

## Factsheet Sixteen

### Parenting & Pregnancy

#### **I just found out I'm pregnant, do I have to tell my boss?**

Many women don't wish to tell anyone about their pregnancy until after the first trimester, or even later. You are not obliged to tell your employer that you are pregnant and want to take unpaid parental leave until 10 weeks before the expected start date of unpaid parental leave. However, if you have concerns about carrying out any of your normal duties, you may need to tell your employer earlier in order for safe arrangements to be made. Under the *Anti Discrimination Act 1992 (NT)*, your employer cannot unreasonably fail or refuse to accommodate a special need you may have as a result of your pregnancy.

#### **My pregnancy means I can't keep doing my job, what will happen to me?**

Employers have a legal responsibility under the Northern Territory's [\*Work Health and Safety \(National Uniform Legislation\) Act 2011\*](#) to provide all employees with a safe and healthy workplace. They also have a responsibility under NT and Federal anti-discrimination legislation and the *Fair Work Act 2009 (Cth)* not to disadvantage or mistreat an employee because of pregnancy. Your employer should therefore perform a risk assessment to ensure that the work you do and the way you do it is safe for you while you are pregnant. They may need to make alternative equipment available to you, or temporarily adjust the duties you perform. NT WorkSafe can assist with information regarding undertaking a risk assessment. Your doctor can assist with information about what work is safe and appropriate for you to perform while pregnant.

If you are pregnant and your job poses a risk to your health or the health of your baby, you have the right to be transferred to a safe job with the same pay and conditions. You need to provide a medical certificate stating that you are fit to work but are unable to continue in your present position. If a transfer is not reasonably practical (for example, because appropriate and safe work is not available), you are entitled to take paid leave for the period you can't continue in your position (as stated in the medical certificate). This paid leave is called 'paid no safe job leave' and is in addition to your normal leave

entitlements, such as personal leave and annual leave. No safe job leave does not reduce your 12 months parental leave entitlement. Note that no safe job leave will only be paid if you are entitled to unpaid parental leave (see below) and you have notified your employer that you will be taking unpaid parental leave. If you are not entitled to unpaid parental leave you may be entitled to unpaid no safe job leave.

### **Can my employer direct me to take leave while pregnant?**

If a pregnant employee wants to work in the 6 weeks before their due date, your employer can ask for a medical certificate within 7 days of this time period. To continue to work, the medical certificate will need to state you can continue to work and it's safe to do your normal job.

If the medical certificate says you are fit to work but it isn't safe for you to continue your normal job, then the employee may be entitled to a safe job or no safe job leave (see above eligibility for no safe job leave).

If a pregnant employee doesn't provide a medical certificate or the certificate says you can't continue to work, your employer can direct you to start unpaid parental leave. The unpaid parental leave will then start and it will be included as part of the your total unpaid parental leave.

### **What if I need time off while I am pregnant and still working?**

Generally, you should be able to access your paid personal leave (previously known as sick leave) to attend antenatal appointments or if you are unwell during your pregnancy. If you are too unwell to work and have no paid personal leave available, or don't want to take your paid personal leave, you are able to apply for other types of unpaid leave. Check your employee policies and procedures to identify whether you are entitled to other types of leave.

### **What Leave am I entitled to?**

Employees can take parental leave when a child is born or adopted, or they experience complications.

#### **Government Paid Parental Leave**

At present the Paid Parental Leave (PPL) scheme currently provides 22 weeks (based on a 5-day work week) of payment for a child, with 2 of those weeks reserved for the other parent (subject to eligibility).

To check your eligibility speak with Services Australia or visit, <https://www.servicesaustralia.gov.au/parental-leave-pay-for-child-born-or-adopted-from-1-july-2023>

The date of your child's birth or adoption will determine how many days PPL you can get. If partnered, the date will also determine how many days they can get.

The number of weeks will increase to 24 from July 2025.

From July 2026 the final figure will be 26 weeks.

Apart from the weeks that are reserved for the second parent, the PPL can be split between parents in a way that suits their family. For instance, if the couple meet the eligibility criteria, they can decide to split the leave between them if they want.

Presently, parents can take two weeks of leave together. From July 2025 that will increase to three weeks.

Not all the leave can be used by one parent.

A few weeks are set aside for the second parent to encourage both parents to take PPL.

For this financial year 2024-2025, two weeks' worth of the total PPL is only available to the parent who is not using most of the leave.

If those weeks are not used or taken, they are lost in what the government calls a "use-it-or-lose-it scheme." This means those weeks cannot be transferred to the parent who has taken most of the paid leave.

From July 2025, the total weeks of PPL will increase to 24 but at least three of those weeks must be used by the second parent.

From July 2026, the total weeks of PPL will increase to 26 but at least four of the those weeks will be reserved for the second parent.

The idea behind providing some weeks for the second parent is to encourage more dads to take leave.

## **Government Unpaid Leave**

From 1 July 2023, the *Fair Work Act 2009 (Cth)* introduced greater flexibility for all employees taking unpaid parental leave (UPP). This change aligned with updates made to the Paid Parental Leave Scheme (PPL) which came into effect at the same time. Unpaid parental leave is part of the National Employment Standards (NES).

