

## Parental Leave

**Policy Number:** C26 (QH-POL-187)

**Publication date:** December 2021

**Purpose:** To outline parental leave entitlements and arrangements including:

- adoption leave
- birth-related leave
- maternity leave
- spousal leave
- surrogacy leave
- pre-natal/pre-adoption/pre-surrogacy leave

**Application:** This policy applies to eligible permanent employees, fixed term temporary employees and long-term casual employees (as defined in section 55 of the *Industrial Relations Act 2016*) working for Queensland Health.

This policy does not apply to employees of Queensland Ambulance Service. Instead, employees of Queensland Ambulance Service are to refer to their local procedures.

**Delegation:** The 'delegate' is as listed in the relevant Department of Health Human Resource (HR) Delegations Manual, or Hospital and Health Services Human Resource (HR) Delegations Manual, as amended from time to time.

**Legislative or other authority:**

- *Anti-Discrimination Act 1991*
- *Education (General Provisions) Act 2006*
- *Human Rights Act 2019*
- *Industrial Relations Act 2016*
- *Public Service Act 2008*
- Public Service Regulation 2018
- *Superannuation Guarantee (Administration) Act 1992 (Cth)*
- *Surrogacy Act 2010*
- *Work Health and Safety Act 2011*
- Aboriginal and Torres Strait Islander Health Workforce (Queensland Health) Certified Agreement (No. 1) 2019
- Health Practitioners and Dental Officers (Queensland Health) Certified Agreement (No.3) 2019
- Medical Officer (Queensland Health) Certified Agreement (No.5) 2018 (MOCA 5)
- Nurses and Midwives (Queensland Health and Department of Education) Certified Agreement (EB10) 2018
- Queensland Health Building, Engineering & Maintenance Services Certified Agreement (No.7) 2019
- Queensland Public Health Sector Certified Agreement (No. 10) 2019
- PSC (IR) Directive 01/19 – Leave without salary credited as service
- PSC (IR) Directive 12/18 – Recognition of previous service
- PSC (IR) Directive 04/17 – Recreation Leave
- PSC (IR) Directive 11/18 – Long Service Leave



- PSC (IR) Directive 04/20 – Higher Duties
- PSC Directive 11/20 – Individual employee grievances
- PSC (IR) Directive 05/20 – Paid Parental Leave

### Related policy or documents:

- Bereavement and compassionate leave policy C11 (QH-POL-107)
- Higher Duties HR Policy B30 (QH-POL-260)
- Flexible working arrangements HR Policy C5 (QH-POL-242)
- Guideline for Flexible Work Arrangements (QH-GDL-242)
- Recognition of previous service for long service leave and sick leave purposes HR Policy C55 (QH-POL-211)
- Salary increments HR Policy C61 (QH-POL-220)
- Commonwealth Paid Parental Leave Scheme – Information for Queensland Health Employees
- PSC Breastfeeding and Work Policy

### Policy subject:

1	Policy .....	4
2	Eligibility and exceptions .....	5
	2.1 Paid parental leave eligibility .....	5
	2.2 Paid parental leave exceptions .....	5
	2.3 Unpaid parental leave eligibility .....	6
	2.4 Unpaid parental leave exceptions .....	6
	2.5 Fixed term temporary employment .....	6
3	Flexible work arrangements while pregnant .....	6
	3.1 Transfer to safe duties .....	6
4	Parental Leave Entitlements .....	7
	4.1 Maternity Leave .....	7
	4.1.1 Paid maternity Leave .....	7
	4.1.2 Paid pre-natal leave .....	7
	4.1.3 Unpaid maternity leave .....	7
	4.2 Spousal Leave.....	8
	4.2.1 Paid long spousal leave .....	8
	4.2.2 Paid short spousal leave .....	8
	4.2.3 Paid spousal pre-natal leave .....	9
	4.2.4 Unpaid spousal leave .....	9
	4.3 Adoption leave.....	10
	4.3.1 Paid adoption leave .....	10
	4.3.2 Paid pre-adoption leave .....	10
	4.3.3 Unpaid adoption leave .....	10
	4.3.4 Unpaid special adoption leave .....	11
	4.4 Surrogacy .....	11

4.4.1	Paid surrogacy leave .....	11
4.4.2	Paid pre-surrogacy leave.....	11
4.4.3	Unpaid surrogacy leave .....	11
4.4.4	Unpaid special surrogacy leave .....	12
4.5	End of pregnancy .....	12
4.5.1	Paid special maternity leave.....	12
4.5.2	Unpaid special maternity leave .....	12
4.5.3	Unpaid Spousal Leave – End of pregnancy.....	12
4.5.4	Bereavement leave .....	13
4.5.5	Notice to return to work.....	13
5	Parental Leave application .....	13
5.1	Commencing maternity leave .....	13
5.2	Required notice periods when making an application .....	14
5.2.1	Maternity leave and spousal leave .....	14
5.2.2	Surrogacy leave .....	14
5.2.3	Adoption Leave .....	14
5.3	Period of parental leave .....	15
5.4	Timing of parental leave for caregivers.....	15
5.5	Preservation of paid parental leave .....	15
5.6	Paid parental leave on a half-pay basis.....	15
5.6.1	Leave accrual.....	16
5.6.2	Leave debit .....	16
5.6.3	Locality allowance.....	16
5.6.4	Public holidays falling within a period of parental leave taken at half-pay .....	16
5.7	Conversion to an hourly basis.....	16
5.8	Pro-rata payment for part-time and long-term casual employees .....	17
5.8.1	Pro-rata parental leave calculation.....	17
5.8.2	Pro-rata paid short spousal leave calculation .....	18
5.8.3	Reverting from part-time to full-time .....	18
5.9	Access to other leave during paid and unpaid parental leave .....	18
5.9.1	Recreation leave and long service leave .....	18
5.9.2	Sick leave.....	18
5.10	Variation of period of parental leave .....	19
5.11	Extension of parental leave.....	19
5.11.1	Approving the extension of parental leave .....	20
6	Returning to work from parental leave and access to flexible work arrangements.....	20
6.1	Returning to work .....	20
6.1.1	Returning to your position.....	21

6.1.2	Returning to work part-time .....	21
6.2	Flexible work arrangements .....	22
6.2.1	Lactation breaks.....	22
6.2.2	Primary caregiver flexible work arrangements .....	22
7	General .....	23
7.1	Higher duties allowance while on paid parental leave.....	23
7.2	Payment in advance.....	23
7.3	Superannuation .....	23
7.4	Salary packaging.....	23
7.5	Salary increment .....	23
7.6	Promotion .....	23
7.7	Professional development.....	23
7.8	Recall to duty.....	24
7.9	Additional period/s of paid parental leave .....	25
7.10	Effect of resignation upon paid parental leave .....	25
7.11	Employer's obligations to advise employees about particular changes.....	25
7.12	Employee's obligations to advise employees about particular changes.....	25
7.13	Individual employee grievances.....	25
8	Continuity of service .....	25
8.1	Paid leave counted as service .....	26
8.2	Unpaid leave counted as service for the first three months .....	26
	Definitions:.....	26
	History: .....	29

## Attachment One Resident Medical Officers

### 1 Policy

Queensland Health acknowledges the importance of supporting employees with parental responsibilities and the need for flexible work arrangements during a pregnancy and on return from parental leave to facilitate this support.

The parental leave policy provides the framework and outlines the overarching principles and general conditions for the management of parental leave entitlements (paid and unpaid).

Queensland Health's parental leave policy must be implemented in a way that echoes our commitment to diversity and inclusion, and zero-tolerance for discrimination (in this context, on the basis of a medical condition, pregnancy status, sexuality or caring responsibility for example).

Delegates have an obligation to make decisions and act in ways that are compatible with the *Human Rights Act 2019*. When making a decision under this policy, decision-makers must comply with that obligation.

The parental leave policy is to be read in conjunction with the *Industrial Relations Act 2016*, the parental leave provisions of an employee's Award and the PSC (IR) Directive on paid parental leave.

The Industrial Relations Act provides for extensions in parental leave entitlements by agreement and these provisions are reflected in sections 5.10 and 5.11 of this policy.

## 2 Eligibility and exceptions

### 2.1 Paid parental leave eligibility

Eligible employees (excluding casual employees other than long term casual employees) who meet the qualifying service period are entitled to access paid parental leave entitlements from the date the qualifying service period is met.

