

Charles Sturt Campus Services Limited Leave Guidelines and Entitlements

Under the National Employment Standards and the [Charles Sturt Campus Services Enterprise Agreement 2019](#), workers are entitled to the following;

Permanent full-time employees are generally entitled to:

- 4 weeks paid annual leave
- 10 days paid personal / carer's leave per year
- 2 days unpaid carer's leave (when needed)
- 2 days paid compassionate leave (when needed)
- 12 months unpaid parental leave (with additional entitlements for some employees).
- 5 days unpaid Domestic Violence leave (when needed)

Permanent full-time and part-time employees are also entitled to Community Service Leave for eligible community service activities such as:

- jury service
- activities dealing with an emergency or natural disaster.

ATTENDANCE EXPECTATIONS

Employees are required to provide accurate information concerning hours worked and to notify his or her Supervisor/Manager of any deviation from scheduled hours.

Regular attendance is essential to the Company's efficient operation and is a necessary condition of employment. When employees are absent, schedules and client commitments fall behind, and other employees may need to assume added workloads.

Employees are expected to report to work at their scheduled starting time and to remain at work until his or her scheduled finishing time.

If it is impossible to report for work as scheduled, employees must call their /Supervisor before their starting time. If your Supervisor is unavailable, a voice message should be left (Note a contact card should be available from the CSCS office).

If the absence is to continue beyond the first day, the employee must notify their Supervisor on a daily basis unless otherwise arranged. Calling in is the responsibility of every employee who is absent. You should advise your Supervisor at the earliest opportunity. Absence for three consecutive work days without notifying management can be considered as voluntary termination.

It is considered compulsory where practical that employees are required to utilise the CSCS QR code attendance system or allocated attendance book to sign in prior to reporting to their work area and or sign out prior to leaving work at any time.

An employee under no circumstance is permitted to sign in or out for another employee, copy, relocate or manipulate the attendance system to provide false information regarding attendance.

If an employee has more than 4 weeks off work; eg; Long Service Leave, Leave Without Pay, Parental Leave, Annual Leave or for any reason, they will be required to hand in their CSU identification card and all issued keys to the Supervisor.

APPLYING FOR LEAVE

It is the employee's responsibility to apply for leave, and to ensure that their Supervisor has authorised their request prior to taking annual leave.

Leave must be entered into Web Kiosk prior to commencement of, or immediately at the first opportunity. Eg; after a phone call to advise of illness and absence.

Leave can be entered remotely from a mobile device or computers with internet access.

Annual Leave

Employees are encouraged to take their annual leave for their well-being and to promote a healthy workplace. Employees are expected to plan their annual leave in advance and must seek approval from their Supervisor before taking annual leave. Annual leave may be taken as it accrues subject to approval. As a guideline the minimum amount of annual leave that can be taken is one hour.

PLANNING ANNUAL LEAVE

The timing of annual leave and arrangements associated with workload need to be discussed between the employee and the Supervisor as part of the operational plans.

Employees should give the Supervisor as much notice as possible of their intention to take annual leave (preferably a minimum of ten working days where practical), employees should discuss with their Supervisor workload demands in order to establish suitable replacement options.

APPROVAL OF ANNUAL LEAVE

Supervisors must consider applications for annual leave in a timely manner **and will discuss leave plans as part of the company's operational plans**. Supervisors have authority to approve annual leave and can decline your annual leave application if;

- the period of the leave coincides with a peak period for the work unit as established in advance in writing or by custom and practice, or
- other Employee members within the work unit have already requested and received approval for leave during the same period and approval of your request would impact significantly on the capacity of the work unit to perform its functions.

Supervisors will give reasons for declining an application for annual leave and will discuss with alternative options for the timing of annual leave. If an employee and a Supervisor cannot agree on a time to take annual leave then they can speak to the Area Manager for advice and a decision if necessary.

Note: Once a staff member has submitted their leave application, the Senior Supervisor receives a notification. The Senior Supervisor has 7 days in order to either authorise the leave or decline the leave. If the Senior Supervisor does not action the leave request within this time frame, the leave request is escalated to the Area Manager. The Area Manager then has 7 days to action the leave request. If the

Area Manager doesn't action the leave request either, it is escalated to the General Manager for determination.

Number of employees that can be on leave at a time:-

Albury 1, Bathurst 3, Dubbo 1, Orange 2, Wagga 4, Port Macquarie 1.

Supervisors have discretion to be flexible as work commitments allow

How much annual leave does an employee get?

Full-time and part-time employees get 4 weeks of annual leave, based on their ordinary hours of work.

How does annual leave accumulate?

Annual leave accumulates from the first day of employment, even if an employee is in a probation period. The leave accumulates gradually during the year and any unused annual leave will roll over from year to year.

Annual leave accumulates even when an employee is on paid leave including paid annual leave and personal leave.

Annual leave does not accumulate when the employee is on:

- unpaid annual leave
- unpaid sick/carer's leave
- unpaid parental leave.

