Maternity, Adoption and Parental Leave

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Applies to  All Ambulance Service of NSW staff
All Operational Staff
All Administration staff
All Headquarters staff
Division staff (select Aero medical, Northern, Southern, Sydney, Western)
Operations Centres (select All, Aeromedical, Northern, Southern, Sydney, Western)
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Compliance with this policy directive is mandatory.
MATERNITY, ADOPTION AND PARENTAL LEAVE

This Standard Operating Policy applies to all Ambulance Service of NSW staff.

This Standard Operating Policy rescinds and replaces SOP2007-002. It includes the reviewed attachments A and B, the conditions from the Memorandums of Understanding (MOUs) signed by the Department of Health with the various unions and the conditions from the Family Provisions Test Case. A summary of these conditions is as follows:

**Effective from 1 January 2005 -**
- 1 week of paid parental leave;
- increasing paid maternity leave and paid adoption leave to 14 weeks at full pay or 28 weeks at half pay.

**Effective from 19 December 2005 -**
- an obligation for the Service to communicate with an employee on maternity, adoption or parental leave about their position;
- the right to request up to 2 years unpaid maternity, adoption or parental leave;
- the right to request up to 8 weeks simultaneous unpaid maternity, adoption or parental leave;
- the right to request return to part time work until the child reaches school age.

The policy has also been reorganised to make it easier for staff to find information relevant to them.

This Instructional Circular should be read in conjunction with the relevant Award clause that covers the individual employee. The clause references are as follows:

- Ambulance Service of New South Wales Administrative and Clerical Employees (State) Award clause 23
- Ambulance Service of New South Wales Superintendent/Operational Managers (State) Award clause 18
- Health Employees Conditions of Employment (State) Award clause 41
- Public Health Service Employees Skilled Trades (State) Award (Incorporating the Ambulance Service of New South Wales Skilled Trades) clause 31B
- Public Health System Nurses’ and Midwives’ (State) Award clause 34
- Operational Ambulance Officers (State) Award clause 29

The conditions as summarised above are effective from the given dates of implementation and apply to all areas of the Service. For further information, please contact your Divisional Personnel Officer or Sydney Personnel Officer, the Team Leader, Personnel on 02 9320 7643, the Personnel Services Coordinator on 02 9320 7642 or the Industrial Relations Officer on 02 9320 7639.
# Standard Operating Policy

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SECTION 1. MATERNITY LEAVE

1.1 Eligibility for Paid Maternity Leave

(a) *Full time employees*
Female employees who prior to the expected date of birth, have completed at least forty (40) weeks continuous service (of not less than 31.25 hours per week) are eligible for paid maternity leave.

(b) *Permanent part-time employees*
Permanent part-time employees are employees engaged on a permanent part-time basis as defined by their Award. Female employees employed on this basis are entitled to pro-rata paid maternity leave after forty (40) weeks continuous service.

(c) An employee who has once met conditions for paid maternity leave will not be required to again work the forty (40) weeks continuous service in order to qualify for a further period of paid maternity leave, unless:

1. there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or
2. the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under workers’ compensation legislation.

1.2 Entitlements to Paid Maternity Leave

Eligible employees are entitled to fourteen (14) weeks\^ at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to fourteen (14) weeks prior to the expected date of birth.

Paid maternity leave may be paid:

- on a normal fortnightly basis; or
- in advance in a lump sum; or
- at the rate of half pay over a period of twenty-eight (28) weeks\^ on a regular fortnightly basis.

Annual and/or long service leave credits can be combined with periods of unpaid or half pay maternity leave to enable an employee to remain on full pay for that period.

Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed. Untaken paid maternity leave cannot be accrued for future periods of maternity leave.

\^ The increase in this entitlement came into effect from 1 January 2005.
Effect of part time leave without pay

These provisions do not apply to part time maternity leave without pay taken in accordance with Section 4 of this policy.

Where an employee is on part time leave without pay when they commence maternity leave the rate of payment is determined as follows:

- If they commenced the part time leave without pay 40 weeks or less before starting the maternity leave they are paid at their substantive rate.

- If they commenced the part time leave without pay more than 40 weeks before starting the maternity leave:
  - where their part time hours have remained constant over the leave without pay period, they are paid at the part time rate;
  - where their part time hours have varied over the leave without pay period, they are paid at a rate based on the average hours worked over the preceding 40 weeks.