The qualifying service period is at least 12 months recognised service in any one or more Queensland Government departments, Queensland public service offices or Queensland statutory authorities. Service that qualifies:

- must be unbroken, i.e. the employee has not had more than a 12 month break between engagements with recognised employers (approved forms of leave are not considered a break in service)
- may be inclusive of paid and unpaid leave (the first 3 months only of any unpaid leave is to be credited towards the qualifying service period)
- may be inclusive of service recognised under the PSC (IR) Directive relating to recognition of previous service. Refer Recognition of Previous Service and Employment and HR Policy C55.

An employee's qualifying service period need only be met once in a period of continuous service.

Long term casual employees who have been engaged on a regular and systematic basis for at least 12 months preceding the commencement of parental leave may also be eligible for paid parental leave entitlements on a pro-rata basis.

An employee who is not the primary caregiver, is not entitled to paid parental leave, other than short spousal leave, short adoption leave or short surrogacy leave, when his or her spouse is on parental leave.

### 2.2 Paid parental leave exceptions

Paid parental leave exceptions:

- The qualifying period is nullified where there is a break in service.
- Casual employment is not recognised as contributing towards the qualifying service period except where the employment is on a casual long-term basis (refer to definitions section of policy).

Where there has not been a break in service, a period of casual service forms part of a period of continuous service with fixed-term temporary or permanent full-time or part-time service.

Employees, who are ineligible, are those who:

- are short term casual employees and do not accrue an entitlement to paid sick leave; or
- are solely remunerated by fees, allowances or commission; or
- are on unauthorised absence immediately before the start of the minimum period of maternity leave; or
- do not have a period of unbroken employment of at least 12 months except in the case of long term casual employees or except in the case of employees whose service has been recognised under the PSC Directive relating to Recognition of Previous Service Directive.

### 2.3 Unpaid parental leave eligibility

In accordance with Award provisions, all full-time and part-time employees are entitled to unpaid parental leave (including unpaid spousal, surrogacy and adoption leave) upon commencement of employment.

In accordance with the section 58 of the Industrial Relations Act, long term casual employees are entitled to unpaid parental leave (including unpaid spousal, surrogacy and adoption leave). See definitions for long term casual employee.

### 2.4 Unpaid parental leave exceptions

Employees, who are ineligible for unpaid parental leave, are those who are short term casual employees.

### 2.5 Fixed term temporary employment

An employee's past, present or likely pregnancy is not to influence a decision on the renewal of a fixed term temporary engagement, as to do so may constitute a breach of the *Anti-Discrimination Act 1991* and/or the Industrial Relations Act.

A fixed term temporary employee, whether full-time or part-time, cannot be granted leave of any kind (paid or unpaid) beyond the date on which their fixed term temporary engagement is due to cease. The exception to this clause is in relation to resident medical officers (RMOs). Refer to Attachment One.

## 3 Flexible work arrangements while pregnant

An employee who is pregnant, during the term of her pregnancy until the time she commences her parental leave (refer section 5.1), may request to work part-time or other flexible work arrangements.

The request must be made in writing, stating the reasons for the change and providing sufficient details of the proposed changes to allow the delegate to make a decision.

### **Nurses and Midwives (Queensland Health and Department of Education) Certified Agreement (EB10) 2018**

For nursing and midwifery employees, flexible work arrangements while pregnant include options to work on set shifts or set days.

#### 3.1 Transfer to safe duties

Under section 89 of the Industrial Relations Act, whenever the present work of a female employee is, because of her pregnancy or breastfeeding, a risk to the health or safety of the employee or of her unborn or newborn child, transfer to safe duties should be assessed.

Managers are responsible for ensuring that a pregnant or breastfeeding employee has a safe working environment.

A risk assessment is to be made on the pregnant or breastfeeding employee's present working conditions to the health and safety of the employee or of her unborn or newborn child.

The assessment of the risk is to be made on the basis of

- a doctor's certificate given by the employee to the employer and

- the employer's duties under the *Work Health and Safety Act 2011*.

Where there is a risk, the employer must make temporary adjustments to the employee's working conditions e.g. appropriate clothing to accommodate special needs arising from the pregnancy or changes to their hours of work to avoid exposure to the risk.

If an adjustment is not feasible, the employee must be assigned other duties that she can perform safely and efficiently and be comparable in status and salary to her present work.

If a transfer to other duties is impracticable or cannot reasonably be required to be made, the delegate must grant the employee maternity leave for as long as a doctor certifies the leave is necessary to avoid exposure to the risk.

When an employee has been directed to commence leave under this section, the period of maternity leave may be taken over one or more periods.

Without limiting the provisions of this section, an employee may access any available paid sick leave or other forms of leave where appropriate during this time.

## 4 Parental Leave Entitlements

### 4.1 Maternity Leave

#### 4.1.1 Paid maternity Leave

An eligible employee (refer section 2.1), whose expected date of confinement has been confirmed in writing by a medical practitioner is entitled to 14 weeks paid maternity leave pro-rata for part-time (refer to definitions section of policy), to be taken as the initial absence on the approved maternity leave period.

An employee must complete a leave application form on *myHR*.

The period of paid maternity leave can be extended by the employee taking the leave on a half-pay basis (refer to section 5.6) or by accessing sick leave (refer to section 5.9.2).

#### 4.1.2 Paid pre-natal leave

In addition to the paid maternity leave provisions above, an eligible employee who presents a medical certificate from a doctor stating that she is pregnant has access to paid pre-natal leave up to a total of full-time ordinary hours (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 (refer to definitions section).

A leave form is to be submitted on *myHR* for every absence for which pre-natal leave is sought. Each application is to be accompanied by a medical certificate.

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

Paid pre-natal spousal leave may be accessed in accordance with section 3.2.3.

#### 4.1.3 Unpaid maternity leave

An eligible pregnant employee (refer section 2.3) is entitled to an unbroken period of up to 52 weeks of **unpaid** maternity leave for the child's birth and to be the child's primary caregiver irrespective of whether she has served the qualifying service period for **paid** maternity leave.

The 52 weeks of unpaid maternity leave is inclusive of any paid maternity leave (refer to section 4.1.1) and any recreation leave and/or long service leave accessed (refer to section 5.9.1), where the employee is eligible.

Unpaid maternity leave must not extend beyond 52 weeks after the child was born, however, an employee may apply for this leave to be extended in accordance with section 5.11.

## 4.2 Spousal Leave

### 4.2.1 Paid long spousal leave

Under the PSC (IR) Directive for paid parental leave, an eligible employee whose spouse has given birth can access any of the entitlement to paid maternity leave under section 4.1.1 of this policy, which has not been used by that employee's spouse, as paid long spousal leave.

This is the case whether or not the employee's spouse has an entitlement to such paid maternity leave. Long spousal leave is subject to:

- the employee meeting the eligibility requirement prior to the date of birth of the child;
- the employee being the primary caregiver for the child at the time the leave is taken; and
- the leave being taken during their approved long birth-related leave period prior to the child's first birthday.

Long spousal leave is paid at the rate of pay the employee was receiving immediately before taking the leave.

The conditions to maternity leave under section 4.1.1 of this policy apply to long spousal leave except the requirement for long spousal leave to be the "initial absence" on the approved long spousal leave period.

An employee must complete a leave application form on *myHR* and in this form provide a statutory declaration to their delegate. The statutory declaration must state

- that the employee is the primary caregiver for the relevant period of the paid leave and
- the amount (if any) of the paid maternity leave entitlement used by the employee's spouse.

#### **Example:**

A Queensland Health employee's spouse has given birth. The employee's spouse works in the private sector. The employee's spouse returns to work 18 weeks after giving birth. The Queensland Health employee assumes the role of primary caregiver of the child. The Queensland Health employee may access the full entitlement to paid maternity leave (e.g. total of 14 weeks) as paid long spousal leave.

#### **Example:**

A Queensland Health employee's spouse has given birth. The employee's spouse works in the public service (i.e. Department of Education). The employee's spouse accesses 10 weeks of paid maternity leave and then returns to work. The Queensland Health employee is entitled to access the remaining four weeks of their spouse's paid maternity leave entitlement as paid long spousal leave (e.g. total of 14 weeks shared between both employees).

### 4.2.2 Paid short spousal leave

An eligible employee who produces a certificate from a medical practitioner which states the expected date of birth of the child for whom that employee has accepted responsibility, is entitled to one week



of paid spousal leave in connection with the birth. An employee must complete a leave application form on *myHR*.

The period of paid spousal leave can be extended by the employee taking the leave on a half-pay basis (refer section 5.6).

The period of paid spousal leave taken is to be the “initial” absence. The exact timing of such leave is at the employee’s discretion. For example:

- an employee may seek to take the spousal leave immediately after the birth  
or
- an employee may prefer to continue working for the duration of the mother’s stay in hospital and take the first week the mother and child are home.

