advice on the Commonwealth paid parental leave scheme from employees must be referred to the FAO on 13 61 50 or www.familyassist.gov.au. The FAO has produced a range of employee-specific information including a Paid Parental Leave Comparison Estimator, an online tool to allow employees to make an informed decision whether to make a claim for parental leave pay or the Baby Bonus. Agencies should not provide advice to employees on their eligibility or entitlement to the Commonwealth paid parental leave scheme.

EMPLOYER ROLE

22. Agencies receive funds directly from the FAO and provide parental leave pay to eligible employees in the regular payroll cycle. The parental leave pay is fully funded by the Commonwealth Government.
23. Agencies are required to act as paymaster for eligible employees who:
 - a) have had 12 months continuous service in the Western Australian public sector;
 - b) will be employed for the period they are receiving parental leave pay;
 - c) are Australian based; and
 - d) are receiving at least 8 weeks parental leave pay.

Payment processes

24. When an agency is required to provide parental leave pay to an eligible employee, the FAO will provide a notification to the agency in writing (electronically where possible) that includes:
 - a) the employee's name;
 - b) the period for which the agency is to provide parental leave pay to the employee;
 - c) a request for information (for example bank details) so that the FAO can advance the agency the paid parental leave funds;
 - d) the agency's obligations under the paid parental leave scheme; and
 - e) the review and rights of an employer in case the agency disagrees with the decision that they are to provide parental leave pay to the employee (the employer will have up to 14 days from the date of notification to ask the FAO to review the decision).
25. The agency must provide required details to the FAO so that it can advance the paid parental leave funding amounts. This will include the agency's bank account details and the employee's pay cycle details.
26. The FAO will provide funds in advance into a nominated bank account. This may be in instalments. A payment notice will be provided with each payment detailing each employee's name and payment amount (other details such as the employee's payroll number, date of birth and payment period will also be included). Agencies with multiple employees in receipt of parental leave pay may receive one payment from the FAO per pay cycle for all the employees in that pay cycle.
27. Agencies will be required to pay employees the parental leave pay on the normal pay dates during their nominated 18 week period. Payments will be transferred by the FAO to the agency prior to the employer's pay cycle. This will be before the pay cut-off date for any changes to the employee's pay for that period. There is no obligation on the employer to provide the parental leave pay until it has received the funds from the FAO.

Interaction with the Centrelink

28. Public sector agencies will be able to conduct all paid parental leave business online with Centrelink via Business Online Services at the Centrelink website. Contact details can be found on the Department of Commerce website at www.commerce.wa.gov.au
29. Agencies will be able to pre-register details with the Centrelink and can nominate in advance where notices are to be sent and the bank account to which the paid parental leave funds are to be deposited.

Other obligations

30. Agencies must withhold tax from the parental leave pay under the usual PAYG withholding arrangements and include parental leave pay in the total amounts on the employee's annual or part-year payment summary.
31. Agencies must provide employees with access to a record of their parental leave pay (usually a payslip).
32. Agencies must keep written financial records of receipt of paid parental leave funds received from Centrelink and of the parental leave pay provided to employees.
33. Agencies must notify Centrelink:
 - a) if and when an employee returns to work (before or during their parental leave pay period);
 - b) if and when an employee is no longer employed by the agency;
 - c) if the agency changes its bank account details or employee's pay cycle; or
 - d) if the agency had been advanced an incorrect paid parental leave funding amount by the Centrelink, or if the agency is unable to provide parental leave pay to the employee.
34. Agencies must return any unpaid paid parental leave funds to the Centrelink within 28 days after notification from the Centrelink.

MORE INFORMATION

35. Agencies are encouraged to find more information about their obligations under the Commonwealth paid parental leave scheme by:
 - Accessing the Centrelink website and downloading the Paid Parental Leave Scheme Employer Toolkit at http://www.centrelink.gov.au/internet/internet.nsf/businesses/ppl_toolkit.htm
 - Accessing the FAO website and downloading the Paid Parental Leave – Employer Business Requirement Statement at <http://www.familyassist.gov.au/publications/paid-parental-leave---employer-business-requirement-statement/>
 - Accessing the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) website
 - Email queries directly to Department of Families, Housing, Community Services and Indigenous Affairs on ppl@fahcsia.gov.au or Centrelink on pplinfo@centrelink.gov.au
 - Calling the Centrelink Business Hotline on **13 11 58**
 - Contacting their Department of Commerce Labour Relations Adviser.