In the case of varying hours, the weekly payments to apply to the paid leave is calculated by the following formula:

\[
\text{Weekly payment during paid leave} = \frac{\text{Total hrs worked over 40 weeks prior to leave}}{\text{Normal weekly hrs over 40 weeks}} \times \frac{\text{Normal weekly rate of pay}}{40 \text{ wks x 35 hrs}}
\]

Example: An employee, who normally works a 35 hour week and is paid $800 per week, was approved to work 4 days per week (1 day per week leave without pay) for 20 weeks. The employee was then approved to work 3 days per week (2 days per week leave without pay) for 30 weeks and this arrangement was in place when the employee commenced maternity leave.

In the 40 weeks prior to commencing maternity leave the employee worked:

- 10 weeks @ 4 days per week = 10 wks x 4 days x 7 hrs = 280 hours
- 30 weeks @ 3 days per week = 30 wks x 3 days x 7 hrs = 630 hours

Total hours worked over 40 weeks = 910 hours

Calculation of weekly rate for paid maternity leave:

\[
\frac{910 \text{ hrs}}{1,400 \text{ hrs (40 wks x 35 hrs)}} \times \$800 = \$520 \text{ per week}
\]
1.3 Eligibility for Unpaid Maternity Leave

Any full time or permanent part time female employee is entitled to unpaid maternity leave.

1.4 Entitlements to Unpaid Maternity Leave

An employee eligible for both paid and unpaid maternity leave is eligible for twelve (12) months unpaid maternity leave from the date of birth of the child.

An employee eligible for only unpaid maternity leave is entitled to not more than twelve (12) months unpaid maternity leave. This can begin up to 14 weeks before the birth of the child but cannot extend past the child’s first birthday.

1.5 Applications for Maternity Leave

An employee who intends to proceed on maternity leave should formally notify their Operations Manager/Manager (in writing) of such intention as early as possible however, not less than eight (8) weeks prior to the commencement of leave. This notice must include a statement of:

1) The intention to proceed on maternity leave;
2) The expected date of birth certified by a medical practitioner;
3) The period of leave to be taken;
4) The date on which maternity leave is to commence;
5) You must also attach a Statutory Declaration stating any period of parental leave sought or taken by your spouse. This declaration must also state that the applicant is the child’s primary caregiver for the period of leave sought.
6) Your entitlement to maternity leave is reduced by any period of parental leave taken by your spouse. Apart from short parental leave of one (1) week at the time of birth, maternity leave is not to be taken concurrently with parental leave except as provided in Section 4 of this policy.

1.6 Applications for Further Maternity Leave

(a) Where an employee becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If an employee enters on the second period of maternity leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases.

(b) An employee who commences a subsequent period of maternity leave while on unpaid maternity leave under Sections 1 or 4 of this policy is entitled to be paid at their normal rate (ie the rate at which they were paid before proceeding on maternity leave).

(c) An employee who commences a subsequent period of maternity leave during the first 12 months of a return to duty on a part time basis as provided under Section 4 of this policy is entitled to be paid at their substantive full time rate for the subsequent period of maternity leave.

(d) An employee who commences a subsequent period of maternity leave more than 12 months after returning to duty on a part time basis under Section 4 of this policy, will be entitled to paid maternity leave for the subsequent period of maternity leave at their part time rate.
1.7 Variations of Maternity Leave

After commencing maternity leave, an employee may vary the period of her maternity leave –

a) once without the consent of the Service, but with a minimum of fourteen (14) days notice in writing; and

b) otherwise with the consent of the Service, with a minimum of fourteen (14) days notice in writing.

However, more advanced notice is encouraged, especially for uniformed staff because of roster arrangements.

1.8 Staffing Provisions

In accordance with obligations established by the *Industrial Relations Act 1996* (Section 69) any person who occupies the position of an employee on maternity leave must be informed that the employee has the right to return to her former position. Additionally, since an employee has the right to vary the period of her maternity leave; offers of temporary employment should be in writing, stating clearly the temporary nature of the contract of employment. The duration of employment should be also set down clearly; to a fixed date or until the employee elects to return to duty, whichever occurs first.

