

- 1. TITLE:** **Parental Leave**
- 2. PURPOSE:** To prescribe the entitlement to parental leave including maternity, spousal, pre natal/pre-adoption and adoption leave.
- 3. LEGISLATIVE PROVISIONS:** Section 34(2) of the *Public Service Act 1996* and section 686 of the *Industrial Relations Act 1999*.
- 4. APPLICATION:** This directive applies to:
 - public service officers;
 - temporary employees engaged under sections 112(2)(a) and 113(2)(a) of the *Public Service Act 1996*;
 - general employees engaged under section 112(2)(a) of the *Public Service Act 1996*; and
 - long term casual employees as defined in s. 16 of the *Industrial Relations Act 1999*, and employed under sections 112(2)(b) and 113(2)(b) of the *Public Service Act 1996*.
- 5. STANDARD:** The conditions and entitlements prescribed in the attached Schedule apply.
- 6. EFFECTIVE DATE:** This directive is to operate from **1 July 2001**.
- 7. VARIATION:** The provisions of this Schedule may be varied in accordance with certified agreements made under Chapter 6, Part 1 of the *Industrial Relations Act 1999* or decisions of an industrial tribunal of competent jurisdiction.
- 8. INCONSISTENCY:**

For industrial instruments made under the Queensland legislation sections 34 and 117 of the *Public Service Act 1996* and sections 686 and 687 of the *Industrial Relations Act 1999* apply if there is a conflict with an act, regulation or industrial instrument.

For industrial instruments made under the *Workplace Relations Act 1996 (Commonwealth)* that act applies to the extent of the inconsistency between federal and state statutes, awards or agreements.
- 9. SUPERSEDES:** Circular 3/96
- 10. SEE ALSO:** Directive: "Long Service Leave"
Directive: "Leave Credited as Service"
Family Leave Award – Queensland Public Sector
Additional information to support implementation of this directive is located at <http://www.psier.qld.gov.au/direct/index.htm>

SCHEDULE A
PARENTAL LEAVE

1. Entitlement

Eligible employees, (that is public service employees excluding casual employees other than long term casual employees) covered by this directive and who meet the qualifying service period are entitled to access the parental leave entitlements on the conditions in this Schedule.

2. Definitions

“**Child**” shall be in accordance with the definition provided in the *Family Leave Award – Queensland Public Sector*.

“**Confinement**” is the birth of a child/children, or the ending of the pregnancy in other circumstances, that occurs no earlier than 20 weeks before the expected date of birth.

“**Long term casual employee**” shall be in accordance with the definition provided in section 16 of the *Industrial Relations Act 1999*.

“**Parental leave**” shall mean maternity, spousal or adoption leave.

“**Primary care giver**” means a person who assumes the principal role of providing care and attention to a child/children.

“**Qualifying service period**” for the purposes of paid leave means at least 12 months service in any government department or public service office.

This service:

- is to be unbroken; or
- may be inclusive of paid and unpaid leave which is credited towards service.

In determining the qualifying period for a part time employee the passage of time and not the completion of equivalent hours worked as a full time employee is to be used.

“**Spouse**” shall be in accordance with the definition provided in Schedule 5 (Dictionary) of the *Industrial Relations Act 1999*.

3. Conditions

Maternity Leave

An eligible employee whose expected date of confinement has been confirmed in writing by a medical practitioner, will be entitled to 6 weeks paid maternity leave, to be taken as the initial absence on such leave. This six week period of paid leave is inclusive of any public holidays arising within that time. The period of paid leave cannot be extended other than by the employee taking the leave on a half-pay basis.

The employee will be entitled to access a further period of leave in accordance with the provisions of the *Family Leave Award – Queensland Public Sector*. An employee shall confirm her intention of returning to work by notice in writing to the employer, giving not less than 4 weeks prior to the expiration of the period of maternity leave.

Pre natal Leave

In addition to the maternity leave provisions above, an employee who presents a medical certificate from a doctor stating that she is pregnant will have access to paid leave up to a total of either 36.25 or 38 hours (based on the average number of ordinary hours worked in a week) per pregnancy to attend medical appointments prior to the birth of a child/children.

