



Parental leave

Employees may qualify for unpaid parental leave when a child is born or adopted. Parental leave includes maternity leave, paternity leave and adoption leave as well as other types of special leave.

National and State system employees in Western Australia

Unpaid parental leave

Unpaid parental leave for all eligible employees is provided by the federal *Fair Work Act 2009*. This entitlement comes from the National Employment Standards (NES) and applies to all employees in Australia, even if they are not covered by the national workplace relations system.

Eligible employees are entitled to up to 12 months of unpaid parental leave with a possible extension of up to 12 months.

Who can take parental leave? (eligible employees)

Full time, part time and casual employees can take unpaid parental leave if:

- they are responsible for caring for a newborn or newly adopted child; and
- they have (or will have) completed at least 12 months of service before the date of birth or adoption.

Casual employees must:

- have been working with their employer on a regular and systematic basis for at least 12 months; and
- have a reasonable expectation of ongoing employment.

For further information on unpaid parental leave, including employee eligibility, visit the Fair Work Ombudsman website at www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94, Monday to Friday between 8.00 am and 6.00 pm (EST).

Additional entitlements: State system employees only

The Western Australian State system covers employers who are not constitutional corporations and their employees. In general terms, this includes employers who are sole traders or partnerships and some trust arrangements.

In addition to the parental leave entitlements provided under the national industrial relations system, Western Australian law also provides State system employees with an entitlement to request:

- a longer period of concurrent parental leave;
- a return to work after parental leave on a modified basis; and
- a reversion to pre-parental leave working arrangements.

If you are not sure if you are in the State or national industrial relations system call Wageline on 1300 655 266 and we will assist you. To find out more about the Western Australian industrial relations system visit www.commerce.wa.gov.au/labourrelations

Extension to concurrent parental leave

An employee is able to take up to three weeks of unpaid parental leave at the same time as their spouse or partner takes a period of unpaid parental leave. This is called concurrent leave and is a NES.

Under Western Australian law an employee may request to extend concurrent leave by up to five weeks (the maximum entitlement is eight weeks). This request must be in writing and can be made any time before the end of the first week of concurrent leave.

Returning to work on a modified basis

An employee may request to return to work after parental leave on a modified basis; this could mean working fewer days or hours, on different days or at different times.

An employee must make the request to their employer in writing at least seven weeks before they are due back from parental leave.

An employer is to agree to the request unless:

- they are not satisfied that the request is genuinely based on the employee's parental responsibilities; or
- there are reasonable grounds to refuse the request because of the harmful effect it would have on the employer's business. These reasons include cost, lack of replacement staff, loss of efficiency or the impact on production or delivery of goods or services.

If the employer refuses the employee's request they must give their reasons to the employee in writing. An employee may seek the enforcement of their request and if this occurs, the employer is responsible for proving the refusal was justified.

Reversion to previous working arrangements

Employee request

An employee who has returned to work on a modified basis may subsequently request to resume working on the same basis as before starting parental leave.

For example, a previously full-time employee returned from parental leave to work three days per week. After a period working on a part-time basis that employee may ask to resume working on a full-time basis.

An employee must give their employer at least six weeks of written notice of their intention to resume their previous working arrangements and an employer must agree to the request unless they have reasonable grounds to refuse.

Employer requirement

An employer may require an employee to resume their previous working arrangements if:

- the employee no longer has a pre-school aged child; or
- allowing the employee to continue working on a modified basis would have a harmful effect on the employer's business.

An employer must give an employee at least six weeks of written notice of, and their reasons for, the requirement to resume work on their previous working arrangements.

Parental Leave Pay

In addition to unpaid parental leave, employees may also have an entitlement to Parental Leave Pay.

The Federal Government Paid Parental Leave Scheme provides Government funded Parental Leave Pay and Dad and Partner Pay at the National Minimum Wage to employees who meet eligibility criteria. Employers may be required to have a role in providing payments to employees through their payroll system.

For more information on Parental Leave Pay and/or Dad and Partner Pay please visit the Department of Human Services website at www.humanservices.gov.au or call 13 61 50.

Need more information? Call Wageline 1300 655 266

Open 8.30 am to 5.00 pm weekdays (except Wednesdays open 9.00 am to 5.00 pm).

'It always pays to call Wageline'

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