1.9 Effect of Maternity Leave on Accrual of Leave, Increments, etc

**Full pay and half pay leave**

Periods of full pay maternity leave count in full (pro rata for permanent part time employees) for the purposes of leave accrual and incremental progression.

Periods of half pay maternity leave count for leave accrual and incremental progression on a pro rata basis. Sick leave is to be adjusted on the anniversary of employment following the employee’s resumption of duty after the leave.

Leave on half pay is paid leave at a reduced rate and is not a combination of full pay leave and no pay leave. As such, periods of half pay leave must not be combined with any subsequent period of unpaid leave when determining the effect, if any, such period of unpaid leave has on an employee’s entitlements. Public holidays that occur during periods of full pay or half pay maternity leave are paid at the rate of the leave ie either full pay or half pay.

**Full time unpaid leave**

Full time unpaid maternity leave has the following effect on increments and leave accrual:

- if more than 28 calendar days does not count for the accrual of annual leave
- if more than 28 calendar days does not count for the accrual of sick leave
- on completion of ten years net service, unpaid leave of less than six months counts for the accrual of long service leave
- if more than six months does not count for the accrual of long service leave
- if more than 28 calendar days does not count as service for incremental progression (unless the incremental progression is age based).
Part time unpaid leave

Employees who return to duty on a part time basis by taking part time leave without pay accrue leave entitlements on a pro rata basis.

For periods of part time leave without pay of more than four weeks, annual leave and sick leave accrue on a pro rata basis and incremental progression will be based on the hours worked per week (unless the incremental progression is age based).

For employees who have less than ten years service, only the hours worked each week count as service toward eligibility for long service leave. The period of service is converted to the full time equivalent and credited accordingly.

Once an employee has worked ten years net service, any periods of part time leave without pay of six months or less are counted in full as service for long service leave entitlements.

Employees who have ten years net service or more and who take more than six months part time leave without pay, have only the hours they work each week counted as service for long service leave entitlements.

1.10 Effect of Maternity Leave on Superannuation

The information provided in this Section is not exhaustive. The implications of maternity, adoption and parental leave on superannuation are complex and varied and depend on each employee’s circumstances and the type and duration of leave taken.

Employees and employers are strongly encouraged to contact Pillar's Customer Service for further advice on the effect of maternity, adoption or parental leave in relation to their particular situation:

- First State Super on 1300 650 873
- State Authorities Superannuation Scheme on 1300 130 095
- State Superannuation Scheme on 1300 130 096

Some of the superannuation implications are set out below.

- For employees who are contributors to the State Superannuation Scheme (SSS), personal contributions continue to be payable during paid and unpaid maternity, or adoption leave. The payment of personal contributions may be deferred, however, interest at the fund earning rate will be payable on any outstanding contributions.

- Employees who are contributors to SSS and who return to work on a part time basis by taking part time leave without pay can elect to continue to pay personal contributions at the full time rate or to be treated as a part time employee for the period of the leave without pay. The latter option will reduce the personal contributions that must be made during the leave and it will reduce the amount of the end benefit.
• For employees who are contributors to the State Authorities Superannuation Scheme (SASS), personal contributions continue to be payable during paid and unpaid maternity and adoption leave (unless the unpaid leave exceeds two years). Employees who return to work on a part time basis by taking part time maternity or adoption leave without pay may be required to pay personal contributions at the full time rate. Each year members of SASS have the option to elect to pay between 1% and 9% of salary in personal contributions. The election form is enclosed with the Annual Benefit Statement and must be submitted by 31 December each year. The elected rate applies from 1 April the following year. Pillar Administration (the administrator of SASS) may authorise a reduction in contributions where a member would have difficulty in maintaining contributions at their nominated rate.

• If an employee's Superannuation Guarantee Contributions are made to First State Super (FSS) or another complying accumulation superannuation scheme, employer contributions continue to be paid during periods of paid maternity, adoption or parental leave. Employer contributions are not required during periods of unpaid leave.

1.11 Illness Associated with Pregnancy

If, because of an illness associated with her pregnancy, an employee is unable to continue to work, then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take any sick leave without pay.

Where an employee is entitled to paid maternity leave but, because of illness or injury, is on sick, annual, long service leave, or sick leave without pay prior to the birth, such leave will cease nine (9) weeks prior to the expected date of birth. The employee will then commence on maternity leave with the normal provisions applying.

