

PREGNANCY AND PARENTHOOD AT WORK

FERTILITY LEAVE

Five days' paid special fertility treatment leave is available to employees undergoing assisted reproductive treatments. Assisted reproductive treatment means intrauterine insemination (IUI), in vitro fertilisation (IVF) and Intracytoplasmic sperm injection (ICSI).

Leave can be accessed where an employee is undergoing fertility treatment, including medical appointments associated with such treatments. Leave can be taken on part-days, single days, or consecutive days.

Paid special fertility treatment leave may also be utilised for reasonable travel to enable an employee to access treatment.

Temporary and part-time employees will be entitled to fertility leave on a pro-rata basis.

Paid special fertility treatment leave is available only to the person undergoing fertility treatment.

PREGNANCY

When should I tell my employer about my pregnancy?

There is no legal requirement to disclose pregnancy before you are ready to do so. However, you must notify the Department head of your intention to take parental leave in writing a minimum of eight weeks before you expect to start parental leave. You can notify your employer at an earlier date if you choose to.

It is a personal choice when to talk to your manager about your pregnancy. However, it can be easier to negotiate time off for appointments, or if there are aspects to your job that are unsafe, after you have disclosed your pregnancy.

Your decision on when to disclose your pregnancy will depend on a range of factors such as if you are able to do your role without any adjustments and if you are suffering from morning sickness.

Which leave can I use for prenatal appointments?

Non-emergency appointments or duties can be planned outside of normal working hours or through approved use of flexible working arrangements or other appropriate leave such as recreation or sick leave.





How much leave am I entitled to?

You are entitled to up to 52 weeks' unpaid Parental leave. 14 weeks out of the year entitlement are Paid Parental leave if you have responsibility for the care of the child. This leave is available for both parents, not just the birth-giving parent.

There are also an additional two bonus weeks' parental leave available to families. If both parents are employed in the NSW public sector and both intend to take the 14 weeks parental leave, the additional two weeks' paid leave available can be used by one parent or shared between the two parents. If there is only one parent employed in the NSW Public Sector, the parent is entitled to the two weeks.

Parental leave can be taken up to nine weeks prior to the birth of the child and for a period of 12 months after the date of birth. Any parental leave taken outside the period of paid parental leave is unpaid leave, although you may receive paid parental leave from the federal government scheme during this time. You can also elect to take any available recreation leave or extended leave during your period of unpaid parental leave, provided it does not extend the total period you will be on leave.

Federal Government Paid Parental Leave Scheme

In addition to parental leave payments from their employer, employees may be entitled to further income support as part of the Federal Paid Parental Leave Scheme.

Members should contact Services Australia to determine their eligibility.

COMMUNICATION DURING PARENTAL LEAVE

Your employer is obligated to communicate with you regarding any significant changes at work, and to provide detail if these changes impact the role held by the employee prior to parental leave. In addition, they must provide an opportunity to discuss the effect of any proposed changes.

The employee must update the Department with

WHO CAN ACCESS PARENTAL LEAVE?

Employees who become new parents through birth, adoption, altruistic surrogacy, or permanent out-of-home care arrangements are entitled to parental leave to allow them time to prepare for and care for their new baby.

If your baby is stillborn, you are also entitled to parental leave, although you can elect to take sick leave.

To be eligible for parental leave, you must have completed not less than 40 weeks' continuous service at the expected date of birth, time of adoption, time of altruistic surrogacy or permanent out-of-home care placement. Paid parental leave is calculated at the rate you are paid when the leave is taken.

If you hold a full-time role but have been on part-time leave without pay for 40 weeks or less before you go on parental leave, you will be paid at the full-time rate.

If you have been part-time more than 40 weeks on the same arrangement you will be paid at the part-time rate. If you have varied your part-time arrangement during the 40-week period, you will be paid at the rate based on the average number of weekly hours you have worked.

any change of address, as well as any changes to their circumstances that may alter their proposed date of return to work.

LEAVE IN THE EVENT OF A MISCARRIAGE OR PRE-TERM BIRTH

Five days of paid leave will be available for eligible employees in the event of miscarriage (up to 20 weeks gestation).