Paid Parental Leave Act 2010

Examples for the WA public sector

Please note these are hypothetical examples only. They are intended to illustrate how Commonwealth paid parental leave scheme may interact with existing parental leave entitlements. Other combinations of paid and unpaid parental leave with parental leave payments are also possible.

Example 1 – Jane

Jane works in a West Australian public sector agency. Jane is eligible for 14 weeks employer-funded paid parental leave under the *Public Service General Agreement 2008*, and wishes to take an additional 4 weeks annual leave.

In accordance with the provisions of the Public Service General Agreement, Jane applies to take 4 weeks annual leave prior to the birth of her child, then 14 weeks employer-funded paid parental leave, and then unpaid parental leave for a further 7 months.

Jane makes a claim for the Commonwealth paid parental leave scheme to the Family Assistance Office (FAO). When making her claim, Jane nominates a start date for receiving her parental leave pay [start date can only be on or after the expected date of birth of a child, and payments must be received within 12 months of the date of birth].

The FAO determines she is eligible for paid parental leave, and makes an 'employer determination' that her employer is to provide parental leave pay. Her employer will receive a written notice stating details of the parental leave pay due to Jane, and requiring the employer to provide Centrelink with banking details for payment of funding to the employer prior to Jane's regular pay dates.

Jane has nominated the start of her unpaid parental leave as the start date for the Commonwealth paid parental leave scheme, and she will receive parental leave pay at the national minimum wage (as at 1 July 2010 \$570 per week) from her employing agency for 18 weeks. Jane will not be eligible for superannuation contributions or accrue leave entitlements while she is on unpaid parental leave and receiving the Commonwealth parental leave pay.

For the remaining period of unpaid parental leave Jane takes she will receive no pay.

Example 2 – Stuart

Stuart has been employed by a West Australian public sector agency for 10 months. He wishes to take parental leave to be the primary care giver of a newly adopted child. Stuart is not eligible for employer-funded paid parental leave under the provisions of his industrial agreement because he has not completed 12 months continuous service in the West Australian public sector.

Stuart makes a claim for the Commonwealth paid parental leave scheme with the Family Assistance Office. The FAO determines he is eligible for parental leave pay because he has been working for the last 13 months, even though his employment has been with 2 different employers. Stuart is advised by the FAO that he will be receiving parental leave pay direct from the FAO not through his employer.

Stuart's employer agency is not required to be involved in providing his parental leave pay because he has had less than 12 months service in the West Australian public sector.

Example 3 – Laura

Laura proceeds on employer-funded paid parental leave 4 weeks before the expected date of birth, and will be paid her normal rate of pay for 14 weeks as per her industrial agreement.

When she made her claim for the Commonwealth paid parental leave scheme with the FAO, Laura elected to receive her parental leave pay over the same period as her 14 weeks employer-funded paid parental leave. However, Commonwealth parental leave pay can only start from the date of birth of the child.

For the first 4 weeks Laura receives her normal pay, as she is on employer-funded paid parental leave. She is accruing leave and is receiving superannuation.

When her baby arrives, she needs to confirm the date of birth with the FAO. Her employer will then be advised and provided with paid parental leave funds so she can start receiving her Commonwealth parental leave pay.

For the next 10 weeks Laura receives her normal pay (her employer-funded paid parental leave), plus the Commonwealth parental leave pay via her employer's payroll. Laura is accruing leave, and receiving superannuation, but only on her normal salary, not the Commonwealth parental leave pay.

Laura's employer-funded paid parental leave is now finished, so she is now on unpaid parental leave. She is not accruing leave or receiving superannuation. For the first 8 weeks of unpaid parental leave, Laura receives the remaining 8 weeks of her Commonwealth parental leave pay.

For any remaining period of unpaid parental leave Laura takes she will receive no pay.

Example 4 – Amelia

Amelia has worked as a casual employee for a West Australian public sector agency for 18 months and applies to her employer for unpaid parental leave. In accordance with her industrial agreement Amelia qualifies as an eligible casual employee.

As a casual, Amelia does not have access to the State Government funded 14 weeks paid parental leave, annual or long service leave. Amelia elects to proceed on unpaid parental leave six weeks prior to the expected date of birth.

Three months prior to the expected date of birth, Amelia applies for the Commonwealth paid parental leave scheme with the Family Assistance Office (FAO). The FAO determines that she is eligible to receive parental leave pay.

Amelia's expected date of birth is after 1 July 2011 and her public sector agency will provide parental leave pay to Amelia in accordance with her normal pay cycle and deduct tax from the payment. Amelia will not receive any superannuation on the Commonwealth parental leave pay.