The Australian Government's Paid Parental Leave Scheme is not considered to be paid leave. An employee does not accumulate annual leave while being paid by the Paid Parental Leave Scheme.

Source reference: [Fair Work Act 2009 \(Cth\) section 87](#)

Taking annual leave in advance

An employee needs to accumulate annual leave before it can be taken.

If an employee does not have enough annual leave to cover the full length of their holiday, they need to go on a period of unpaid leave.

How much annual leave can be taken at one time?

There's no minimum or maximum amount of annual leave that can be taken at a time. Provided both parties agree, an employee can take a part day, single day or a number of days or weeks off.

Employees don't need to take all of their annual leave at once.

Source reference: [Fair Work Act 2009 \(Cth\) section 88](#)

Directing an employee to take annual leave

An employer can only direct an employee to take annual leave in some situations. For example, when:

- the business is closed during the Christmas and New Year period
- an employee has accumulated excess annual leave.

The rules about when and if an employer can direct an employee to take annual leave is set out in awards and [registered agreements](#).

Cashing out annual leave

Cashing out annual leave means an employee receives payment instead of taking time off work.

Annual leave can only be cashed out when an award, enterprise agreement or other [registered agreement](#) allows it.

Certain rules apply when cashing out annual leave:

- an employee needs to have at least 4 weeks annual leave leftover
- a written agreement needs to be made each time annual leave is cashed out
- an employer can't force or pressure an employee to cash out annual leave
- the payment for cashed out annual leave has to be the same as what the employee would have been paid if they took the leave.

Sick Leave

Sick and carer's leave (also known as personal leave or personal / carer's leave) lets an employee take time off to help them deal with personal illness, caring responsibilities and family emergencies.

Sick leave can be used when an employee is ill or injured.

An employee may have to take time off to care for an immediate family or household member who is sick or injured or help during a family emergency. This is known as carer's leave but it comes out of the employee's personal leave balance.

An immediate family member is a:

- spouse
- de facto partner
- child
- parent
- grandparent
- grandchild
- sibling, or
- child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner.

A household member is any person who lives with the employee.

Source reference: [Fair Work Act 2009 \(Cth\) sections 12 and 97](#)

Paid sick & carer's leave

An employee can take paid sick leave when they can't work because of a personal illness or injury. This can include stress and pregnancy related illnesses.

An employee can take paid carer's leave to care for or support a member of their immediate family or household who is sick, injured or has an unexpected emergency.

Who gets paid sick and carer's leave?

All employees except casuals are entitled to paid sick and carer's leave.

Employees may have to give notice or evidence to get paid for sick and carer's leave.

How much paid sick and carer's leave does an employee get?

Sick and carer's leave comes under the same leave entitlement. It's also known as personal / carer's leave.

Employees get:

- 10 days each year for full-time employees
- pro rata of 10 days each year depending on their hours of work for part-time employees.
- A [registered agreement](#) can set out different entitlements to paid sick and carer's leave, but it can't be less than the minimum above.

How does paid sick and carer's leave accumulate?

- Full-time and part-time employees accumulate sick and carer's leave during a year of work. It starts to build up from an employee's first day of work and is based on the number of hours they work.
- The balance at the end of each year carries over to the next year.
- Sick and carer's leave continues to accumulate when an employee is on paid leave such as paid annual leave or paid sick leave. It doesn't accumulate on periods of unpaid leave, such as unpaid parental leave.

Source reference: [Fair Work Act 2009 \(Cth\) sections 96 and 97](#)

Notice & medical certificates

- An employee has to let their employer know that they are going to take sick or carer's leave. This has to be done as soon as possible, and can be after the leave has started. They should also specify how long they will be off or expect to be off work.

When evidence has to be given

- Employers can ask an employee to give evidence to confirm why they have been away from work at any time. This includes even if an employee has only been off sick for 1 day. It may be reasonable to request evidence for personal leave when an absence extends beyond a short period or an employee is repeatedly absent on particular days i.e before or after a weekend or public holiday, or there is a regular pattern of sick leave being taken.
- An employee who doesn't give their employer evidence when asked may not be entitled to be paid for their sick or carer's leave.

<http://www.fairwork.gov.au/leave/sick-and-carers-leave/paid-sick-and-carers-leave/notice-and-medical-certificates>

Attending medical appointments and elective surgery

Medical appointments and elective surgeries that are pre-arranged can only be covered by sick leave if an employee is not able to work because of a personal illness or injury. It will depend on each individual circumstance.

An employer can ask for evidence from an employee to confirm that they were unfit for work. This can help decide if an employee should be paid sick leave or be paid a different type of leave or entitlement.

Types of evidence needed for sick / carer's leave

Medical certificates or statutory declarations are examples of acceptable forms of evidence. While there are no strict rules on what type of evidence needs to be given, the evidence has to convince a reasonable person that the employee was genuinely entitled to the sick or carer's leave.