An employee may access accrued recreation and/or long service leave, paid long spousal leave, or unpaid spousal leave after their initial short spousal leave absence.

### 4.2.3 Paid spousal pre-natal leave

In addition to paid short spousal leave, an eligible employee who presents a medical certificate from a doctor stating that their spouse is pregnant is to have access to paid leave up to a total of one day full-time ordinary hours (e.g. 7.25 or 7.6 hours based on the average number of ordinary hours worked in a day or pro-rata for part-time employees) per pregnancy to attend related medical appointments prior to the birth of a child/children.

A leave application form is to be submitted on *myHR* for every absence for which pre-natal leave is sought, accompanied by a doctor’s certificate.

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

### 4.2.4 Unpaid spousal leave

An eligible employee (refer section 2.3) is entitled to access a period of unpaid spousal leave, irrespective of whether they have served the qualifying service period for **paid** spousal leave.

Employee entitlements are as follows:

- **a total of eight weeks unpaid short birth-related leave** – an employee who will be the secondary caregiver may take a total of eight weeks of unpaid short birth-related leave from the time of the child’s birth. Unpaid short birth-related leave may be taken in broken periods, however, if taken at a time other than immediately after the child is born, it must be for a minimum period of two weeks. The first leave amount is taken to include the one week of paid short spousal leave, where eligible. Applications to extend unpaid short birth-related leave should be made in writing at least two business days before the approved period of leave ends. This leave can be taken concurrently with the primary caregiver,  
OR
- **an unbroken period of up to 52 weeks unpaid long birth-related leave** – an employee who will be the primary caregiver may take an unbroken period of unpaid long birth-related leave of up to 52 weeks. This is taken to include the one week paid short spousal leave or a period of paid long spousal leave, where eligible.

Unpaid spousal leave must not extend beyond 52 weeks after the child was born, however, an employee may apply for this leave to be extended in accordance with section 5.11.

## 4.3 Adoption leave

### 4.3.1 Paid adoption leave

An eligible employee (refer section 2.1) will be entitled to 14 week's paid adoption leave at the time of placement or taking custody if he or she is the primary caregiver, or one week paid adoption leave if he or she is the secondary caregiver. An employee must complete a leave application form on *myHR* and present documentation from the Director-General of the relevant Queensland Government department administering adoptions, confirming that an adoption order or interim adoption order has been made for the relevant child.

The period of paid adoption leave can be extended by the employee taking the leave on a half-pay basis (refer section 5.6) or by taking sick leave (refer section 5.9.2).

### 4.3.2 Paid pre-adoption leave

In addition to paid adoption leave, an eligible employee who will be the primary caregiver and who presents documentation stated in section 4.3.1 is to have access to paid leave up to a total of one week full-time ordinary hours (e.g. 36.25 or 38 hours based on the average number of ordinary hours worked in a week or pro-rata for part-time employees) per adoption to attend related interviews/matters prior to the adoption of a child.

An eligible employee who is to be the secondary caregiver at the time of placement is to have access to paid leave under this sub-section up to a total of one day (e.g. 7.25 or 7.6 hours or pro-rata for part-time employees) per adoption to attend related interviews prior to the adoption of a child.

An employee cannot be deemed to be both the primary and secondary caregiver and therefore cannot access both entitlements to paid pre-adoption leave (i.e. one week and one day).

A leave application form is to be submitted on *myHR* for every absence for which paid pre-adoption leave is sought must be accompanied by evidence to the satisfaction of the or delegate. The work unit should be flexible enough to allow such employees the ability to leave work and return on the same day.

### 4.3.3 Unpaid adoption leave

An eligible employee (refer section 2.3) is entitled to access a period of unpaid adoption leave, irrespective of whether they have served the qualifying service period for paid adoption leave.

Employee entitlements are as follows:

- **a total of eight weeks unpaid short adoption leave** – an employee who will be the secondary caregiver may take a total of up to eight weeks short unpaid adoption leave on the placement of the child/children with the employee. Short adoption leave may be taken in broken periods, however, if taken at a time other than immediately after the placement of the adopted child, it must be for a minimum of two weeks. (The first leave period is taken to include the one week paid adoption leave, where eligible. Applications to extend short adoption leave should be made in writing at least two business days before the approved period of leave ends. This leave can be taken concurrently with the primary caregiver,
- OR
- **an unbroken period of up to 52 weeks unpaid long adoption leave** – an employee who will be the primary caregiver may take an unbroken period of 52 weeks unpaid long unpaid adoption leave.. This is taken to include the 14 weeks paid adoption leave, where eligible.

Adoption leave is not to finish later than one year from the date the child for whom the leave is granted was adopted.

Unpaid adoption leave must not extend beyond 52 weeks after the child was adopted, however, an employee may apply for this leave to be extended in accordance with section 5.11.

#### 4.3.4 Unpaid special adoption leave

An employee who is seeking to adopt a child is entitled, on written application to the delegate, to up to two days unpaid leave to attend compulsory interviews or examinations as part of the procedure for adoption.

### 4.4 Surrogacy

#### 4.4.1 Paid surrogacy leave

An eligible employee (refer section 2.1) will be entitled to 14 weeks paid surrogacy leave if they are the primary caregiver, when a child born as a result of a surrogacy agreement begins residing with the employee, or one week paid surrogacy leave if they are the secondary caregiver. An employee must complete a leave application form on *myHR* and in this form provide a statutory declaration to their delegate. The statutory declaration must state that:

- they are an intended parent under a surrogacy arrangement as defined in the *Surrogacy Act 2010*
- the expected residency date
- the period of leave sought by the employee and the employee's spouse and
- that they are seeking the leave to be responsible for the care of the child.

The period of paid surrogacy leave can be extended by the employee taking the leave on a half-pay basis (refer section 5.6) or by taking sick leave (refer section 5.9.2).

#### 4.4.2 Paid pre-surrogacy leave

In addition to paid surrogacy leave, an eligible employee who will be the primary caregiver and who presents a statutory declaration that they are an intended parent under a surrogacy arrangement as defined in the *Surrogacy Act*, will have access to paid leave up to a total of one week full-time ordinary hours (e.g. 36.25 or 38 hours or pro-rata for part-time employees) per surrogacy to attend related interviews and court hearings prior to the surrogacy of a child/children.

An employee who will be the secondary caregiver at the time of placement and who presents a statutory declaration that they are an intended parent under a surrogacy arrangement as defined in the *Surrogacy Act*, will have access to paid leave up to a total of one day full-time ordinary hours (e.g. 7.25 or 7.6 hours or pro-rata for part-time employees) per surrogacy to attend related interviews and court hearings prior to the surrogacy of a child/children.

An employee cannot be deemed to be both the primary and secondary caregiver, and therefore cannot access both entitlements to pre-surrogacy leave (i.e. one week and one day).

A leave application form is to be submitted on *myHR* for every absence for which pre-surrogacy leave is sought, accompanied by sufficient evidence to satisfy the delegate. The work unit should be flexible enough to allow such employees the ability to leave and return to work on the same day.

#### 4.4.3 Unpaid surrogacy leave

An eligible employee (refer section 2.3) is entitled to access a period of unpaid surrogacy leave, irrespective of whether they have served the qualifying service period for **paid** surrogacy leave.

Employee entitlements are as follows:

- **a total of eight weeks unpaid short surrogacy leave** – an employee who will be the secondary caregiver may take a total of eight weeks of unpaid short surrogacy leave from the expected date when a child is to start residing with the employee under the surrogacy arrangement. Short surrogacy leave may be taken in broken periods, however, if taken at a time other than immediately after the surrogate child starts residing with the employee, it must be for a minimum of two weeks. The first leave amount is taken to include the one week paid surrogacy leave, where eligible. Applications to extend short surrogacy leave should be made in writing at least two business days before the approved period of leave ends. This leave can be taken concurrently with the primary caregiver,  
OR
- **an unbroken period of up to 52 weeks unpaid long surrogacy leave** – an employee who will be the primary caregiver may take an unbroken period of long unpaid surrogacy leave. This is taken to include the 14 weeks paid surrogacy leave, where eligible.

Unpaid surrogacy leave must not extend beyond 52 weeks after the child started residing with the employee under the surrogacy arrangement, however, an employee may apply for this leave to be extended in accordance with section 5.11.

#### 4.4.4 Unpaid special surrogacy leave

An employee who is an intended parent under a surrogacy arrangement is entitled, on written application to the delegate, to up to two days unpaid leave to attend compulsory interviews or court hearings associated with the surrogacy arrangements.