1.12 Effect of Premature Birth on Payment of Maternity Leave

An employee who gives birth prematurely prior to proceeding on maternity leave, shall be treated as being on maternity leave from the date she enters on leave to give birth to the child.

1.13 Stillbirth

In the case of a stillbirth, (as classified by the Registry of Births, Deaths and Marriages) an employee may elect to take sick leave or maternity leave, subject to production of a medical certificate. She may resume duty at any time provided she produces a doctor’s certificate as to her fitness.

1.14 Miscarriage

In the event of a miscarriage, any absence from work is to be covered by the current sick leave provisions.
1.15 **Fitness to Continue Working During Pregnancy**

Whilst an employee may commence maternity leave up to fourteen (14) weeks, prior to the expected date of birth, this is not compulsory. However, if an employee decides to continue working prior to taking maternity leave, she must be able to satisfactorily perform her normal duties.

It is recommended that pregnant Ambulance Officers, Flight Nurses and Patient Transport Officers consult their general practitioner or obstetrician with regard to their continued fitness to satisfactorily perform normal duties. This should be done as soon as the employee is aware of the pregnancy, particularly with regard to manual handling tasks such as lifting. The attached information (Attachments A, B and C) relating to the duties of an Ambulance Officer, Flight Nurse or Patient Transport Officer should be provided to the medical officer so that they are aware of the physical requirements of the job.

It is the responsibility of the pregnant Ambulance Officer, Flight Nurse or Patient Transport Officer to:

1) Seek medical advice, as soon as they are aware of a pregnancy, about fitness for normal duties.
2) Seek regular monthly medical advice about continued fitness for normal duties.
3) Immediately advise their supervisor if they are unfit for normal duties so alternative duties may be considered. A medical certificate should be supplied which outlines the restrictions which apply.

Ambulance Officers, Flight Nurses and Patient Transport Officers are encouraged to submit regular (ie. monthly) certificates to their District Officer or Senior Flight Nurse certifying their continued fitness to carry out their normal duties.

1.16 **Alternative Work for Ambulance Officers, Flight Nurses and Patient Transport Officers**

Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obligated, as far as practicable, to provide alternative employment in some other position that she is able to satisfactorily perform, until maternity leave commences. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

Any alternative duties must be within a reasonable travelling distance from either the employee’s current work location or their home address. In certain circumstances, for example in some locations, this may or may not be impossible. In this case, a compromise, which does not unlawfully discriminate against the employee, should be negotiated.

Pregnant Ambulance Officers, Flight Nurses and Patient Transport Officers may take up their entitlement to alternative duties at any time during their pregnancy if their medical condition determines they are unable to carry out normal duties.
1.17 Medical Certificate Requirement

In the case of Ambulance Officers, Flight Nurses and Patient Transport Officers a medical certificate must be provided at 24 weeks gestation to their supervisor, confirming fitness and ability to continue working in normal duties. The attached information (Attachments A, B and C) relating to the duties of an Ambulance Officer, Flight Nurse or Patient Transport Officer should be supplied to the medical officer so that they are aware of the physical requirements of the job.

1.18 Right to Return to Previous Position

An employee who returns to work after maternity leave has a right to return to her former position.

In respect of uniformed staff, as the returning Officer may have just completed an absence of twelve (12) months from operational duties, the question of clinical level and training may need to be addressed. Specialist administrative staff may also require some type of refresher course.

Where this position no longer exists, the employee is entitled to be placed in a position nearest in status and salary to that of her former position and to which the employee is capable and/or qualified.

1.19 Portability of Service for Paid Maternity Leave

When determining an employee’s eligibility for paid maternity leave, continuous service with an organisation that is part of the public sector as defined in the Public Sector Employment and Management Act 2002 will be recognised, provided that:

- service was on a full time or permanent part time (as specified) basis;
- cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;
- the employee commences duty with the new employer on the next working day after ceasing employment with the former employer. (There may be a break in service of up to 2 months before commencing duty with the new employer, provided that the new position was secured before ceasing duty with the former employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.)
- Portability of service for paid maternity leave involves the recognition of service in public sector organisations for the purpose of determining an employee’s eligibility to receive paid maternity leave. For example, where an employee moves between a Public Service Department and a public hospital, previous continuous service will be counted towards the service prerequisite for paid maternity leave.
SECTION 2. ADOPTION LEAVE

2.1 Eligibility for Paid Adoption Leave

Employees who are adopting a child and are to be the primary care giver of the child (parent who assumes primary responsibility for the care of the child) are eligible for paid adoption leave under the following conditions:

(a) **Full time employees**
Employees who, prior to the date of taking custody of the child, have completed 40 weeks continuous service (of not less than 31.25 hours per week) and are going to be the primary caregiver of the child are eligible for paid adoption leave.