Employers attending medical appointments

We don't consider it reasonable for an employer to go to a medical appointment with an employee unless an employee requests this.

We also don't consider it reasonable for an employer to contact the employee's doctor for further information.

Payment for sick & carer's leave

Sick and carer's leave is paid at an employee's base pay rate for each hour or part of an hour of leave they take. An employee who takes paid sick or carer's leave is only paid for the hours they would normally work (not including overtime hours).

A base pay rate doesn't include separate entitlements such as:

- incentive-based payments
- bonuses
- loadings
- allowances
- overtime
- penalty rates.

Source reference: [Fair Work Act 2009 \(Cth\) section 107](#)

Unpaid carer's leave

All employees, including casual employees are entitled to 2 days unpaid carer's leave.

Employees get 2 days unpaid carer's leave each time an immediate family member or household member of the employee needs care and support because of:

- illness
- injury or
- an unexpected emergency.

Full-time and part-time employees can only get unpaid carer's leave if they don't have any paid sick / carer's leave left.

Taking unpaid carer's leave

Unpaid carer's leave can be taken:

- in 1 continuous period (e.g. 2 working days in a row) or
- in separate periods as agreed between the employee and employer (e.g. 4 half days could be taken in a row).

An employer can't take negative action against an employee for taking unpaid carer's leave.

Long periods of sick leave

An employee can take as much paid sick leave as they have accumulated to get better from an injury or illness.

An employee can't be fired because they are sick. This includes when an employee is on paid sick leave for a long period of time.

When paid sick leave runs out

When an employee has run out of paid sick leave, they can take unpaid leave if they aren't fit for work because they are sick or injured.

If the employee is on unpaid sick leave, they can't be fired if:


- they have been away for 3 months or less and
- they provide evidence of their illness or injury.

When an employee is away for longer than 3 months

If an employee has used all their accumulated sick leave and is on unpaid leave for more than 3 months and they are dismissed by their employer, the termination is not automatically unlawful. The 3 month absence can include a combination of paid sick leave and unpaid leave over a 12 month period.

The normal rules for a termination still apply and the employee may dispute the termination by:

- making an unfair dismissal application if the reason for the dismissal is harsh, unjust or unreasonable or
- making a general protections claim if the reason for the dismissal is because of the employee's disability.

Source reference: [Fair Work Act 2009 \(Cth\) sections 351, 352 and 385](#) 
[Fair Work Regulations 2009 \(Cth\) regulation 3.01](#)

Compassionate leave

What are the minimum entitlements to compassionate leave?

An employee (including a casual employee) is entitled to two days of compassionate leave to spend time with a member of their immediate family or household who has sustained a life-threatening illness or injury.

Immediate family is an employee's: Spouse

- de facto partner
- child
- parent
- grandparent
- grandchild
- sibling, or a
- child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner.

Employees will be able to take compassionate leave for other relatives (eg. cousins, aunts and uncles) if they are a member of the employee's household, or if the employer agrees to this.

Compassionate leave may also be taken after the death of a member of the employee's immediate family or household. An employee may take compassionate leave for each occasion as:

- a single continuous two day period or
- two separate periods of one day each or
- any separate periods to which the employee and his or her employer agree.



Payment for compassionate leave

Full-time and part-time employees receive paid compassionate leave and casual employees receive unpaid compassionate leave.

Full-time and part-time employees are paid at their base pay rate for the ordinary hours they would have worked during the leave.

This doesn't include separate entitlements such as incentive-based payments and bonuses, loadings, monetary allowances, overtime or penalty rates.

Compassionate leave can't be cashed out.

Notice and evidence

An employee taking compassionate leave must give their employer notice as soon as they can (this may be after the leave has started). The employee must tell the employer of the period, or expected period, of the leave.

An employer can request evidence about the reason for compassionate leave (e.g. a death or funeral notice or statutory declaration). This request for evidence has to be reasonable. If the employee doesn't provide the requested notice or evidence they may not get compassionate leave.

An award or [registered agreement](#) can include terms about the kind of evidence that an employee must provide to get compassionate leave.

Source reference: [Fair Work Act 2009 \(Cth\) sections 12 and 104-106](#)

Public Holidays

An employee is entitled to public holidays depending on where they are based for work not where they are working on the day of the public holiday.

Not working on public holidays

Employees (except casual employees) who normally work on the day a public holiday falls will be paid their base pay rate for the ordinary hours they would have worked if they had not been away because of the public holiday.

The base pay rate doesn't include:

- any incentive-based payments
- bonuses
- loadings
- monetary allowances
- overtime or
- penalty rates.

An employee's roster can't be changed to avoid this payment.

An employee doesn't get paid for a public holiday if they don't normally work on the day that the public holiday falls.

All employees have a right to be absent from work on a day or part day that is a public holiday.

An award, enterprise agreement or other registered agreement can set out other rules about not working on a public holiday

Long Service Leave

An employee gets long service leave after a long period of working for the same employer.