### 4.5 End of pregnancy

#### 4.5.1 Paid special maternity leave

Under the PSC (IR) Directive for paid parental leave, when an employee who has met the eligibility criteria, where, after the first 20 weeks, has a pregnancy which ends in other than the birth of a living child or where a child dies during the period of paid maternity leave, the employee is entitled to 14 weeks paid maternity leave.

The employee is to notify the delegate of the changed circumstances as soon as reasonably possible.

#### 4.5.2 Unpaid special maternity leave

Under section 85 of the Industrial Relations Act, an employee who has a pregnancy end before the expected date of birth, other than by the birth of a living child, will be entitled to unpaid special leave.

The employee is to notify the delegate of the change of circumstances as soon as reasonably possible and will be entitled to unpaid special maternity leave for as long as a doctor's certificate states as necessary.

This entitlement is irrespective of if they have met the eligibility criteria for paid parental leave or if the pregnancy ends in other than the birth of a living child before 20 weeks.

#### 4.5.3 Unpaid Spousal Leave – End of pregnancy

Under section 59(2) of the Industrial Relations Act, an employee who would otherwise have been responsible for the care of a child in connection with the birth of the child of the employee's spouse, and where the pregnancy ends other than by the birth of a living child, the employee is entitled to short birth-related leave (e.g. a total of 8 weeks unpaid short birth-related leave, refer to section 4.2.4).

#### 4.5.4 Bereavement leave

Employees, other than long term casual employees, are entitled to two days bereavement leave on full pay when the employee, or the employee's spouse, is pregnant and the pregnancy ends in other than by the birth of a living child. Under section 50 of the Industrial Relations Act, employees may also be entitled to a period of unpaid bereavement leave.

Under section 48(1) of the Industrial Relations Act, long term casual employees are entitled to at least 2 days unpaid bereavement leave pay when the employee, or the employee's spouse, is pregnant and the pregnancy ends in other than by the birth of a living child.

The employee is required to furnish evidence of the death or funeral arrangements to the delegate when seeking to access bereavement leave. Refer to the Bereavement and compassionate leave HR policy C11.

#### 4.5.5 Notice to return to work

When a pregnancy ends other than by the birth of a living child or the child in relation to whom the employee is on parental leave dies, the employee is to resume work on a date to be determined by the delegate in consultation with the employee.

The date of return to duty is to be nominated within 2 weeks of receipt of the notification from the employee that they intend to resume work. Where an employee has nominated a date to return to duty, this does not preclude the employee accessing other leave entitlements, e.g. recreation and long service leave, where it is agreed that the employee would benefit from more time off.

A female employee wishing to resume duty within 6 weeks after the birth of the child, can discuss their return with their manager and must include a certificate from a medical practitioner certifying that the employee is fit to return to work.

Amended leave application forms will need to be completed on *myHR*.

## 5 Parental Leave application

### 5.1 Commencing maternity leave

An employee who is pregnant, whether or not she has given her employer written notice of the date/s on which she proposes to start and/or end maternity leave, **must** commence maternity leave at least six weeks prior to the expected date of birth of her child.

If the employee wants to continue to work within the six weeks prior to the birth, she is to provide a certificate from a medical practitioner stating that she is fit to continue to work until a specified date prior to her due date. If the delegate agrees to reduce the requirement to commence maternity leave at least six weeks prior to the expected date of birth, the maternity leave period will commence:

- on the date specified in the medical certificate
- two weeks (14 days) after the delegate revokes the decision in writing to the employee to reduce the minimum period
- the date the employee commences maternity leave, or
- the date of the employee's confinement

whichever happens first. The maternity leave period must not start later than the date of birth of the child.

An employee must remain on leave until at least six weeks after the birth of the child, unless they present a certificate from a medical practitioner stating that the employee is fit to resume duty on an earlier date.

The above requirements associated with the commencement of maternity leave are applicable to both unpaid and paid maternity leave, where the employee is eligible (refer to section 2.1.1 and 2.1.3)

## 5.2 Required notice periods when making an application

### 5.2.1 Maternity leave and spousal leave

When an employee is completing an application for maternity or spousal leave, whether paid or unpaid, the employee must give the delegate:

- at least 10 weeks written notice of intention to take the leave; and
- at least 4 weeks written notice of the dates on which the employee wants to start and end the leave

Before starting the leave the employee must give the delegate:

- a doctor's certificate confirming that the employee or the employee's spouse is pregnant and the expected date of birth; and
- a statutory declaration by the employee stating the period of any maternity or parental leave sought by employee's spouse (if the non-pregnant spouse is applying for long spousal leave/long birth-related leave, they must confirm they are seeking the leave because the employee is to be responsible for the primary care of the child).

### 5.2.2 Surrogacy leave

When an employee is completing an application for surrogacy leave, whether paid or unpaid, the employee must give the delegate:

- written notice of intention to take the leave at least 10 weeks before the expected date when the employee's surrogate child is to start residing with the employee under the surrogacy arrangement; and
- at least 4 weeks written notice of the dates on which the employee wants to start and end the leave.

Before starting the leave the employee must give the delegate a statutory declaration stating:

- the employee is an intended parent under a surrogacy arrangement; and
- the expected residence date; and
- for long surrogacy leave—the period of leave sought by the employee; and
  - the period of any surrogacy leave sought by the employee's spouse; and
  - that the employee is seeking the leave because the employee is to be responsible for the primary care of the child.

### 5.2.3 Adoption Leave

When an employee is completing an application for adoption leave, whether paid or unpaid, the employee must give the delegate:

- written notice of any approval to adopt a child at least 10 weeks before the expected date of placement of the child for adoption purposes; and

- written notice of the dates on which the employee wants to start and end the leave, as soon as practicable after the employee is notified of the expected placement date but, in any case, at least 14 days before starting the leave.

Before starting the leave the employee must give the delegate:

- a statement from an adoption agency of the expected placement date; and
- for long adoption leave – a statutory declaration by the employee stating:
  - the period of any adoption leave sought by the employee’s spouse; and
  - that the employee is seeking the leave because the employee is to be responsible for the primary care of the child.

An application for paid maternity, spousal, surrogacy or adoption leave is to stipulate the manner in which the leave is to be taken, i.e. either at the full pay, half-pay or a combination of both full pay and half-pay. Leave application forms are to be submitted on *myHR*.

### 5.3 Period of parental leave

A period of parental leave is not to exceed 52 weeks, except when an employee applies for an extension of unpaid parental leave (refer section 5.11).

A period of parental leave is taken to include:

- the period of parental leave (paid or unpaid) taken by the employee’s spouse in relation to the same pregnancy or child
- any sick leave, recreation leave or long service leave (other leave) taken in relation to the period of parental leave.

The period of paid parental leave is inclusive of any public holidays arising within that time.

### 5.4 Timing of parental leave for caregivers

Parental leave may be taken by only one primary caregiver at a time. However, both the primary and secondary caregivers are able to take parental leave at the same time when an employee who is the secondary caregiver, takes their entitlement to short spousal leave, short adoption leave or short surrogacy leave.

### 5.5 Preservation of paid parental leave

If less than the 14 weeks paid parental leave entitlement is accessed by the eligible employee, the remaining balance will be forfeited by the employee on their return to work.

Except in the instance where an eligible employee accesses a portion of the entitlement to paid maternity leave, which has not been used by the employee’s spouse, as paid long spousal leave (refer to section 4.2.1).

### 5.6 Paid parental leave on a half-pay basis

An employee may request, and Queensland Health may agree, to extend the amount of paid maternity (including maternity leave taken as paid long spousal leave), adoption, surrogacy or spousal leave for which the employee qualifies by the employee taking the leave on half-pay. For example:

- 14 weeks paid maternity, long spousal adoption and surrogacy leave may be extended to 28 weeks at half-pay.
- One week paid short spousal leave may be extended to two weeks at half-pay.

The employee may choose to combine periods of full and half-pay but this option should be made before the commencement of the parental leave. Queensland Health is not to be expected to agree to any change in leave payments once leave has commenced unless the employee offers a substantial reason for the change, as this could result in an overpayment.

Granting of the parental leave on a half-pay basis is subject to organisational convenience. However, requests for leave are not to be unreasonably refused.

The minimum period of paid parental leave on half pay is two calendar weeks irrespective of the rate of pay for the period. The paid parental leave may be taken in conjunction with long service leave and recreation leave.

