

Parental leave, 2014

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 payment or have additional employee obligations.

Parental leave covers three types of leave: maternity leave, partner's/paternity leave and extended leave.

Types of leave

The Parental leave act provides different types of leave - maternity leave, partner's/paternity leave, extended leave, and special leave. 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 six months at the expected due date, and for an average of at least 10 hours per week with at least 1 hour in every week, or 40 hours in every month. Additional leave is available if you meet the eligibility criteria and have worked with your employer for 1 year or longer at the expected due date.

Maternity leave

Maternity leave is for a period of up to 14 weeks. You can choose to start this leave up to six weeks before the expected due date. This leave can start more than 6 weeks before the expected due date by agreement, or if it is determined by your doctor or midwife.

Partner's leave/paternity leave

You can apply for partner's/paternity leave of up to 1 week at or around the time of birth, or 2 weeks if your partner has worked with their employer for longer than a year at the expected due date. You can request to have this leave extended. If you meet the minimum hours test you can have some of the paid leave transferred to you.

Extended leave

Extended leave is 52 weeks, minus any maternity or paid parental 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 1 year at the expected due date.

If you are directed by your midwife or doctor to take maternity leave more than 6 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 maternity leave 8 weeks before her expected due date. She takes another 6 weeks maternity leave after her due date. She will be entitled to $52 - 12 = 40$ weeks extended leave.

Special leave

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

Payment

There are two different possibilities for payment. Firstly, there is paid parental leave under The Parental Leave Act which provides payment for 14 weeks of parental leave. This may be taken by one partner or shared between two. As long as you qualify for parental leave this payment applies to everyone. The current amount paid can be found on the website of the Ministry of Business, Innovation and Employment in the labour information section.

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

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 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 not longer than 52 weeks plus any partner's/paternity 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

Generally an employer will be required to hold your job for you. They may require you to go back to a different position/ward/area when you return from parental leave.

If you are taking 4 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.

Flexible working arrangements

The Parental Leave Act provides protection for the job, including hours, you had prior to taking parental leave. You may be 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.

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
- > Ministry of Business, Innovation and Employment Labour information
- > Parental Leave and Employment Protection Act 1987
- > 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, and the Parental Leave and Employment Protection Act 1987.

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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

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