

# Commissioner's Information Sheet

**This information only applies to employees in the following designations covered by the following enterprise agreements:**

- Administrative Officers, Professionals, Technicals, Physicals, Senior Chief Correctional Officers covered by the **Northern Territory Public Sector 2017 - 2021 Enterprise Agreement** – Effective 30 May 2018
- **2017 – 2021 Jacana Energy Enterprise Agreement** – effective 23 April 2018

## Parental Leave – new provisions 2018

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### **1. What is Parental Leave?**

Parental leave is leave that can be taken when:

- an employee gives birth;
- an employee's spouse or de facto partner gives birth;
- an employee adopts a child.

Parental leave can be taken where a child is born through surrogacy arrangements.

Parental leave entitlements include:

- Primary Caregiver Parental Leave;
- