

## Parental Leave

**This fact sheet sets out your minimum entitlement in law set out in the Parental Leave and Employment Protection Act 1987 and subsequent amendments ("the Parental Leave Act"). Please check your employment agreement to see if you are entitled to additional leave or payments or have additional employee obligations.**

### Types of leave

The Parental Leave Act provides for a range of leave for working people and their spouse or partner. Your entitlement to this leave will depend on your length of service and hours of work.

### Qualifying for parental leave

To qualify for parental leave you must have worked with your employer for at least an average of ten hours per week in the six months immediately preceding the expected due date. Additional leave is available if you meet the eligibility criteria and have worked with your employer for one year or longer at the expected due date.

### Pre-term baby payment

Up to 13 weeks of payment are available in addition to parental leave payments if you are caring for a baby born before 36 weeks' gestation and you are eligible for parental leave. This is paid at the same rate as parental leave.

### Primary carer leave

Primary carer leave is paid for a period of up to 26 weeks. It provides parental leave for female employees who are having a baby, or her spouse or partner if they have all or part of the birth mother's parental leave payments transferred to them. It also applies to employees who are going to have the primary responsibility for the care, development, and upbringing of a child under six years of age on a permanent basis e.g., through adoption, home for life or whangai.

You can choose to start this leave up to six weeks before the expected due date. This leave can start more than six weeks before the expected due date by agreement, or if it is determined by your doctor or midwife.

### Partner's leave

Your partner can apply for partner's leave, which is unpaid, of up to one week at or around the time of birth if your partner has worked for the same employer for at least an average of 10 hours per week in the six months preceding the expected due date, or two weeks if your partner has worked with the same employer for longer than a year preceding the expected due date. Your partner can request to have this leave extended. If you meet the minimum hours test your partner can have some of the paid leave transferred to them.

### Extended leave

Extended leave can be up to 52 weeks, minus any primary carer leave taken. Extended leave can be shared between partners. To be eligible for this leave you need to have

worked with your employer for at least six months at the expected due date to receive 26 weeks extended leave or one year to receive all 52 weeks extended leave.

If you are directed by your midwife or doctor to take primary carer leave more than six weeks before the expected due date that part of the leave will not be deducted from your total amount of extended leave.

**Example:**

Mary is directed by her midwife to take parental leave eight weeks before her expected due date. She takes another 26 weeks parental leave after her due date. She will be entitled to  $52 - 26 = 26$  weeks extended leave.

## Special leave

Special unpaid leave of up to 10 days is available for a female employee before you start your primary carer leave for any reason associated with pregnancy, e.g. medical appointments.

## Negotiated carer leave

Negotiated carer leave lets employees who do not qualify for primary carer leave to take leave. Call NZNO for information in relation to your circumstances.

## Payment

There are two different possibilities for payment. Firstly, there is paid parental leave under The Parental Leave Act which provides payment for up to 26 weeks of parental leave. This may be taken by one partner or shared between two. If you qualify for parental leave this payment will apply to you. The current amount paid can be found on the website of the Ministry of Business, Innovation and Employment in the labour information section. These payments are administered through Inland Revenue.

You may also be entitled to additional payments from your employer. The details of this entitlement can be found in your employment agreement.

You are still eligible for paid parental leave if your baby dies. It is your work situation that determines your eligibility. You **must** apply for paid parental leave before your return to work. Once you return to work your eligibility will stop.

## Employee obligations

The Parental Leave Act requires that you provide written notice of your intention to take parental leave at least three months before the expected date of delivery. However, if you work for a DHB, you must apply for parental leave from your employer in writing at least one month prior to intended leave commencement and provide proof of pregnancy.

Your notice to the employer should set out the type(s) of leave you want; when you are intending to start your leave; and how long the period of leave will be. If you are sharing any part of the leave, you must also provide details of the leave being taken by your partner, that your partner is eligible for leave, that the combined leave is no longer than 52 weeks plus any partner's leave, your partner's name and the name and address of their employer.

## Providing notice of your return to work

When you are approaching the end of your leave you are required to provide notice to your employer of your intention to return no later than 21 days before your return date.

You can return to work early if your child is miscarried, is stillborn, dies, or is adopted or cared for by someone else. You need to give your employer 21 days' notice of your intention to return to work. You may also return to work without 21 days' notice if your employer agrees.

## Returning to work

An employer will be required to hold your job for you.

If you are taking four weeks parental leave or less, your job must be held for you. If you take more than four weeks, your job must be held for you unless there is a genuine redundancy, or your job is deemed a key position. In practice most jobs do not meet the criteria for a key position. If your employer tells you that they cannot hold your job for this reason, contact the Member Support Centre.

## Not returning to work

If you decide not to go back to work when your parental leave ends, you must tell your employer in writing at least 21 days before the end of your parental leave. If your employment agreement says you must give more than 21 days' notice of resignation (e.g., your notice period is one month), then that resignation notice period becomes the notice period you need to give your employer.

If you decide not to return to work at the end of your parental leave, your job will end on the date that you started parental leave and not the day you resign or at the end of a notice period. This means that any holiday pay will be calculated as at your last day of work before you started parental leave.

## Flexible working arrangements

The Parental Leave Act provides protection for the job, including hours, you had prior to taking parental leave. You are entitled to request flexible working arrangements, which must be considered by your employer, and you are able to negotiate reduced (or changed) hours, if your employer agrees.

## Keeping-in-touch-days

An employee may perform up to 64 hours of paid work for their employer during paid parental leave without being considered to have returned to work.

## Working while on parental leave

The Parental Leave Act anticipates that people taking leave under the Act do not work while they are on leave. However, your employment agreement may provide additional rights.

## Calculation of annual leave after a period of parental leave

When you return from parental leave any annual leave you become entitled to for a period of 12 months after the return date will be calculated on your average weekly earnings for the 12 months before the last pay period. If you take time off work on

parental leave, and then take annual leave in the 12 months after you return to work it is likely you will be paid less than your normal hourly rate for the leave.

**Example:**

Mary is paid \$50,000 per year. She normally receives about \$950.00 per week gross when she takes annual leave.

Mary takes six months off on a combination of paid and unpaid parental leave and then returns to work. Six months after her return to work she takes annual leave. Payroll will use the following calculation for her annual leave:

Earnings during the last 12 months = \$25,000 gross  
\$25,000 gross divided by 52 weeks = \$480.00 gross per week

The longer you wait for your annual leave when you return from parental leave (up to 12 months) the more it will be worth.

**Where can I find out more?**

- > Speak to the NZNO delegate in your workplace
- > <https://www.employment.govt.nz>
- > Parental Leave and Employment Protection Act 1987
- > Wheturangitia Services: <https://wheturangitia.services.govt.nz>
- > NZNO Member Support Centre 0800 28 38 48

Material referred to in this document is sourced from the Ministry of Business, Innovation and Employment parental leave guide, Wheturangitia Services and the Parental Leave and Employment Protection Act 1987.

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**Principal author:** Industrial resources group

**Correspondence to:** [nurses@nzno.org.nz](mailto:nurses@nzno.org.nz)

**Mission statement**

NZNO is committed to the representation of members and the promotion of nursing and midwifery. NZNO embraces Te Tiriti o Waitangi and works to improve the health status of all peoples of Aotearoa/ New Zealand through participation in health and social policy development.

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