



## Parental Leave

Under “Workchoices” basic employment rights were slashed to a handful of minimum conditions. Many workers were forced to accept unfair working arrangements or face dismissal. The Fair Work Act has introduced improved leave arrangements for parents and better job protection.

### Overview

The NES details the minimum entitlements to parental leave and related entitlements which apply to all employees in Australia. Parental leave includes birth-related leave as well as adoption-related leave and same sex de facto relationships.

### Am I eligible?

If you have worked at least 12 months for your employer, you will be eligible for unpaid parental leave. This also includes casual employees who have been employed on a regular and systematic basis (for at least 12 months).

### What is the parental leave?

Entitlements to parental leave are:

- If you are a single parent, up to 24 months unpaid leave.
- If you are a couple, and you and your partner both wish to take leave, up to 12 months unpaid each (not at the same time)
- If you are a couple, and only one parent wishes to take leave, up to 24 months of unpaid leave.

The leave must be related to either the birth of a child to the employee, the employee's spouse, or the employee's de facto partner, or, the placement of a child under 16 with the employee for adoption. Your Agreement may include provisions for paid leave.

### What are the rules for unpaid parental leave?

- You are only eligible for parental leave if you will have responsibility for the care of the child
- Generally, leave must be taken in a single continuous period

- Leave can start at birth of the child, up to 6 weeks before the expected date of birth, or 12 months after the employee's spouse or partner has completed their 12 months

### Can I extend unpaid parental leave?

You may request an extension of an extra 12 months (24 months in total), unless your spouse or partner has already taken 12 months of leave. Your request must be in writing and given to your employer at least four weeks before the end of your initial period of parental leave. Your employer must respond in writing by 21 days whether this request is granted or refused.

Similar to requests for flexible workplace arrangements, reasons for refusal must be stated in writing and be based on reasonable business grounds (e.g., effect on workplace — finances, efficiency, productivity and customer service, inability to manage workload and the inability to recruit a suitable replacement for you).





## Parental Leave

### Other related facts & entitlements

- An employer may request a pregnant employee to provide a medical certificate stating that the employee is fit for work, and is not at risk of illness or injury as a result of continuing to work performed for the employer. If not satisfied, the employer may request the pregnant employee to take parental leave.
- You will not be eligible to take unpaid parental leave unless you have given at least 10 weeks notice to your employer. You should stipulate the start and end dates of the proposed leave.

Other rights you may be entitled to include:

- Unpaid leave if you have a pregnancy related illness or if the pregnancy ends
- Be transferred to a safe job or be entitled to receive paid 'no safe job leave'
- Consultation from your employer including your right to be kept informed about decisions made regarding your employment conditions
- Return to work guarantee
- Unpaid pre-adoption leave
- If you have an enterprise agreement, you may be entitled to improved parental leave entitlements



### Paid Parental Leave

#### Overview

In addition to your NES entitlements to unpaid parental leave, the Federal Labour Government has introduced a Paid Parental Leave (PPL) scheme that starts on 1 January 2011.

#### What do I receive under PPL?

The PPL scheme provides for 18 weeks payment at the federal minimum wage (\$569.90 per week or \$10,258 in total as at 1 October 2010).

#### Am I eligible?

If you have worked at least 330 hours of work (1 day per week) for 10 months in the 13 months prior to birth, you may be eligible for the PPL scheme. It is available to full-time, part-time, and casual staff, as well as contractors who are self-employed.

#### What are the rules for PPL?

- If you receive payments under the PPL scheme, you are not entitled to the tax-free \$5,000 baby bonus or Family Tax Benefit B.
- You will not be eligible if you earned more than \$150,000 in the financial year prior to the date of birth or adoption of your child. However, primary care givers who do not meet the minimum requirements outlined above may still be eligible for the Baby Bonus (tax-free \$5,000).
- Parents can apply for PPL 3 months before the expected date of the child's arrival.
- The federal PPL must be taken after the birth or adoption of the child and within 12 months of that event.
- PPL may be shared (not concurrently) between eligible parents.



## Parental Leave

### How do I apply for PPL?

You are responsible for making the application to the Family Assistance Office (FAO) online or call 13 6150 if you require assistance in filling out the form. You may also apply for a preliminary determination from FAO to see whether you are eligible to receive PPL. Upon the birth of your baby or the adoption of your child, you will need to verify the birth/adoption before payments can take effect.

### What If I already receive PPL from my employer?

The government intends that the new PPL payments will be in addition to any PPL entitlements you may already be receiving from your employer (either through your workplace agreement, arrangement or contract). This means that your employer cannot withdraw any paid parental leave in an existing workplace agreement and must not use the new Government payment to replace your employer-paid parental leave entitlements. If your employer tries to reduce or stop your existing payments, contact your workplace delegate or LHMU Members Assist immediately.

### Other related information on PPL

- The Government provides the payment to your employer to pass on to you through the employer's payroll system. However, if you have not been with the employer for more than 12 months, payment is made via FAO.
- If your employer does not pass on the government PPL payment, you should immediately notify FAO and LHMU. If there is a dispute, the FAO may pay the PPL to you directly until the dispute is resolved.
- Your employer does not contribute to the government PPL scheme.
- Your employer is not required to provide you with minimum superannuation contributions during the period of Government PPL.
- Your leave entitlements do not accrue during the period of government PPL.



### Bargaining for PPL

LHMU will support and encourage you and your fellow union members to negotiate improved PPL arrangements in collective agreements. For example, we believe employers could "top-up" the legislative minimum payments to the equivalent of your usual wage.

### Contact us

For more information on any of these topics, please see the other United Voice fact sheets. If you are unsure or require further advice, please contact your union delegate or call United Voice Member Assist on 3291 4600 or 1800 065 885 outside of the Brisbane area. Alternatively you can now lodge a request for information or assistance at [www.memberassist.org.au](http://www.memberassist.org.au)