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

### 5.6.1 Leave accrual

The period of the leave is recognised as normal full-time or part-time service applying to the employee at the time of taking the leave, i.e. increments and accrual of sick leave, recreation leave, long service leave and professional development leave is to 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. Rostered day off (RDO)/Accrued day off (ADO) days do not accrue during the parental leave period.

### 5.6.2 Leave debit

Periods of half-pay parental leave will be debited on a full-time equivalent basis. For example:

- half-pay maternity, long spousal leave, adoption or surrogacy leave for a period of 28 weeks attracts a debit of 14 weeks from full-pay credits
- half-pay short spousal leave for a period of two weeks attracts a debit of one week from full-pay credits.

### 5.6.3 Locality allowance

For employees with an entitlement under an industrial instrument, this allowance will be paid on a proportionate basis for the period of the leave, i.e. half the normal entitlement.

### 5.6.4 Public holidays falling within a period of parental leave taken at half-pay

Paid maternity leave is inclusive of any public holidays arising in that time. Public holidays falling within periods of half-pay are paid for at the half-pay rate. Where a public holiday falls either at the beginning or at the end of a period of half paid leave, and is immediately preceded/followed by a period of unpaid leave, the public holiday is paid at the half-pay rate.

## 5.7 Conversion to an hourly basis

Leave prescribed in the parental leave arrangements may be converted to an hourly basis for the purpose of accrual, granting and recording of leave on the following basis.

If an employee's leave entitlement is expressed in weeks or days, it may be read as if it were expressed in hours using the following formula:

$$LE = W \times WH$$

OR

$$LE = D \times DH$$



<b>LE</b> (leave entitlement)	The amount of leave entitlement expressed in working hours to which the employee is entitled
<b>D</b> (days)	The entitlement accrued in calendar days under the Parental Leave Arrangements
<b>DH</b> (daily hours)	The employee's daily hours or the average number of hours per working day of an employee during a pay period or other period that is reasonable under the circumstances
<b>W</b> (weeks)	The entitlement accrued in calendar weeks under the Parental Leave Arrangements
<b>WH</b> (weekly hours)	The employee's weekly hours of work or the average number of hours per working week of an employee during a pay period or the period that is reasonable under the circumstances.

When an employee's existing entitlement is expressed in weeks, the conversion from weeks to hours is determined by applying the formula. For example, to convert an entitlement for a public service officer whose weekly hours are 36.25 and who currently has 14 weeks leave:

$$\text{LE (weeks)} = 14 \times 36.25 = 507.5 \text{ hours full entitlement}$$

## 5.8 Pro-rata payment for part-time and long-term casual employees

Part-time employees and long term casual employee's are entitled to the provisions of this policy on a pro rata basis.

If an eligible employee converts from full-time to part-time in the 12 months preceding their parental leave period, an average of hours worked over the previous 12 month period is calculated.

Where the employee has accessed a period of approved leave without pay in the 12 months prior to the parental leave, the calculations cannot disadvantage an employee when determining their paid parental leave payment. In this circumstance their hours are based on the contracted hours immediately prior to accessing the unpaid leave.

### 5.8.1 Pro-rata parental leave calculation

A part-time or long term casual employee's entitlement to 14 weeks paid maternity leave, long spousal, adoption or surrogacy leave is to be calculated as follows:

Number of hours x working days of entitlement

Where number of hours =

$$\frac{\text{total ordinary hours worked over the last 12 months}}{\text{total ordinary hours of a full-time employee over previous 12 months}} \times 70 \text{ days}$$

Working days of entitlement = 70 (i.e. 14 x 5)

#### **Example**

Over the past 12 months a registered nurse worked the first 6 months in a fulltime role (38 hours per week) and the next 6 months in a part time role (19 hours per week). The employee's entitlement to 14 weeks paid maternity leave is to be calculated as follows: :

Total number of hours worked over last 12 months	<u>1,482</u>	x	70 days
Total hours full-time employee over previous 12 months	1,976		

The employee would be entitled to 52.5 days of paid maternity leave over the 14 week period.

## 5.8.2 Pro-rata paid short spousal leave calculation

A part-time or long term casual employee's entitlement to one week's paid short spousal leave is to be calculated as follows:

Number of hours x working days of entitlement

Where number of hours =

$$\frac{\text{total ordinary hours worked over the last 12 months}}{\text{total ordinary hours of a full-time employee over previous 12 months}} \times 5 \text{ days}$$

Working days of entitlement = 5 (i.e. 1 x 5)

Notwithstanding the above formulae, any approved absence from work cannot be taken into account to disadvantage an employee when determining their paid parental leave payment.

## 5.8.3 Reverting from part-time to full-time

Where there is a genuine reason/need to have the employee change to full-time status, prior to commencement of a period of paid parental leave, irrespective of the timing of the change (e.g. one week or six months prior) the manager is to be able to justify that requirement. Arrangements enabling an existing part-time employee to access full-time paid parental leave are not to be initiated or approved without justification of the increase in employment status by a manager

### Example:

An employee working on an approved part-time arrangement is not to be converted to full-time status prior to the approved end date of part-time work in order to access a period of full-time paid parental leave. Such part-time employee is to remain on part-time duties until the commencement of the period of paid parental leave.

## 5.9 Access to other leave during paid and unpaid parental leave

### 5.9.1 Recreation leave and long service leave

When there is an entitlement, employees may use full-pay or half-pay recreation and/or long service leave during the period of unpaid parental leave. However, the total period of parental leave is **not** to exceed 52 weeks and is not extended where the employee accesses other forms of leave.

Other forms of leave without pay cannot be granted during the unpaid parental leave period.

An employee can only be on one form of approved leave at any one time (e.g. an employee cannot be on paid recreation leave and paid maternity leave at the same time).

### 5.9.2 Sick leave

The employee can apply to receive paid sick leave while on paid parental leave. Sick leave may be granted instead of paid parental leave when:

- an employee submits a written application for sick leave, supported by a medical certificate or other evidence of the illness acceptable to the delegate, and
- the period of illness is more than three calendar days.

If an employee is granted sick leave during their paid parental leave period, they will cease being on parental leave and their paid parental leave period will be extended beyond the initial end date by the

number of sick days taken. The overall 52 week period of parental leave is not extended by the taking of sick leave.

An employee can only be on one form of approved leave at any one time. Paid sick leave is not available to an employee on unpaid parental leave.

### 5.10 Variation of period of parental leave

If the period of parental leave taken by an employee is less than 52 weeks, the employee, at least 14 days before the end of the approved period, may make written application to the delegate to extend the period up to the 52 week maximum.

The delegate is to:

- approve the first application to extend the period
- not unreasonably refuse to approve a subsequent application to extend the period.

The delegate may extend the period of leave beyond 52 weeks if in their opinion there are reasons, e.g. the health and well-being of the employee, the employee's spouse or the employee's child, that warrant an extension being granted (refer section 5.11).

If an employee on short spousal/adoption/surrogacy leave takes less than the eight week entitlement they may make a written application seeking to extend the period up to the eight week maximum. Employees must provide the application at least two business days before the approved period of leave ends however, where possible should provide as much notice to their manager as possible.

An employee may also apply to the delegate to shorten the period of parental leave. This application is to be made in writing 14 days prior to the proposed date of returning to work. The delegate may approve or reject such an application.

In situations where an employee returns to work early from parental leave, the employee may request to resume their parental leave. Such application is to be made to the delegate in writing within four weeks upon their return.

### 5.11 Extension of parental leave

An employee may submit an application at least four weeks before the leave ends for the following parental leave extension:

- an extension of the maternity leave for an unbroken period of up to 104 weeks in total (inclusive of any other forms of accrued leave)
- an extension of the long spousal/long adoption/long surrogacy leave for an unbroken period of up to 104 weeks in total (inclusive of any other forms of accrued leave)

Applications for an extension of parental leave are to be made by submitting a leave application form:

- stating that it is an application for extension of parental leave under section 73 of the Industrial Relations Act
- stating the dates the extension being applied for is to start and end
- stating the impact the refusal of the application might have on the employee and the employee's dependants
- attaching a statutory declaration stating the employee is seeking the extension to parental leave so the employee can continue to be the child's primary caregiver.

Under section 62(2) of the Industrial Relations Act, when the primary caregiver applies for an extension of parental leave, the leave taken by the secondary caregiver is taken into consideration. The total period of combined parental leave that may be taken between the couple in relation to the birth or placement cannot exceed 104 weeks.

