

Parental Leave – An Overview

Who can take parental leave?

If an employee is expecting a baby or plans to adopt a child under six they can apply for parental leave.

Employees can take paid and unpaid parental leave. Self employed workers are entitled to paid parental leave only.

Employees

To be eligible, an employee needs to have worked for the same employer for between 6 or 12 months immediately prior to their due date or the date they assumed the care of a child they intend to adopt, and they need to have worked an average of at least 10 hours a week and one hour in every week or 40 hours every month.

The amount of leave an employee is entitled to depends on whether they been employed continuously for 6 or 12 months (*see extended leave below*).

Self-employed

A person needs to have been self-employed for six or 12 months and have averaged at least 10 hours in every week to be eligible for paid parental leave.

You also qualify if you work in more than one type of work or combine self-employment with work as an employee.

For full details, visit: www.ers.govt.nz/parentalleave/self-employed

How much paid and unpaid parental leave can employees receive?

Paid parental leave

Parental leave payments are paid by **Inland Revenue**.

Eligible employees and self-employed parents are entitled to:

14 continuous weeks paid parental leave.

If their spouse/partner (including same sex partners) also meets the qualifying criteria, an employee can share part or all of their paid parental leave with them.

Note: *an employee's employment agreement may provide for additional paid parental leave. In any event an employee's employment agreement cannot change an employee's eligibility for the government's parental leave payments.*

Unpaid parental leave

Eligible employees are entitled to:

Maternity leave of 14 continuous weeks

Special leave of up to 10 days for such things as antenatal checks

Partner's/paternity leave of one week or two weeks depending on the length of the employee's qualifying service (see below).

Extended leave of up to 52 continuous weeks for employees with 12 months eligible service. Extended leave may be shared by both eligible parents but must not exceed 52 weeks (including maternity leave and paid parental leave but excluding spouses/partners leave – see below).

Spouse/Partner's - Paternity Leave

A spouse/partner of the employee can take one week's paternity leave (for a spouse/partner with six months eligible service), or two weeks (for a spouse/partner with 12 months eligible service) at any time during the 21 days either side of the expected date of birth or adoption.

Extended leave of up to 52 continuous weeks

Extended leave is available for employees with 12 months eligible service - can be started following paid parental leave, partner's/paternity leave, or after a return to work.

But the right to the leave ends when the child is one year old or one year after the parent has assumed the care of a child they intend to adopt.

Extended leave can be shared between both eligible parents, but the total leave taken must not be more than 52 weeks (including maternity leave and paid parental leave). Both partners/spouses can take their leave at the same time or they can take it one after the other.

What is the amount of the parental leave payments?

Employees receive the same as their ordinary weekly pay or average weekly earnings up to a maximum of \$429.74 per week before tax whichever is the lesser.

Self-employed parents who make a loss or earn less than the equivalent of 10 hours pay at the highest rate of minimum wage, receive a minimum rate of \$125.

How can I calculate an employee's parental leave?

The Department of Labour has developed a handy Parental Leave Calculator that you can access at: www.ers.dol.govt.nz/parentalleave/calculate

How often can an employee take parental leave?

An employee can take parental leave as many times as needed as long as the employee has been back at work at least six months before their due date and meets the qualifying criteria.

When does parental leave start?

Paid parental leave of 14 continuous weeks - this can start up to six weeks before the expected date of birth or adoption.

Payments start when the employee's parental leave begins. Payments will stop if the employee returns to work for any time, resign, or stops being self-employed during the 14-week paid leave period.

Unpaid parental leave may commence at different times depending on the nature of the leave being taken.

What if an employee doesn't qualify for paid parental leave?

If an employee doesn't qualify for paid parental leave they may instead be eligible for the Parental Tax Credit, one of the family tax credits administered by Inland Revenue.

This provides up to \$150 per week for eight weeks, based on the level of family income.

Employees' may access either paid parental leave or the Parental Tax Credit, but not both. Further information on the Parental Tax Credit is available from Inland Revenue's website at www.ird.govt.nz or by phoning 0800 227 773.

How to apply?

Employees

To receive paid parental leave an employee must first apply to their employer for parental leave and then to the Inland Revenue for the 14 weeks' parental leave payments. Employees' need to apply to their employer in writing at least three months before their baby is due. The employer must reply within 21 days.

For details of what an employee needs to include in their letter to the employer and the medical certificates needed and to download examples of letters employees can visit: <http://ers.govt.nz/parentalleave/employees/how-to-apply.html>

Different notice periods apply for adoption - for details visit: <http://ers.govt.nz/parentalleave/adoptive/index.html>

Self-employed

To apply for paid parental leave a self employed person must either:

- have their self-employment and earnings verified by a chartered accountant

or

- complete a declaration witnessed by a JP to verify their self-employment and earnings.

Then, the person applying for parental leave must send their paid parental leave application form to Inland Revenue, along with a certificate, or copy of a certificate, from a medical practitioner or midwife confirming the person's pregnancy, or proof that the person has assumed the care of a child they intend to adopt.

Application forms for parental leave payments can be found by visiting: <http://ers.govt.nz/parentalleave/forms/ird.html>

Employer's Obligations

Employers must inform employees' of their parental leave entitlements.

Once an employer receives an employee's application for parental leave they have 7 days to ask the employee for any information which has not been provided.

Once an employer receives a completed application they must reply to the application within 21 days. The employer's response must include whether the employee is entitled to take parental leave, and if not the reasons why not.

The employer should also advise the employee of the rights and obligations the employee has regarding parental leave particularly those relating to when the employee can start their leave.

The employer must state whether the employees job can be kept open. **Note:** *The employer is obligated to keep the position open except in limited circumstances.*

Once the employer receives an application for paid parental leave payments the employer should complete the application form, which the employee then sends to Inland Revenue.

Once the parental leave period has started the employer must within 21 days write to the employee to confirm the arrangements. The employer must include in this letter the date the employee is to return to work and remind the employee to write to the employer 21 days before returning to work.

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Erin Davies

Partner

t: 09 979 2177

e: davies@brookfields.co.nz

Alison Gilbert

Senior Associate

t: 09 979 2253

e: gilbert@brookfields.co.nz

Auckland **Manukau** **Wellington**
t 09 379 9350 09 262 2145 04 499 9824
f 09 379 3224 09 379 3224 04 499 9822
www.brookfields.co.nz



Brookfields
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