Most employees' entitlement to long service leave comes from long service leave laws in each state or territory. These laws set out:

- how long an employee has to be working to get long service leave (e.g. after 7 years)
- how much long service leave the employee gets.

An employee who has accumulated ten (10) years of full-time service shall be

- entitled to forty-three point five seven (43.57) working days of leave on full pay.
- After the completion of ten (10) years of service, an employee shall accrue long
- service leave at the rate of four point three five seven (4.357) working days per
- annum on full pay.

A period or periods of part-time service will not reduce the accrued entitlement

- specified in sub-clause 38.1, although it will reduce an employee's service
- fraction. Long service leave paid out on termination of employment will be
- based on an employees' average service fraction.

An employee who has accumulated at least five (5) years' service but less than ten (10) years of service and whose services are terminated by CSCS for any reason other than the employee's serious misconduct; or by the employee on account of illness, incapacity or domestic or other pressing necessity, or by the employee's death, shall be entitled to a payment equivalent to a proportionate amount of salary calculated on the basis of forty-three point five seven (43.57) working day' salary for ten (10) years' service.

Where an employee has accumulated a long service leave entitlement in excess of four (4) months, CSCS may give the employee written notice to take not less than six (6) weeks and not more than three (3) months of such leave on full pay at a time convenient to the needs of CSCS.

When implementing the abovementioned paragraph CSCS will:

- (i) give an employee written notice of at least four (4) months before the long service leave commences;
- (ii) give special consideration where an employee would suffer hardship as a result of being required to take long service leave; and
- (iii) not require an employee to take long service leave within two (2) years of the employee's notified date of retirement in writing.

Payment of long service leave

Long service leave is paid at the employee's ordinary pay rate. The ordinary pay rate is the employee's base pay rate for their usual hours of work and doesn't include:

- allowances
- shift loadings
- penalties
- overtime.

Payment of long service leave at the end of employment

Any unused long service leave has to be paid out at the end of employment.

Long service leave usually can't be cashed out while the employee is still working for the business.

Payment of pro-rata long service leave

When employment ends before an employee has worked the total number of years needed to get the full long service leave entitlement, they can sometimes get paid out part of their long service leave. This is known as pro-rata long service leave.

Whether an employee gets paid out pro-rata long service leave when their employment ends depends on the long service laws in the state or territory they work in.

Community Service Leave

Employees, including casual employees, can take community service leave for certain activities such as:

- voluntary emergency management activities
- jury duty (including attendance for jury selection).

With the exception of jury duty, community service leave is unpaid.

Jury duty

Jury duty, also known as jury service, is a type of community service leave.

Employees, including casual employees, can take leave to attend jury selection and jury duty.

Notice and evidence

Employees must advise their employers of the period or expected period of leave as soon as possible. If an employee requests leave they need to provide evidence showing they attended jury selection or jury duty.

Payment for jury duty

Full-time and part-time employees have to be paid 'make-up pay' for the first 10 days of jury selection and jury duty. Make-up pay is the difference between any jury duty payment the employee receives (excluding any expense-related allowances) from the court and the employee's [base pay rate](#) for the ordinary hours they would have worked.

Before paying make-up pay, an employer may request evidence from the employee to show:

- that the employee has taken all necessary steps to obtain jury duty pay
- the total amount of jury duty pay that has been paid or will be payable to the employee for the period.

If the employee can't provide evidence, they won't be entitled to make-up pay.

Voluntary emergency management activity

An employee engages in a voluntary emergency management activity if:

- the activity involves dealing with an emergency or natural disaster
- the employee engages in the activity on a voluntary basis
- the employee was either requested to engage in an activity, or it would be reasonable to expect that such a request would have been made if circumstances had permitted
- the employee is a member of, or has a member-like association with a recognised emergency management body.

Recognised emergency management body

A recognised emergency management body is:

- a body that has a role or function under a plan that is for coping with emergencies / natural disasters (prepared by the Commonwealth or a state or territory)
- a fire-fighting, civil defence or rescue body
- any other body which is mainly involved in responding to an emergency or natural disaster.

This includes bodies such as:

- the State Emergency Service (SES)
- Country Fire Authority (CFA)
- the RSPCA (in respect of animal rescue during emergencies or natural disasters).

How much leave is an employee entitled to?

An employee is entitled to take community service leave while they are engaged in the activity and for reasonable travel and rest time. There is no limit on the amount of community service leave an employee can take.

Are there notice and evidence requirements?

An employee who takes community service leave must give their employer:

- notice of the absence as soon as possible (this may be after the leave starts)
- the period or expected period of absence.

An employer may request an employee who has given notice, to provide evidence that they're entitled to community service leave.

Source reference: [Fair Work Act 2009 \(Cth\) section 110](#)

Domestic Violence Leave

Unpaid family or domestic violence leave will be available in the event that the employee needs to do something to deal with the impact of the family and domestic violence and it is impractical for them to do it outside their ordinary hours of work.