For further information, please refer to Parental Leave Documentation to support the Directive “Parental Leave”, available either from your Agency’s Employee Relations area or located at <http://www.psier.qld.gov.au/direct/index.htm>

A written application shall be submitted for every absence for which pre natal leave is sought. Each absence in relation to an employee's pregnancy must be covered by a medical certificate.

The work unit should be flexible enough to allow such employees the ability to leave work and return on the same day.

Spousal Leave

An eligible employee who produces a certificate from a medical practitioner which states their spouse's expected date of confinement, will be entitled to 1 weeks paid spousal leave in connection with the birth of a child/children for whom that employee has accepted responsibility. This period of paid leave will be taken as the initial absence on spousal leave and is inclusive of any public holidays arising within that time. The period of paid leave cannot be extended other than by the employee taking the leave on a half-pay basis.

The employee will be entitled to access a further period of leave in accordance with the provisions of the *Family Leave Award – Queensland Public Sector*. An employee shall confirm their intention of returning to work by notice in writing to the employer, giving not less than 4 weeks prior to the expiration of the period of spousal leave.

Pre natal Leave

In addition to the spousal leave provisions above, an employee who presents a medical certificate from a doctor stating that their spouse is pregnant will have access to paid leave up to a total of either 7.25 or 7.6 hours (based on the average number of ordinary hours worked in a day) per pregnancy to attend related medical appointments prior to the birth of a child/children.

A written application shall be submitted for every absence for which pre natal leave is sought. Each absence must be covered by a medical certificate.

The work unit should be flexible enough to allow such employees the ability to leave work and return on the same day.

Adoption Leave

An eligible employee who presents a letter from the Director-General, Department of Families, confirming that an adoption order has been made for the relevant child/children, will be entitled to 6 weeks paid adoption leave at the time of adoption of a child/children if he or she is the primary care giver, or 1 weeks paid adoption leave if he or she is the secondary care giver. This period of paid leave is inclusive of any public holidays arising within that time. The period of paid leave cannot be extended other than by the employee taking the leave on a half-pay basis.

Applications for adoption leave will be in accordance with the *Family Leave Award – Queensland Public Sector*.

If the employee is the primary care giver, that employee will be entitled to access a further period of leave in accordance with the provisions of the *Family Leave Award – Queensland Public Sector*. An employee shall confirm their intention of returning to work by notice in writing to the employer, giving not less than 4 weeks prior to the expiration of the period of adoption leave.

Pre-adoption Leave

In addition to the adoption leave provisions above, an employee who will be the primary care giver and who presents a letter from the Department of Families, confirming the employee's status as a prospective adopter, will have access to paid leave up to a total of either 36.25 or 38 hours (based on the average number of ordinary hours worked in a week) per adoption to attend related interviews prior to the adoption of a child/children.

An employee who will be the secondary care giver and who presents a letter from the Department of Families, confirming that the employee is a prospective adopter; will have access to paid leave under this sub-clause up to a total of either 7.25 or 7.6 hours (based on the average number of ordinary hours worked in a day) per adoption to attend related interviews prior to the adoption of a child/children.

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A written application shall be submitted for every absence for which pre-adoption leave is sought. Applications shall be supported by evidence to the satisfaction of the chief executive.

The work unit should be flexible enough to allow such employees the ability to leave work and return on the same day.

An employee cannot be deemed to be both the primary and secondary care giver and therefore cannot access both entitlements to pre-adoption leave (ie 1 week and 1 day).

4. General Conditions

Timely Notice

An application for maternity or spousal leave is to be submitted at least 10 weeks before the expected birth of the child/children or, if the employee proposes to commence leave before that time, 10 weeks before the date at which leave is to commence.

An application for adoption leave is to be submitted as soon as possible before the proposed period of leave.

Parental Leave and Access to Other Leave

Except where specifically provided under this directive, the provisions of the relevant industrial instrument eg the *Family Leave Award – Queensland Public Sector* shall apply.

Part time and long-term casual employees are entitled to the provisions of this directive on a *pro-rata* basis.

Any unused portion of the period of paid parental leave cannot be banked or preserved in any way.