(b) **Permanent part-time employees**
Permanent part-time employees are employees engaged in a permanent part-time basis as defined by their Award. These employees are entitled to pro-rata paid adoption leave after forty (40) weeks continuous service if they are going to be the primary caregiver of the child.

(c) An employee who has once met conditions for paid adoption leave will not be required to again work the forty (40) weeks continuous service in order to qualify for a further period of paid adoption leave, unless:

1. there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or
2. the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under workers’ compensation legislation.

2.2 Entitlements for Paid Adoption Leave

Eligible employees are entitled to fourteen (14) weeks\(^\text{a}\) at the ordinary rate of pay. This leave may commence from the date of taking custody of the child.

Paid adoption leave may be paid:

- on a normal fortnightly basis; or
- in advance in a lump sum; or
- at the rate of half pay over a period of twenty-eight (28) weeks\(^\text{a}\) on a regular fortnightly basis.

Annual and/or long service leave credits can be combined with periods of unpaid or half pay adoption leave to enable an employee to remain on full pay for that period.

\(^{a}\) The increase in this entitlement came into effect from 1 January 2005.
Should an employee return to duty during the period of paid adoption leave, such paid leave ceases from the date duties are resumed. Untaken paid adoption leave cannot be accrued for future periods of adoption leave.

Effect of part time leave without pay
These provisions do not apply to part time adoption leave without pay taken in accordance with Section 4 of this policy.

Where an employee is on part time leave without pay when they commence adoption leave the rate of payment is determined as follows:

- If they commenced the part time leave without pay 40 weeks or less before starting the adoption leave they are paid at their substantive rate.

- If they commenced the part time leave without pay more than 40 weeks before starting the adoption leave:

  - where their part time hours have remained constant over the leave without pay period, they are paid at the part time rate;

  - where their part time hours have varied over the leave without pay period, they are paid at a rate based on the average hours worked over the preceding 40 weeks.

In the case of varying hours, the weekly payments to apply to the paid leave is calculated by the following formula:

\[
\text{Weekly payment during leave period} = \frac{\text{Total hrs worked over 40 weeks prior to leave}}{\text{Normal weekly hrs over 40 weeks}} \times \frac{\text{Normal weekly rate of pay}}{\text{40 wks x 35 hrs}} \times \text{Normal weekly rate of pay}
\]

Example: An employee, who normally works a 35 hour week and is paid $800 per week, was approved to work 4 days per week (1 day per week leave without pay) for 20 weeks. The employee was then approved to work 3 days per week (2 days per week leave without pay) for 30 weeks and this arrangement was in place when the employee commenced adoption leave.

In the 40 weeks prior to commencing adoption leave the employee worked:

- 10 weeks @ 4 days per week = 10 wks x 4 days x 7 hrs = 280 hours
- 30 weeks @ 3 days per week = 30 wks x 3 days x 7 hrs = 630 hours

Total hours worked over 40 weeks = 910 hours

Calculation of weekly rate for paid adoption leave:

\[
\text{Weekly payment during leave period} = \frac{910 \text{ hrs}}{1,400 \text{ hrs (40 wks x 35 hrs)}} \times 800 = \frac{910}{1,400} \times 800 = 520 \text{ per week}
\]
2.3 Eligibility for Unpaid Adoption Leave

All full time and permanent part time employees who are adopting a child and are going to be the primary caregiver of the child are eligible for unpaid adoption leave.

2.4 Entitlements for Unpaid Adoption Leave

Eligible employees are entitled to unpaid adoption leave as follows:
- where the child is under the age of 12 months - a period of not more than 12 months from the date of taking custody;
- where the child is over the age of 12 months and under 18 years old - a period of up to 12 months, such period to be agreed upon by both the employee and the employer.

2.5 Applications for Adoption Leave

Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave, normally 8 weeks prior. This will allow arrangements associated with the adoption leave to be made.