### 5.11.1 Approving the extension of parental leave

Approval for extension of parental leave, beyond the initial 52 weeks is at the discretion of the delegate. The delegate must not unreasonably refuse an application. In deciding whether to agree to an application, the delegate must consider:

- the particular circumstances of the employee that give rise to the application, especially relating to the employee's role as the child's primary caregiver
- the impact refusal of the application might have on the employee and the employee's dependants
- the affect that agreeing to the application would have on the conduct of Queensland Health, including, for example:
  - any additional cost Queensland Health would incur
  - Queensland Health's capacity to reorganise work arrangements
  - the availability of competent replacement staff
  - any loss of efficiency in the conduct of Queensland Health
  - the impact of the employee's absence on the delivery of customer service.

The employer must not refuse an application unless they have given the employee a reasonable opportunity to discuss the application. If the delegate refuses the application, they must provide the employee with written reasons for refusing the application.

The employee is to be advised in writing of the decision:

- if the application is for an extension of short parental leave as soon as possible after receiving the application, but before the approved period of short parental leave ends  
or
- for any other application within 14 days after receiving the application.

The delegate may extend the period of leave beyond the periods outlined above if in their opinion, there are reasons, e.g. the health and well-being of the employee, the employee's spouse or the employee's child, that warrant an extension being granted.

## 6 Returning to work from parental leave and access to flexible work arrangements

### 6.1 Returning to work

When an employee is ready and able to return to work, excluding for the purpose of recall to duty or keeping in touch days (refer section 7.8), the employee is to contact their substantive work unit to discuss their options (refer to sections 6.1.1).

An employee is required to confirm their intention of returning to work in writing to Queensland Health, giving not less than four weeks' notice prior to the expiration of the period of parental leave or seven weeks if intending to return part-time (refer to section 6.1.1 and 6.1.2).

An employee on parental leave is not to undertake work (e.g. casual shifts) with another work unit/facility/HHS/employer.

Note: if an employee undertakes any work in a position that is not the position/s from which they have taken parental leave, the employee is considered to have returned to work and their parental leave is ceased.

### 6.1.1 Returning to your position

An employee who is returning to work after parental leave or special maternity leave, is entitled to be employed in:

- the position held by the employee immediately before starting parental leave; or
- if the employee worked part-time because of the pregnancy before starting maternity leave—the position held by the employee immediately before starting part-time work; or
- if the employee was transferred to a safe job under section 3.1 of this policy, before starting maternity leave—the position held by the employee immediately before the transfer.

If the employee's position no longer exists but there are other positions available that the employee is qualified for and is capable of performing, the employee is entitled to be employed in a position that is, as close as possible, comparable in status and remuneration to that of the employee's former position.

The delegate must make a position to which the employee is entitled available to the employee.

If a long term casual employee's hours were reduced because of the pregnancy before starting maternity leave, the delegate must restore the employee's hours to hours equivalent to those worked immediately before the hours were reduced.

### 6.1.2 Returning to work part-time

Under section 74 of the Industrial Relations Act an employee on parental leave may apply to return to work on a part-time basis.

The period for which an application may be made by an employee returning from parental leave to work on a part-time basis, cannot extend beyond the day the child (for whom the parental leave was taken) is required to be enrolled for compulsory schooling under the *Education (General Provisions) Act 2006*, or when the employee ceases to be the child's primary caregiver when not at work.

#### **Application to work part-time**

An application is to be made in writing, at least 7 weeks before the leave ends, and:

- be accompanied by a statutory declaration completed by the employee stating the employee is seeking to work on a part-time basis so the employee can continue to be the child's primary caregiver when not at work
- state the dates the return to work on a part-time basis is to start or end
- state the impact the refusal of the application might have on the employee and the employee's dependants
- state that it is an application to return to work on a part-time basis under section 74 of the Industrial Relations Act.

An employee may not make more than one application under this section within any 12 month period unless the delegate agrees.

#### **Approving an application to work part-time**

Approval to work part-time or access flexible work is at the discretion of the delegate however the delegate must not unreasonably refuse an application.

In assessing an application, the delegate must consider:

- the particular circumstances of the employee that give rise to the application, particularly circumstances relating to the employee's role as the child's primary caregiver
- the impact refusal of the application might have on the employee and the employee's dependants
- the effect that agreeing to the application would have on the conduct of Queensland Health, including for example:
  - any additional cost Queensland Health would incur
  - the employer's capacity to reorganise work arrangements
  - the availability of competent replacement staff
  - any loss of efficiency in the conduct of Queensland Health
  - the impact of the employee's absence on the delivery of customer service.

The employer must not refuse an application unless they have given the employee a reasonable opportunity to discuss the application.

Employees are to be advised in writing of the decision within 14 days after the delegate receives the application. If the application is refused the employee is to be provided with written reasons for the refusal.

### **Nurses and Midwives (Queensland Health and Department of Education) Certified Agreement (EB10) 2018**

For nursing and midwifery employees, flexible work arrangements following parental leave include options to work on set shifts or set days.

## **6.2 Flexible work arrangements**

### **6.2.1 Lactation breaks**

Lactation breaks are to be made available to employees to breastfeed and express breast milk during work hours in accordance with the PSC Breastfeeding and Work Policy.

For information about carer's rooms and facilities at your workplace, search QHEPS or speak with your facilities team.

Refer to section 3 of this policy.

### **6.2.2 Primary caregiver flexible work arrangements**

Under section 27 of the Industrial Relations Act an employee may request a flexible work arrangement. An employee who becomes the primary caregiver of a child, but who is not returning from parental leave, may request for a change in the way they work, including:

- the employee's ordinary hours of work
- the place and/or location the employee works.

Examples of flexible working arrangements include (but are not limited to) part-time employment, variable working hours, working set shifts or set days, purchased leave,

The request is to be made in writing and:

- state the change in the way the employee works in sufficient detail to allow the employer to make a decision about the request
- be accompanied by a statutory declaration completed by the employee stating the employee is seeking to work on a part-time basis so the employee can be the child's primary caregiver when not at work

- and
- state the reasons for the change.

Approval to access flexible work arrangements is at the discretion of the delegate. The delegate may grant the request in part or subject to conditions, or refuse the request, only on reasonable grounds.

For information on flexible work refer to Flexible working arrangements HR Policy C5.

## 7 General

### 7.1 Higher duties allowance while on paid parental leave

The higher duties amount is to be paid for the whole of any period the employee takes paid parental leave if the leave commences either during the relieving period or the next ordinary working day after the relieving period ends.

For further details refer to Higher Duties HR Policy B30.

### 7.2 Payment in advance

In cases of financial hardship or other exceptional circumstances the delegate may exercise discretion in paying the full entitlement to paid parental leave on a full-pay or half-pay basis in advance.

### 7.3 Superannuation

Superannuation contributions from both the employee and Queensland Health are to be in accordance with the employee's existing scheme options.

### 7.4 Salary packaging

When an employee is on a period of unpaid leave associated with parental leave the employee is to contact their nominated salary packaging provider to ensure any benefits are placed on hold or alternative arrangements made during the leave without pay period e.g. to continue novated lease payments.

### 7.5 Salary increment

Paid parental leave is to be recognised as normal service when calculating the employee's eligibility for the next salary increment (when applicable) under the relevant Award.

For further details refer to Salary Increments HR Policy C61.

### 7.6 Promotion

An employee on paid or unpaid parental leave continues to maintain their rights to promotion as if they were on duty. An employee can apply for and succeed in being promoted and transferred as well as lodging appeals and grievances.

An employee cannot be denied promotion because they are unavailable to take up duty before the completion of paid or unpaid parental leave.

### 7.7 Professional development

Queensland Health may offer an employee on parental leave (paid or unpaid) opportunities for professional development so the employee can keep their skills current. The employee's participation

in such opportunities is voluntary. The provision of such opportunities is at Queensland Health's discretion, however such initiatives are to conform to the principles of employment under the *Public Service Act 2008* and the PSC (IR) Directive on paid parental leave.

It is also considered best practice to keep employees on parental leave informed of changes/updates occurring at work. This is usually done through providing information to the employee via mail or electronic mail but may extend to inviting the employee to attend planning activities or significant briefings in person or via teleconference. Involvement would be voluntary.

The Department of Health and Hospital and Health Services (HHSs) are expected to meet out of pocket expenses for childcare to allow the employee to attend. It would be unusual for the department or HHSs to offer more than five days of professional development under these arrangements.

Participation in these professional development opportunities does not extend the period of parental leave (paid or unpaid) and does not impact on the period of time that counts for service. If the employee is on unpaid parental leave no payment is to be offered for the employee's time.