Where there is an entitlement, employees may use recreation and long service leave during the period of parental leave that would otherwise be unpaid.

Employees are entitled to *pro-rata* long service leave after 7 years of service for purposes of parental leave. To qualify for long service leave during this period see the conditions applying in the Ministerial Directive: “*Long Service Leave*”. Long service leave under this provision is additional to any paid parental leave entitlement.

Employees, who have an entitlement, may apply for paid sick leave during unpaid parental leave under the terms provided for in the relevant award or directive (eg Ministerial Directive: “*Sick Leave*”).

An employee

- who becomes pregnant while on parental leave; or
- whose spouse becomes pregnant while that employee is on parental leave; or
- who is to adopt a child/children while on parental leave;

is eligible, without resuming duty, for a second period of parental leave in accordance with the provisions of this directive.

An employee can only be on one form of approved leave at any one time.

In the case of school teachers who do not accrue recreation leave credits, the period of paid leave is exclusive of school vacation periods.

Special Maternity Leave

Where a pregnancy terminates in other than the birth of a living child, the employee shall notify the chief executive of the changed circumstances as soon as practicable.

Where, after the first twenty weeks, a pregnancy terminates in other than the birth of a living child or where the child dies during the period of paid maternity leave, the employee shall continue to be entitled to six weeks paid leave.

Recognition of Service

Continuity of Service: Continuity of employment is not broken by authorised leave, paid or unpaid. However absences on unpaid leave do not count as service except as provided under the applicable industrial instrument or directive (eg Ministerial Directive: "Leave Credited as Service").

Paid Leave Counted as Service: Periods of paid leave during parental leave count as service for all purposes except as time served for probation.

For employees with less than 12 months qualifying service, the first 12 weeks of parental leave (even though it is without pay) counts as service for all purposes except as time served for probation. (This does not extend the time period allowed for probation in the relevant industrial instruments).

Extension of Paid Parental Leave on a Half-Pay Basis

An employee may request and an employer may agree to extend the amount of paid maternity, adoption or spousal leave for which the employee qualifies by the employee taking the leave on half-pay.

An employee cannot take pre natal/pre-adoption leave on half-pay.

Granting of the parental leave on a half-pay basis is subject to departmental convenience however requests for leave should not be unreasonably refused.

Leave Accrual: The period of the leave will be recognised as normal full time or part time service applying to the employee at the time of taking the leave, ie accrual of sick leave, recreation and long service leave will remain at the normal entitlement for the period of half-pay parental leave for employees working full time and at the relevant proportional rate for employees working part-time.

Locality Allowance: For those employees with an entitlement under an industrial instrument, this allowance will be paid on a proportionate basis for the period of the leave ie half the normal entitlement.

Minimum Period of Parental Leave on Half-Pay: 2 calendar weeks irrespective of the rate of pay for the period. This leave may be taken in conjunction with long service leave and recreation leave.

Public Holidays Falling Within a Period of Parental Leave Taken at Half-Pay: Public holidays falling within periods of half-pay are at the half-pay rate. Where a public holiday falls at the end of a period of half paid leave, and is immediately followed by a period of unpaid leave, the public holiday shall be paid at the half-pay rate.

Cancellation of Leave/Recall to Duty

Subject to agreement between the employee and the employer, or provisions of any industrial instrument/legislation, the employee may be temporarily recalled to duty. This recall does not extend the period of this leave.

Subject to the provisions of any industrial instrument/legislation, a recall to duty while on paid or unpaid leave is voluntary on the part of the employee. An employee who declines the offer of a recall to duty under these circumstances is not to be discriminated against as a result of that decision.

For further information, please refer to Parental Leave Documentation to support the Directive "Parental Leave", available either from your Agency's Employee Relations area or located at <http://www.psier.qld.gov.au/direct/index.htm>

Access to Flexible Work Practices

On return to work from parental leave, flexible work practices (eg part-time employment) might be utilised where suitable to both the employer and employee.

Grievance Procedure

The agency's grievance procedure is to be used for any grievance related to the application of these conditions and entitlements.

SUPERSEDED