Five days of unpaid leave will be available at the commencement of each 12 month period rather than accruing progressively during a year of service. The leave will not accumulate from year to year.

Staff must follow CSCS procedures for applying for Leave

Time in Lieu (TIL)

Note: Any TIL MUST be Authorised by your Supervisor prior to working the hours

By mutual agreement between the employee and the supervisor, time *in lieu* of overtime may be accumulated. Such time *in lieu* shall be calculated at the rate applicable to the overtime worked and will not normally exceed five (5) days in a calendar year. As a general rule Time in Lieu can only be claimed for overtime worked on a weekend, not during the week.

Time *in lieu* of overtime shall be deemed to be taken in the order in which the overtime giving rise to its accumulation was worked. Any accrual outstanding after twelve (12) months shall be paid at the salary rate applicable at the time such overtime was worked.

Claiming Time in Lieu

Time in lieu is claimed by completing the [Leave & Time in Lieu Application Form](#). TIL accrual is recorded by your onsite supervisor in the CSCS site Leave Register.

Ideally, time in lieu is to be taken within 4 weeks of it accruing. TIL is taken at a mutually agreed time, taking into account the preferences of the employee and the operational needs of the Company.

Requesting to Use Time in Lieu

Employees are to submit another [Leave & Time in Lieu Application Form](#) to their supervisor before taking any accrued TIL. This Application MUST be authorised prior to taking TIL.

Leave Without Pay

Leave without Pay is granted at the complete discretion of the employer. There is not a general right for an employee to have LWOP.

“Leave without pay” is unpaid leave of absence from employment, authorised or consented to by the employer. The employee’s Supervisor will make a decision on the leave without pay request. The request for leave without pay will be reviewed based on the reason for the request, previous attendance record, previous leave requests and the impact the absence will have on the Company.

Who can apply for Leave Without Pay?

LWOP is mainly granted to a full-time employee with a reasonable length of service with the employer, for reasons such as allowing for extended travel time overseas or to allow an employee time to recuperate from an illness or injury that is not work-related when all other available paid leave has been exhausted. (Except Long Service Leave, which has its’ own provisions in NES)

Statutory LWOP — NES

The Fair Work Act provides a statutory entitlement to a number of forms of unpaid leave. These are:

- *Unpaid parental leave* — available to full-time, part-time and long-term casual employees (including employees in Western Australia whose employer is unincorporated) — parental leave includes unpaid maternity leave, paternity leave and adoption leave. Each parent is entitled to be absent from work for separate periods of up to 12 months unpaid parental leave. An

employee who takes 12 months of parental leave may request additional leave from their employer for up to 12 months (total of 24 months). An employee must have completed 12 months of continuous service with the employer to qualify for unpaid parental leave.

- *Unpaid carer's leave* — an employee (including a casual employee) is entitled to 2 days of unpaid carer's leave for each permissible occasion when a member of the employee's immediate family, or a member of the employee's household, requires care or support because of a personal illness, a personal injury, affecting the member; or an unexpected emergency affecting the member.
- *Unpaid compassionate leave* — a casual employee is entitled to 2 days of unpaid compassionate leave when a member of the employee's immediate family, or a member of the employee's household, dies, contracts a serious illness, or sustains a personal injury that is life-threatening.
- *Community service leave* — an employee who engages in an eligible community service activity is entitled to unpaid leave (except for jury service which is paid leave for full-time and part-time employees) for the period of the community service activity. 'Eligible community activity' usually involves dealing with an emergency or a natural disaster on a voluntary basis.

How do I apply for Leave Without Pay?

Apply via the [Leave & Time in Lieu Application Form](#).

Does Leave Without Pay count as service?

Accrual of entitlements — NES

The Fair Work Act ([s22\(2\)](#)) provides that the following periods do not count as service for the purposes of calculating entitlements under the NES:

- any period of unauthorised leave
- any period of unpaid leave or unpaid authorised absence, other than a period of community service leave (i.e. emergency volunteer work or jury service)
- a period of stand down.

This means that a period of LWOP will not count as service for the purposes of accruing annual leave, personal/carer's leave or calculating redundancy pay that is based on years of continuous service with the employer.

Under the NES, redundancy pay is calculated on the number of years of continuous service with the employer. However, an absence on LWOP does not break an employee's continuity of service with the employer, meaning service with the employer, both prior to and subsequent to LWOP, will count when accruing these entitlements.

The Act ([s22\(4\)](#)) provides that unpaid leave or unpaid authorised absence do count as service for the purposes of requests for flexible working arrangements, parental leave and related entitlements, and notice of termination or payment in lieu of notice. For example, an absence on LWOP will count as service for the purpose of determining the relevant period of notice of termination to be given to an employee by the employer under the NES.

Does Leave Without Pay affect my superannuation?

Staff are required to meet all superannuation obligations that apply to the relevant fund during a period of leave without pay.

Do I need to provide a reason for requesting Leave Without Pay?

If you are requesting leave without pay you may be required to provide a reason. Supporting documentation may also be requested, as appropriate.