A statement must also be provided from the adoption agency or appropriate body/government authority confirming that the applicant/employee is to have custody and the expected date of placement of the child.

2.6 Applications for Further Adoption Leave

Same provisions as maternity leave.

2.7 Variations of Adoption Leave

Same provisions as maternity leave.

2.8 Staffing Provisions

Same provisions as maternity leave.

2.9 Effect of Adoption Leave on Accrual of Leave, Increments, etc

Same provisions as maternity leave.

2.10 Effect of Adoption Leave on Superannuation

Same provisions as maternity leave.

2.11 Right to Return to Previous Position

Same provisions as maternity leave.

2.12 Portability of Service for Paid Adoption Leave

Same provisions as maternity leave.
SECTION 3.  PARENTAL LEAVE

3.1 Eligibility for Parental Leave

(a) **Full time employees**
Employees who, prior to the expected date of birth or to the date of taking custody of the child, have completed 40 weeks continuous service (of not less than 31.25 hours per week) are eligible for parental leave.

(b) **Permanent part-time employees**
Permanent part-time employees are employees engaged in a permanent part-time basis as defined by their Award. These employees are entitled to pro-rata paid parental leave after forty (40) weeks continuous service.

(c) An employee who has once met conditions for parental leave will not be required to again work the forty (40) weeks continuous service in order to qualify for a further period of parental leave, unless:

1. there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or

2. the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under workers’ compensation legislation.

3.2 Entitlements

Eligible employees whose spouse or partner (including a same sex partner) is pregnant or is taking custody of a child, are entitled to a period of leave not exceeding 52 weeks, which includes one week*^ of paid leave, and may be taken as follows:

(a) an unbroken period of up to one week*^ at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave).

(b) the entitlement of one week’s*^ paid leave may be taken at anytime within the 52 week period and shall be paid:

- at the employees ordinary rate of pay for a period not exceeding one week on full pay, or
- two weeks at half pay or the period of parental leave taken, whichever is the lesser period.

**Note:** This leave may be taken in addition to or in place of the period of unpaid leave in part (a) of this section.

(c) a further unbroken period of unpaid parental leave not exceeding 52 weeks when added to short parental leave in order to be the primary caregiver of the child (extended parental leave).
(d) extended parental leave cannot be taken at the same time as the employee’s spouse or partner is on maternity or adoption leave except as provided for in Section 4 of this policy.

* For the purposes of defining one week in relation to parental leave, one week equals seven consecutive days (including any rostered days off). The employee will be paid at the ordinary rate of pay (base rate) for time that would have been worked during the one week of leave.

^ The increase in this entitlement came into effect from 1 January 2005.

Annual and/or long service leave credits can be combined with periods of unpaid or half pay parental leave to enable an employee to remain on full pay for that period.

Should an employee return to duty during the period of paid parental leave, such paid leave ceases from the date duties are resumed. Untaken paid parental leave cannot be accrued for future periods of parental leave.

**Effect of part time leave without pay**
These provisions do not apply to part time maternity, adoption or parental leave without pay taken in accordance with Section 9 of this policy.

Where an employee is on part time leave without pay when they commence maternity, adoption or parental leave the rate of payment is determined as follows:

- If they commenced the part time leave without pay 40 weeks or less before starting the maternity, adoption or parental leave they are paid at their substantive rate.

- If they commenced the part time leave without pay more than 40 weeks before starting the maternity, adoption or parental leave:
  - where their part time hours have remained constant over the leave without pay period, they are paid at the part time rate;
  - where their part time hours have varied over the leave without pay period, they are paid at a rate based on the average hours worked over the preceding 40 weeks.

In the case of varying hours, the weekly payments to apply to the paid leave is calculated by the following formula:

\[
\text{Weekly payment during paid leave period} = \left( \frac{\text{Total hrs worked over 40 weeks prior to leave}}{\text{Normal weekly rate of pay}} \right) \times \frac{\text{Normal weekly hrs over 40 weeks}}{\text{Normal weekly hrs over 40 weeks}}
\]
3.3 Applications for Parental Leave

An employee who intends to proceed on parental leave should formally notify their employer of such intention as early as possible, so that arrangements associated with their absence can be made.