The NES applies to all employees in the national workplace relations system, regardless of any award, agreement, or contract and the parental leave provisions include:

- Birth related leave and adoption-related leave (including premature birth, still birth or infant death);
- Unpaid special parental leave;
- A right for pregnant employees to transfer to a safe job in appropriate cases, or to take 'no safe job leave';
- Consultation requirements;
- A return-to-work guarantee;
- Unpaid pre-adoption leave.

Unpaid parental leave was usually taken in one continuous period. Under the revised legislation, employees can now take up to 100 days of leave outside of this continuous block. Leave can be taken anytime in the 24 months following the birth or placement of their child. This is an increase from the previous 30-day entitlement.

Pregnant employees are also able to access their flexible unpaid parental leave up to six weeks before the anticipated birth of the child.

Notice Requirements are now streamlined. Employees are only required to provide one notice 10 weeks before the anticipated birth of their child or placement.

For a pregnant employee, leave can commence up to 6 weeks before the expected date of birth (or earlier if agreed), or within 24 months of the birth of the child. The parental leave must end within 24 months of the birth of the child.

### **Employer Paid Parental Leave**

Many employers provide paid parental leave for the birth parent as a way of valuing, supporting and retaining their staff. For example, female employees of the NT public service are entitled to 14 weeks paid maternity leave after 12 months of continuous service. You should check your enterprise agreement, employer policies, contract or letter of offer to see if you may be eligible for paid parental leave. It is not compulsory for your employer to provide paid parental leave.

Some employers provide paid parental leave for the non-birth parent of a newborn or adopted child. You should check your enterprise agreement, employer policies, contract or letter of offer to see if you may be eligible for paid parental leave as the non-birth parent.

Employer-funded paid parental leave doesn't affect an employee's eligibility for the Australian Government's Parental Leave Pay Scheme. Employees can get both. Employer funded paid parental leave also runs concurrently with unpaid parental leave meaning that the unpaid parental leave is reduced by the amount of employer-funded paid parental leave taken. For example, if you take a month of employer-funded paid parental leave, you will have 11 months of unpaid parental leave remaining.

### **What is continuous service?**

Service is the total amount of time that an employee has worked for their employer. Service is used to calculate most accumulated entitlements such as paid leave.

Continuous service is an unbroken period of service. Both paid and unpaid leave periods are counted as service if the leave has been approved by the employer.

### **What happens if I experience premature birth or birth related complications?**

Employees who experience premature births or other birth related complications that result on the newborn baby having to stay in hospital or being hospitalised immediately after birth can now agree with their employer to pause their unpaid parental leave. This

means that while their baby is hospitalised, they may return to work and the period where they are back at work won't be deducted from their unpaid parental leave.

### What happens if I experience stillbirth or the death of a child?

Employees may be eligible to take unpaid parental leave for a maximum of 12 months if they experience a stillbirth or the death of a child during the first 24 months of life and they would have been eligible for unpaid parental leave had the child not died. Employers cannot direct employees to return to work after a stillbirth or death of a child if they are on unpaid parental leave. An employee may still choose to return to work after a stillbirth or death of a child.

### Returning to work

When returning to work from unpaid parental leave you have the right to return to your old position or to a new position if you have been promoted or agreed to accept a new position. It is unlawful for your employer to demote you because of your absence from work.

If you had been performing light duties or reduced hours prior to commencing parental leave, you are entitled to have your original position back. If your old job no longer exists and you are qualified and able to work in another position, then you are entitled to work in another position or you may be entitled to a redundancy. When there is more than one appropriate position, you are entitled to the position nearest in status and pay to your former position.

Some women may not want to, wish to, or be able to return to their full time original position at the end of their parental leave. If this happens to you and you wish to maintain your employment relationship, you will need to negotiate with your employer to find an alternative that works for everyone. Part-time work may be available upon your return.

### Where can I get more help?

NT Working Women's Centre Ph: 1800 817 055 <a href="http://www.ntwwc.com.au">www.ntwwc.com.au</a>	Your Union Unions NT Ph: 8941 0001 <a href="http://www.unionsnt.com.au">www.unionsnt.com.au</a>	NT Anti-Discrimination Commission Ph: 1800 813 846 <a href="http://adc.nt.gov.au">adc.nt.gov.au</a>
Australian Human Rights Commission Ph: 1300 656 419 <a href="http://www.humanrights.gov.au">www.humanrights.gov.au</a>	Fair Work Ombudsman Ph: 13 13 94 <a href="http://www.fairwork.gov.au">www.fairwork.gov.au</a>	Fair Work Commission Ph: 1300 799 675 <a href="http://fwc.gov.au">fwc.gov.au</a>

NT Police Ph: (emergency) 000 If calling from a mobile: 112	Office of the Commissioner of Public Employment (OCPE) Ph: 8999 4129 <a href="http://www.ocpe.nt.gov.au">www.ocpe.nt.gov.au</a>	NT WorkSafe Ph: 1800 019 115 <a href="http://www.worksafe.nt.gov.au">www.worksafe.nt.gov.au</a>
Your HR Department	Aboriginal Interpreter Service Ph: 1800 334 944 <a href="http://www.ais.nt.gov.au">www.ais.nt.gov.au</a>	To access an interpreter Interpreting and Translating Service NT Ph: 1800 676 254 <a href="http://www.itsnt.nt.gov.au/">www.itsnt.nt.gov.au/</a>

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