### 7.8 Recall to duty

Subject to agreement between the employee and Queensland Health, or provisions of any industrial instrument/legislation, the employee may be temporarily recalled to duty, including for the purpose of a "keeping in touch (KIT) day" in accordance with section 80 of the Industrial Relations Act. This recall does not break or extend the period of parental leave. Instead the employee must be paid as a casual under a mutually exclusive second (casual) contract.

A recall to duty that is accepted is to be remunerated at the casual rate for the time worked. If the employee is on unpaid leave at the time of recall, then any earnings are subject to the *Superannuation Guarantee (Administration) Act 1992* (Cth). The employee remains on paid/unpaid parental leave and a separate concurrent casual employment arrangement is effected to enable the employee to receive casual payment.

Employees classified in the senior executive service or equivalent are eligible for payment at ordinary time plus a loading in lieu of leave credits. Therefore, such employment does not accrue leave entitlements and does not count as service for purposes of increments or leave accrual entitlements.

An employee on unpaid parental leave continues to receive entitlements associated with that leave as well as entitlements due when recalled and working as a casual employee while on parental leave. These two contracts of employment are mutually exclusive, and the entitlements accrued under the second (casual) contract cannot be transferred to the first contract of employment. This clause is not intended to encourage employees to undertake casual employment whilst on parental leave. A recall to duty is employer initiated.

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.

Any recall to duty (i.e. working a normal shift other than for KIT purposes) will impact on payments the employee may be eligible to receive under the Commonwealth Paid Parental Leave Scheme.

While an employee may access an unlimited number of KIT days during their parental leave, if an employee accesses more than 10 KIT days while they are receiving payment for the Commonwealth Paid Parental Leave Scheme, their payments may be impacted.

Employees are to seek advice from Services Australia through Centrelink [about a change of circumstances](#).



## 7.9 Additional period/s of paid parental leave

An employee is eligible, without resuming duty, for a subsequent period/s of parental leave in accordance with the provisions of this policy when they:

- become pregnant while on parental leave
- have a spouse who becomes pregnant while that employee is on parental leave
- are to adopt a child while on parental leave
- OR
- becomes an intended parent under a surrogacy arrangement while on parental leave.

## 7.10 Effect of resignation upon paid parental leave

If an employee resigns while on paid parental leave, then the resignation takes effect on the date nominated by the employee. The employee will forego the balance of any unused paid parental leave. Parental leave is not paid out as a cash equivalent.

## 7.11 Employer's obligations to advise employees about particular changes

When any significant workplace change is to be implemented the employer must take reasonable action to advise each employee who is absent from the workplace on parental leave about the proposed change before it is implemented.

The advice must inform the employee of the change and any effect it will have on the position the employee held before starting parental leave, including for example, its status or the level of responsibility attaching to the position.

The employee must be given a reasonable opportunity to discuss any significant effect the change will have on the employee's position.

## 7.12 Employee's obligations to advise employees about particular changes

An employee on parental leave must advise of any change in the employee's contact details, including any change of address.

An employee must also to take reasonable steps to advise of any significant change as soon as possible after the change happens affecting the following:

- the length of the employee's parental leave
- the date the employee intends to return to work
- returning to work on a full-time basis or applying to return to work on a part-time basis.

## 7.13 Individual employee grievances

Normal grievance processes apply in accordance with the relevant Award or Agreement and the Individual employee grievances HR Policy E12.

## 8 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 Leave without salary credited as service PSC (IR) Directive, or applicable industrial instrument.

## 8.1 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 the purposes of probation, parental leave does not extend the time period allowed for probation in the relevant industrial instruments.

For further details refer to the PSC (IR) Directive relating to Leave without salary credited as service .

## 8.2 Unpaid leave counted as service for the first three months

An employee on unpaid parental leave is entitled to accrue leave types for the first three months of any unpaid leave period within the entire period of parental leave. Where an employee extends their unpaid parental leave period beyond the 52 week entitlement there is no additional entitlement to leave accruals.

For further details refer to the PSC (IR) Directive relating to Leave without salary credited as service.

### Definitions:

Adoption Agency	In accordance with the definition provided in the Industrial Relations Act: Adoption agency means an agency, body, office or court, authorised by a Commonwealth law or State law to perform functions about adoption.
Adoption leave	Means leave taken by an employee to enable the employee to be responsible for the care of a child adopted by the employee. It is inclusive of all forms of leave taken including recreation, long service leave, sick leave, paid and unpaid adoption leave.
Birth-related leave	Means short birth-related leave or long birth-related leave.
Child	In accordance with the definition provided in the Industrial Relations Act:  <i>(a) for adoption leave—a child who is under the age of 5 years, but does not include a child who, immediately before the child was adopted by the employee—</i> <i>(i) had been living with the employee for a continuous period of at least 6 months; or</i> <i>(ii) was the employee's stepchild or the child or stepchild of the employee's spouse; or</i> <i>(b) for surrogacy leave—a child born as a result of a surrogacy arrangement.</i>  The <i>Act Interpretation Act 1954</i> at section 32C provides that words in the singular include the plural, the reference to "child" in this policy can be taken to include "children."
Compulsory school age	In accordance with the definition provided in section 9 of the <i>Education (General Provisions) Act 2006</i> , a child is of compulsory school age if the child is at least 6 years and 6 months.
Confinement	The birth of a child, or the ending of the pregnancy in other circumstances, that occurs no earlier than 20 weeks before the expected date of birth.
Continuous service	In accordance with the definition provided in the Industrial Relations Act: <b>continuous service</b> , means service, including a period of authorised leave or absence, under an unbroken employment

	<p>contract.</p> <p>The service 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.</p>
Keeping In Touch (KIT) Day	<p>In accordance with section 80 of the Industrial Relations Act: the purpose of performing the work is to enable the employee to keep in touch with the employee's employment to facilitate a return to the employment after the end of the period of parental leave.</p> <p>Examples include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Training on new equipment/new treatment procedures etc.</li> <li>• Team meetings</li> <li>• Team planning days</li> </ul>
Long term casual employee	<p>Is in accordance with the definition provided in section 15 of the Industrial Relations Act i.e.</p> <p><i>"A "long term casual employee" is a casual employee engaged by a particular employer, on a regular and systematic basis, for 1 or more periods of employment during a the 1 year immediately before the employee seeks to access an entitlement under this chapter."</i></p>
Long adoption leave	<p>In accordance with the definition provided in the Industrial Relations Act, means leave taken by an employee to enable the employee to be responsible for the care of a child adopted by the employee.</p>
Long birth-related leave	<p>In accordance with the definition provided in the Industrial Relations Act, means—</p> <p>(a) maternity leave; or</p> <p>(b) leave taken by an employee whose spouse has given birth to a child to enable the employee to be responsible for the care of the employee's child.</p>
Long spousal leave	<p>In accordance with PSC (IR) Directive on Paid Parental Leave, means leave taken by an employee, whose spouse has given birth to a child, to enable the employee to be the primary caregiver of the child.</p>
Long surrogacy leave	<p>In accordance with the definition provided in the Industrial Relations Act, means leave taken by an employee to enable the employee to be responsible for the care of the employee's surrogate child.</p>
Maternity leave	<p>In accordance with the definition provided in the Industrial Relations Act, means leave taken by a pregnant employee –</p> <p>(a) For the birth of a child; or</p> <p>(a) To enable her to be responsible for the care of a child</p> <p><b>Note:</b> Long birth-related leave incorporates maternity leave.</p>
Paid adoption leave	<p>The entitlement of 14 weeks paid leave at the time of adoption of a child for the primary caregiver, or one week paid adoption leave for the secondary caregiver.</p>
Paid maternity leave	<p>The initial 14 weeks of an approved period of maternity leave absence for eligible employees who meet the qualifying service period and who have had the expected date of birth of their child confirmed in writing by a medical practitioner.</p>
Paid Parental Leave	<p>In accordance with PSC (IR) Directive on Paid Parental Leave, means paid maternity, spousal, adoption or surrogacy leave.</p>
Paid pre-adoption leave	<p>The entitlement for eligible primary and secondary caregivers to access paid leave, to attend adoption related interviews prior to the adoption of a child/children.</p>