Do I need to exhaust all my other leave entitlements before taking Leave Without Pay?

Leave without pay may be granted, when all other available paid leave has been exhausted.

Maternity & Parental Leave

Employees can get parental leave when a child is born or adopted. Parental leave entitlements include:

- maternity leave
- paternity and partner leave
- adoption leave
- special maternity leave
- a safe job and no safe job leave
- a right to return to old job.

What is parental leave?

Parental leave is leave that can be taken when:

- an employee gives birth
- an employee's spouse or de facto partner gives birth
- an employee adopts a child under 16 years of age.

Employees are entitled to 12 months of unpaid parental leave. They can also request an additional 12 months of leave.

Pre-adoption leave

Employees who are taking parental leave to care for an adopted child are also entitled to 2 days unpaid pre-adoption leave to attend relevant interviews or examinations.

This leave can't be used if an employer tells an employee to take another type of leave (e.g. paid annual leave).

Who is eligible for parental leave?

All employees in Australia are entitled to parental leave.

Employees are able to take parental leave if they:

- have worked for their employer for at least 12 months:
- before the date or expected date of birth if the employee is pregnant
- before the date of the adoption, or
- when the leave starts (if the leave is taken after another person cares for the child or takes parental leave)
have or will have responsibility for the care of a child.

Casual employees

For casual employees to be eligible for unpaid parental leave they need to have:

- been working for their employer on a regular and systematic basis for at least 12 months
- a reasonable expectation of continuing work with the employer on a regular and systematic basis, had it not been for the birth or adoption of a child.

Having another child

Employees who have taken parental leave don't have to work for another 12 months before they can take another period of parental leave with that same employer.

However if they have started work with a new employer they will need to work with that employer for at least 12 months before they can take parental leave.

There are different arrangements for employees when a transfer of business occurs. See [Employee entitlements on a transfer of business](#) for more information.

Paid parental leave

Employees can get paid parental leave from the Australian Government or their employer. Employees who get paid parental leave are still entitled to unpaid parental leave.

Australian Government Paid Parental Leave Scheme

Eligible employees who are the primary carer of a newborn or adopted child get 18 weeks' leave paid at the national minimum wage.

These payments are made to the employer first, who then pays them to the employee. These payments can be paid before, after or at the same time as other entitlements such as annual leave and long service leave.

Paid parental leave from the Australian Government doesn't affect or replace paid parental leave from an employer – an employee can be paid both.

These payments do not affect or replace unpaid parental leave.

This scheme does not provide an entitlement to any additional parental leave.

Visit [Centrelink - Paid Parental Leave Scheme](#) for eligibility information and to make a claim for paid parental leave.

Dad and Partner pay

Eligible working dads and partners (including same-sex partners) get 2 weeks leave paid at the national minimum wage. These payments are made directly to the employee.

Visit [Centrelink - Dad and Partner Pay](#) for eligibility information and to make a claim for dad and partner pay

Record-keeping for paid parental leave

In addition to their usual record-keeping requirements, employers that have employees getting government-funded parental leave also have to keep the following records:

- the amount of parental leave pay funding received from the government for each employee and the period it covers

- the date each parental leave payment was made to the employee
- the period each payment covers
- the gross amount of the payment
- the net amount paid and the amount of income tax withheld (including other payments, if any, were made)
- a statement identifying the payment as parental leave pay under the Australian Government Paid Parental Leave Scheme
- the amount of any deductions made from each payment.

Pay slips for parental leave payments

Employees who get paid parental leave have to be given a pay slip for each payment. The pay slip must specify that the payments are parental leave pay under the Australian Government Paid Parental Leave Scheme.

Ordinary pay slip requirements apply to pay slips given to employees on government-funded parental leave. They must also include:

- the gross and net amounts of parental leave pay and the amount of income tax deducted
 - if there are other payments on the pay slip, this information must be included as well as the total gross, net and income tax amounts
- the amount of any deduction and the name and bank details of the entity the deduction was given to.

Only certain deductions can be made from parental leave payments under the Australian Government Paid Parental Leave Scheme. Visit [Centrelink](#) for more information.

Applying for parental leave

Before an employee can take parental leave they need to give their employer a certain amount of written notice and evidence, if they request it.

Notice requirements

Employees who want to take unpaid parental leave need to give their employer notice that they are taking leave and confirm the dates.

If an employee can't give the appropriate notice (e.g. the baby is born prematurely) they will still be entitled to take the leave as long as they provide notice when they can.

10 weeks before starting leave

An employee has to give notice to their employer at least 10 weeks before starting their unpaid parental leave. This notice needs to be in writing, and say how much leave they want to take, including the starting and finishing dates.

If an employee can't give 10 weeks' notice, they need to provide as much notice as possible.

4 weeks before starting leave

An employee has to confirm their parental leave dates with their employer at least 4 weeks before they are due to start their leave. If there have been any changes to the dates the employee should tell their employer as soon as possible.