Special pre-term birth leave will be available in the event of a pre-term birth (prior to 37 weeks). This leave commences from the date the child is born up to the end of 36 weeks. Paid parental leave provisions will apply from the commencement of 37 weeks.

WHEN YOU RETURN TO WORK

Extending parental leave and part-time work

If you are not ready to return to work after you have taken 12 months' parental leave, you have a right to request a subsequent 12-month period of parental leave. You also have the right to return from a period of full-time parental leave to employment on a part-time basis until your child reaches school age.

Right to return to your former role

You have a right to return to your former role when you resume full-time duty after parental leave. If you return initially on a part-time basis, you have the right to your former role when you return from part-time to full-time employment. If your former role no longer exists, but there are other positions you are qualified for, you shall be appointed to a role of the same grade and classification as your former position.

Second period of parental leave

If you need another period of parental leave (for another child) within 24 months of your first period of parental leave, and you have not returned to work, your leave will be paid at the rate you were paid before your first period of leave began. This will also apply if you have returned and are working reduced hours during the 24-month period.

FLEXIBLE WORKING ARRANGEMENTS

The right to seek flexible working arrangements are available to all NSW Public Sector employees on the principle of 'if not, why not'. For parents returning to work after a period of parental leave, the award conditions assert the right to request part time work until the child reaches school age, and these requests can only be refused on reasonable grounds such as cost, lack of replacement staff, loss of efficiency and impact on customer service.

There is a wide range of flexible work options available including:

- Flex time, which allows employees to adjust when they work within particular bandwidths and to take days off using accrued hours.
- Part-time work, compressed hours or job-sharing
- Leave without pay, career breaks
- Working from home or working remotely
- Accessing purchased leave or leave paid at half rates etc.
- Part-year employment, variable year employment.

Flexible work allows employees to better manage the demands of being carers for children or others, as well as study and career development, health



conditions, a disability, other personal matters, travel to and from work and other factors which can affect the work-life balance.

The PSA can provide a wide range of resources and support in having an informed discussion with your manager about flexible working arrangements. You can also access further information including tools and templates from the Public Service Commission on their website www.psc.nsw.gov.au

It is important to remember that anyone can make a request for flexible working arrangements. However, the NSW provisions do not necessarily mean any individual will get the flexible working arrangements they are seeking.

LACTATION

On returning to work after a period of parental leave, employees are entitled to support in the workplace to help them continue breastfeeding their child.

The Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 provides for:

- up to two paid lactation breaks of up to 30 minutes each per day for full-time employees or part-time employees working over four hours per day; or
- one paid lactation break of up to 30 minutes for part-time employees working four hours or less on a workday.

Your manager should allow a flexible approach to be taken to lactation breaks as long as there is a balance between the needs of the employee and operational requirements.

You may seek a flexible work arrangement to assist you to meet your short-term or longer-term requirements, such as arrangements for flexible start or finish times, the ability to combine lunch or other breaks to coincide with lactation breaks, staggered return to work from parental leave, gradual increase to full time hours or

working from home. You should approach your manager with a proposal as all flexible working arrangements require prior approval and are subject to operational requirements. Your union can provide advice and support for you to help negotiate this.

Your employer should ensure you have a suitable private space with comfortable seating for the purpose of breastfeeding or expressing milk. The space should be private and hygienic, and allow access to a table, power point, storage of equipment and a refrigerator.

If you have concerns about breastfeeding at work, you should contact your union for advice and you can also contact the Australian Breastfeeding Association who can provide information and accreditation for workplaces to become breastfeeding friendly, for further information see www.breastfeeding.asn.au/community-workplaces/breastfeeding-friendly-workplaces

If you still have questions about pregnancy, parental leave, fertility leave, returning to work and breastfeeding in the workplace or you are being denied your entitlements, remember you can contact the Member Support Centre by phone 1800 772 679 or email membersupport@psa.asn.au for further advice and support.

More information can be found at:

Clause 75 Parental Leave of the Crown Employees (Public Service Conditions of Employment) Award 2009

Employees of the Public Service of New South Wales Section 52 (1) Determination No 3 of 2022

Employees of the Public Service of New South Wales Section 52 (1) Determination No 4 of 2022



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