The employee should give written notice of the intention to take the leave, at least four weeks before proceeding on leave, and should detail the dates on which they propose to start and end the period of leave. It is recognised in situations of taking custody of a child, little or no notice may be provided to the employee. In such an instance, the employee should notify the employer as early as practicable.

The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.

In the case of extended parental leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:

(a) if applicable, the period of any maternity or adoption leave sought or taken by his spouse, and
(b) that they are seeking the period of extended parental leave to become the primary caregiver of the child.

3.4 Variations of Parental Leave
Same provisions as maternity leave.

3.5 Staffing Provisions
Same provisions as maternity leave.

3.6 Effect of Parental Leave on Accrual of Leave, Increments, etc.
Same provisions as maternity leave.

3.7 Effect of Parental Leave on Superannuation
Same provisions as maternity leave.

3.8 Right to Return to Previous Position
Same provisions as maternity leave.

3.9 Portability of Service for Paid Parental Leave
Same provisions as maternity leave.
SECTION 4.  RIGHT TO REQUEST

4.1 Entitlements

(a) An employee entitled to maternity, adoption or parental leave may request the employer to allow the employee:

   (i) to extend the period of simultaneous** maternity, adoption or parental leave use up to a maximum of eight weeks;

   (ii) to extend the period of unpaid maternity, adoption or parental leave for a further continuous period of leave not exceeding 12 months;

   (iii) to return from a period of maternity, adoption or parental leave on a part time basis until the child reaches school age (Note: nurses employed under the Public Health System Nurses’ and Midwives’ (State) Award can request part time work to continue beyond the time that their child reaches school age);

   to assist the employee in reconciling work and parental responsibilities.

(b) The employer shall consider the request having regard to the employee’s circumstances and, provided the request is genuinely based on the employee’s parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer’s business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

(c) The employee’s request and the employer’s decision made under subclauses (a)(ii) and (iii) of this Section must be recorded in writing and placed on the employee’s Personnel File.

(d) Where an employee wishes to make a request under subclause (a)(iii) of this Section:

   (i) the employee is to make an application for leave without pay to reduce their full time weekly hours of work;

   (ii) such application must be made as early as possible to enable the employer to make suitable staffing arrangements. At least four weeks notice must be given, however application should be made as early as possible to enable suitable staffing arrangements;

   (iii) salary and other conditions of employment are to be adjusted on a basis proportionate to the employee’s full time hours, that is for long service leave the period of service is to be converted to the full time equivalent and accredited accordingly.

(e) Applications should be made as soon as possible to enable a thorough review of the particular application and its possible operational impacts.

(f) This Section came into effect from 19 December 2005.

**Simultaneous maternity, adoption or parental leave within the context of this policy is defined as when an employee and their partner take either both maternity and parental leave or both adoption and parental leave at the same time.
4.2 Returning to Work After an Extended Period of Unpaid Leave

Employees who are granted the leave outlined in part 4.1 (a)(ii) have the right to return to their position at the end of the extended period of maternity, adoption or parental leave.

4.3 Returning to Work on a Part Time Basis

The following applies to application for a return to work on a part time basis:

- Staff who have requests for part time work approved will be required to apply for part time leave without pay to reduce their full time weekly hours of work.

- The balance of unworked hours will be recorded as unpaid maternity, adoption or parental leave.

- Employees should be made aware that it may not be possible for them to return to work on a part time basis to the substantive position that they held prior to commencing the maternity, adoption or parental leave.

- Employees who return from maternity, adoption or parental leave under this arrangement do so for a specific period and retain their substantive hours with the right to convert to those hours at the end of the approved period of part time work.

- Salary and other conditions of employment are applied on a pro rata basis during the period of part time work.

- Employees retain their substantive status as full time employees and as such are not entitled to payment of any part time allowance.

- The provisions in this policy in terms of right to request part time hours are not intended to supplant previous policy regarding favourable consideration of such applications.
SECTION 5. COMMUNICATION DURING LEAVE

(a) Where an employee is on maternity, adoption or parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

(i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing leave; and

(ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing maternity, adoption or parental leave.

(b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee’s decision regarding the duration of parental leave to be taken, whether the employee intends to request to return to work on a part time basis.

(c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer’s capacity to comply with subclause (a) of this Section.

(c) This Section came into effect from 19 December 2005.

See separate documents on Intranet site for attachments.