If an employee can't provide 4 weeks' notice, they need to provide as much notice as possible.

Concurrent leave notice

Employees who are taking concurrent leave (parents taking leave at the same time) need to provide at least 10 weeks' notice to their employer for their first period of concurrent leave. For second and later periods, they need to provide at least 4 weeks' notice.

Pre-adoption leave notice

Employees who are taking pre-adoption leave have to give their employer notice that they are taking leave as soon as possible (this can be after the leave has started). They should also tell their employer how long they expect to be on leave.

Evidence requirements

Employers can ask employees for evidence of the expected date of birth or of the date of placement of an adopted child, for example a medical certificate or statutory declaration.

An employer can specifically ask for a medical certificate from their employee giving the expected date of birth. Employers can also ask for evidence to support pre-adoption leave.

If an employee can't provide evidence, they won't be entitled to the leave.

Hiring replacement employees

Many employers will hire a new employee to cover someone who is on parental leave. During the application process the employer has to tell potential employees that:

- the job will be temporary
- the employee who is taking leave has the right to return to their job
- there are situations where the employer or employee can end the parental leave (e.g. stillbirth or employee ceasing to have responsibility for the child).

Source reference: Fair Work Act 2009 (Cth) sections 74 and 84A

Pregnant employee entitlements

There are a range of entitlements available for pregnant employees.

Sick leave

Employees who are pregnant still get their ordinary sick leave entitlements.

Pregnancy is not considered an illness or injury, however if a woman experiences a pregnancy-related illness or injury, sick leave can be taken.

Special maternity leave

A pregnant employee who is eligible for unpaid parental leave can take unpaid special maternity leave if:

- she has a pregnancy-related illness or
- her pregnancy ends after 12 weeks because of a miscarriage, termination or stillbirth.

If an employee takes special maternity leave because of a pregnancy-related illness, the leave will end when the pregnancy or illness ends, whichever is earlier. If she takes leave because of a miscarriage, termination or still birth it can continue until she is fit for work.

Special maternity leave won't reduce the amount of unpaid parental leave that an employee can take.

Notice and medical certificates

An employee will need to tell her employer as soon as possible (which can be after the leave has started) that she is taking special maternity leave. She will also need to tell them how long she expects to be on leave.

The employer can ask for evidence and can request a medical certificate.

Safe jobs

All pregnant employees, including casuals, are entitled to move to a safe job if it isn't safe for them to do their usual job because of their pregnancy. This includes employees that aren't eligible for unpaid parental leave.

An employee who moves to a safe job will still get the same pay rate, hours of work and other entitlements that she got in her usual job. She and her employer can agree on different working hours.

The employee will need to give her employer evidence that she can work but can't do her normal job. The employer can ask for this to be a medical certificate.

When no safe job is available

If there is no safe job available the employee can take no safe job leave. This leave is:

- paid for employees who are entitled to unpaid parental leave
- unpaid for employees who aren't entitled to unpaid parental leave.

Directing employees to take parental leave

If a pregnant employee wants to work in the 6 weeks before her due date her employer can ask for a medical certificate within 7 days that states:

- she can continue to work
- it's safe for her to do her normal job.

If the certificate says she's fit for work but it isn't safe for her to continue in her normal job, then the employee will be entitled to a safe job or no safe job leave.

If she doesn't provide a medical certificate or the certificate says she can't continue work at all then the employer can direct her to start unpaid parental leave.

An employee's unpaid parental leave starts when she is directed to take unpaid parental leave and will count as part of the employee's total unpaid parental leave entitlement.

If the employee planned to take parental leave at a later date after the birth, the period of directed leave doesn't have to be taken in a continuous period with the other parental leave.

Protection from discrimination

An employee can't be discriminated against because she's pregnant. This means that an employee can't be fired, demoted or treated differently to other employees because she is pregnant.

Taking parental leave

There are different rules about when an employee can take unpaid parental leave for the birth or adoption of a child. This depends on whether:

- 1 or both parents take leave or
- both parents want to take leave at the same time or different times.

One parent taking parental leave

When 1 parent takes unpaid parental leave, they can take up to:

- 12 months or
- 24 months, if their employer agrees.

The leave has to be taken in a single continuous period (e.g. an employee can't take leave for 6 months, return to work, then take another 6 months leave).

Pregnant person taking parental leave

If the pregnant employee takes unpaid parental leave, it has to start:

- on the birth of the child or
- up to 6 weeks before the expected birth (or earlier if the employer agrees).

Adoptive parent taking parental leave

If the leave is adoption related, the parent taking leave has to start their leave period on the date of placement of the child.

Partner taking parental leave

If the employee who isn't pregnant is the parent taking the unpaid parental leave, the leave must start on the date of birth of the child.

The partner can start unpaid parental leave after the birth of the child if:

- they have responsibility for the care of the child and
- their pregnant partner isn't employed.

The leave has to be taken within 12 months after the birth or placement of the child.