Paid pre-natal leave	The entitlement for eligible primary and secondary caregivers to access paid leave, to attend pregnancy related medical appointments prior to the birth of a child/children.
Parental leave	<p>In accordance with the definition provided in the Industrial Relations Act, means–</p> <ul style="list-style-type: none"> <li>• long parental leave which includes: <ul style="list-style-type: none"> <li>○ long birth-related leave (including maternity leave); or</li> <li>○ long adoption leave; or</li> <li>○ long surrogacy leave.</li> </ul> </li> <li>• short parental leave which includes: <ul style="list-style-type: none"> <li>○ short birth-related leave; or</li> <li>○ short adoption leave; or</li> <li>○ short surrogacy leave.</li> </ul> </li> </ul> <p>For the purposes of paid parental leave under this policy, parental leave is taken to mean the entire period of leave taken for the purposes of birth-related leave (including maternity leave), surrogate leave and spousal leave. It is inclusive of all forms of leave taken including recreation, long service leave, sick leave, paid and unpaid leave.</p>
Primary caregiver	A person who assumes the principal role of providing care and attention to a child. Only one person can assume the role of primary caregiver at any one time.
Qualifying service period	<p>A period of at least 12 months service in any one or more Queensland government departments or Queensland public service offices, or Queensland statutory authority.</p> <p>The qualifying service period may be spread over more than one Queensland government department, Queensland public service office or Queensland statutory authority. This service:</p> <ul style="list-style-type: none"> <li>• is to be unbroken; or</li> <li>• may be inclusive of paid or unpaid leave*; or</li> <li>• may be inclusive of service recognised under the HR Policy C55 Recognition of previous service for long service and sick leave.</li> </ul> <p>*The first 3 months only of any unpaid leave is to be credited towards the qualifying service period.</p> <p>The qualifying service period need only be met once in an employee's period of continuous service.</p> <p>When a period of casual service (other than long term casual service) forms part of a period of continuous service including part time or full time, temporary or permanent service, the casual service may be included as part of the qualifying service period if it is of a regular and systematic nature.</p>
Queensland Government departments	Departments listed in Schedule 1 of the Public Service Act and includes the Queensland Police Service, Queensland Hospital and Health Services and the Queensland Audit Office.
Resident medical officer	Includes the following classifications of medical officers: <ul style="list-style-type: none"> <li>• Interns</li> <li>• Junior House Officers</li> <li>• Senior House Officers</li> </ul>

	<ul style="list-style-type: none"> <li>• Principal House Officers</li> <li>• Registrars</li> <li>• Senior Registrars.</li> </ul>
Secondary caregiver	A person who assumes the secondary role of providing care and attention to a child.
Short adoption leave	In accordance with the definition provided in the Industrial Relations Act, means leave taken by an employee who is responsible for the care of an adopted child after the child is placed with the employee.
Short birth-related leave	In accordance with the definition provided in the Industrial Relations Act, means leave taken by an employee who is responsible for the care of a child in connection with the birth of the child of the employee's spouse— <ul style="list-style-type: none"> <li>(a) after the birth of the child; or</li> <li>(b) at the time the pregnancy ends other than by the birth of a living child.</li> </ul>
Short spousal leave	In accordance with PSC (IR) Directive on Paid Parental Leave, means leave taken by an employee who is responsible for the care of a child in connection with the birth of the child of the employee's spouse, other than pre-natal leave or long spousal leave.
Short surrogacy leave	In accordance with the definition provided in the Industrial Relations Act, means leave taken by an employee who is responsible for the care of the employee's surrogate child after the child start residing with the employee.
Spouse	Spouse of an employee includes a de facto partner and civil partner and a former spouse ( <i>Acts Interpretation Act 1954</i> ).
Spousal leave	Is taken to mean the entire period of leave taken for the purposes of spousal leave. It is inclusive of all forms of leave taken including recreation, long service leave, sick leave, paid spousal leave (short spousal leave or long spousal leave) and unpaid spousal leave (short birth-related leave or long birth-related leave)
Surrogacy leave	Is taken to mean the entire period of leave taken for the purposes of surrogacy leave. It is inclusive of all forms of leave taken including recreation, long service leave, sick leave, paid and unpaid surrogacy leave
Surrogate child	Of an employee, means a child born as a result of a surrogacy arrangement in which the employee has agreed to become permanently responsible for the custody and guardianship of the child.
Unauthorised absence	Is an absence for which leave has not been authorised. Employees on unauthorised absence at the time of commencing the minimum period of maternity leave are not entitled to paid maternity leave.
Unpaid Spousal Leave	Is taken to mean short birth-related leave or long birth-related leave. Refer to definitions.
Week	The ordinary weekly hours of an employee as defined under the relevant industrial instrument, or for part-time employees an average of ordinary weekly hours.

### History:

December 2021	<ul style="list-style-type: none"> <li>• Policy formatted as part of the HR Policy Review</li> <li>• Policy amended to: <ul style="list-style-type: none"> <li>– update references and naming conventions</li> <li>– update clauses relating to the <i>Industrial Relations Act 2016</i>, the Queensland Employment Standards in Awards</li> </ul> </li> </ul>
---------------	--

	<ul style="list-style-type: none"> <li>– remove reference to the Family Leave Award (Queensland Public Sector) Award – State 2012</li> <li>– update clauses relating to PSC (IR) Directive Paid Parental Leave, specifically long spousal leave</li> <li>– include the <a href="#">Parental leave HR Policy C26 Addendum</a> (administratively applying eligible RMOs access to 14 weeks paid leave) as an attachment to HR Policy C26.</li> </ul>
June 2020	<ul style="list-style-type: none"> <li>• Addendum: <ul style="list-style-type: none"> <li>– formatted as part of the HR Policy review</li> <li>– application amended as a result of changes to the Hospital and Health Boards (Changes to Prescribed Services) Amendment Regulation 2019.</li> </ul> </li> </ul>
November 2016	<ul style="list-style-type: none"> <li>• New addendum issued to: <ul style="list-style-type: none"> <li>– administratively provide eligible resident medical officer (RMO) employees only with guaranteed access to the full 14 weeks of paid parental leave entitlement</li> <li>– determine responsibility for payment of the full 14 weeks of paid parental leave to an RMO.</li> </ul> </li> </ul>
June 2009	<ul style="list-style-type: none"> <li>• Protected policy updated in accordance with EB7.</li> </ul>
August 2008	<ul style="list-style-type: none"> <li>• Amended clauses 8.2, 8.7 and 9.1 to increase paid maternity leave to 14 weeks in accordance with Directive 5/08, which is applied to Health Service Employees by the <i>Public Service Regulations 2008</i>. Date of effect is 1 July 2008.</li> <li>• Amended clause 8.5 Period of maternity leave.</li> <li>• 'Date of Birth' term has replaced 'Date of Confinement'.</li> <li>• Unions have endorsed amendments to the policy.</li> </ul>
Previous	<ul style="list-style-type: none"> <li>• IRM 11.7-2 Parental Leave – Paid and Unpaid, Including Maternity, Adoption and Spousal Leave</li> </ul>

# Attachment One – Resident Medical Officers

The following information is provided to outline additional paid parental leave provisions administratively applied to eligible Resident Medical Officers (RMOs) employed by Queensland Health. This attachment forms part of, and is to be read in conjunction with, this policy.

## 1 Resident medical officer employment

The employment arrangements for RMOs are unique in the context of employment within the Queensland public sector.

Under their award, RMOs can only to be employed on a temporary basis, engaged under fixed term employment contracts usually of 52 weeks in duration. Generally, these temporary employment contracts commence and finish in February each year as part of the cyclical recruitment and placement process for junior doctors, also known as the RMO Campaign.

Existing RMO fixed term temporary engagements are not renewed or extended. Each year RMOs are required to make an annual application to the RMO Campaign to be allocated a new 52 week placement, either within Queensland Health (the department or a hospital and health service (HHS)), or with an external health provider. Placements are not guaranteed.

The nature of these mandated, fixed term temporary engagements, place RMOs at a disadvantage when accessing paid parental leave entitlements. Temporary employees cannot be granted leave of any kind beyond the end date of their temporary employment contract. However, an employee's past, present or likely pregnancy is not to influence a decision on the renewal of a temporary employee's contract. As RMO temporary contracts are not able to be 'renewed', an RMO who has utilised less than the full 14 weeks of paid parental leave entitlement immediately before their contract end date, foregoes any balance.

## 2 RMO access to 14 weeks paid parental leave

The following administrative arrangements apply to employee RMOs only.

When an RMO who has met the qualifying service period of at least 12 months recognised service, commences on paid parental leave **prior to** the end of their fixed term temporary engagements, the RMO is to continue to receive the full 14 weeks (or 28 weeks half pay) paid parental leave entitlement. In these circumstances, the RMO's temporary employment contract is to be extended by their current Queensland Health employer to accommodate the payment of the full 14 weeks paid parental leave.

Responsibility for the payment of the full 14 weeks paid parental leave remains with the departmental division/HHS with whom the RMO initiated paid parental leave.

Eligible part-time RMOs are paid leave on a pro rata basis.