Both parents taking leave

Working parents may both want to take unpaid parental leave. The parents can be working for the same or different employers.

Both parents taking parental leave at the same time

Parents who are married or in a de facto relationship can take up to 8 weeks unpaid parental leave at the same time. This is called 'concurrent leave.'

Concurrent leave can start:

- on the birth or placement of the child
- earlier than this date, if the employer agrees or
- later than this date, but has to be within 12 months of the birth or placement of the child.

Concurrent leave can be taken in separate periods. Each period has to be at least 2 weeks long, however, an employer can agree to shorter lengths.

Concurrent leave is part of an employee's total unpaid parental leave entitlement. This means that any concurrent leave taken is deducted from the total parental leave entitlement.

Both parents taking parental leave at different times

Each parent can take a separate period of up to 12 months unpaid parental leave. The combined leave cannot be for more than 24 months. Any concurrent leave or keeping in touch days taken are deducted from this overall entitlement.

If the pregnant employee takes unpaid parental leave first, it has to start:

- on the birth or placement of the child or
- up to 6 weeks before the expected birth (or earlier if their employer agrees).

If the employee who isn't pregnant takes unpaid parental leave first, it has to start on the birth or placement of the child.

If the leave is adoption related, one parent has to start their leave period on the date of placement of the child.

In both cases, leave has to be taken in a single continuous period. This means the other parent has to start their unpaid parental leave the next working day after the first parent's leave ends.

Source reference: [Fair Work Act 2009 \(Cth\) sections 71 and 72](#)

When on parental leave

Employees on unpaid parental leave have various entitlements:

- [keeping in touch days](#)
- [other leave entitlements during parental leave](#)
- [extending parental leave](#)
- [going back to work early](#)
- [ending employment during parental leave](#)

Keeping in touch days

Visit the [Keeping in touch day's](#) page to find out about:

- keeping in touch during parental leave
- how many days can be taken
- payment received on these days.

Other leave entitlements during parental leave

Check [Other leave entitlements during parental leave](#) to find out about:

- leave that can be accumulated during parental leave
- other leave that can be taken during parental leave.

Extending parental leave

Visit the [Extending parental leave](#) page to learn about:

- extending leave within the initial 12 months of parental leave
- extending leave beyond the initial 12 months
- whether a request to extend parental leave can be refused

- how an extension can affect a partner's parental leave entitlements.

Going back to work early

Visit the [Going back to work early](#) page to find out about:

- returning to work from parental leave earlier
- whether an employee can be asked to return to work earlier
- how going back to work early affects a partner's parental leave entitlements
- cancelling leave because of a still birth or infant death.

Ending employment during parental leave

Visit the [Ending employment during parental leave](#) page to learn about:

- requirements when an employee resigns while on parental leave
- whether an employer can dismiss an employee or make them redundant during parental leave
- parental leave entitlements when a business changes owners.

Returning to work from parental leave

Right to return to the same job

An employee who's been on unpaid parental leave is entitled to come back to the job they had before going on leave.

They're entitled to this job even if another person is working in their role as a replacement.

If the employee was transferred to a safe job before they took unpaid parental leave or they reduced their hours due to the pregnancy, then they're entitled to return to the job they had before the transfer or reduction.

Visit the [Pregnant employee entitlements](#) page for information on transferring to a safe job during pregnancy.

Special rules for employees on fixed term contracts

Different rules apply if an employee is on a fixed term contract with their employer and takes unpaid parental leave.

If the fixed term contract ends:

- while the employee is on leave - they're not entitled to return to the same job (unless an employment contract says otherwise)
- after the employee has come back from leave - they're entitled to return to the same job and finish working the contract.

An employer doesn't have to extend an employee's fixed term contract because they're taking unpaid parental leave.

When an employee's job no longer exists

If an employee's job doesn't exist anymore or it has changed, then they have to be offered a suitable available job that:

- the employee is qualified and suited to work in
- is nearest to their old job in pay and status.

If an employee's job doesn't exist anymore after they come back from unpaid parental leave, this may mean a redundancy has taken place.

If the job still exists and someone else is doing it, (the 'replacement employee') then there's no redundancy. Visit the [Applying for parental leave](#) for requirements when hiring replacement employees.

Discussing changes to an employee's job

If an employer decides to make significant changes to an employee's job (e.g. to status, pay or location) while they're on unpaid parental leave, they have to:

- discuss these changes with the employee
- give them an opportunity to talk about these changes, even if they're on leave.

All awards and registered agreements have a consultation process for when there are major changes to the workplace, such as redundancies.

Changing hours and requesting flexible working arrangements

Certain employees, such as parents returning to work after taking parental leave, have the right to request flexible working arrangements.

Flexible working arrangements include working part-time instead of full-time and changing starting and finishing times of work or working from home.

Visit the [Flexible working arrangements](#) page for information on requesting an arrangement.

Source reference: [Fair Work Act 2009 \(Cth\) sections 83 and 84](#)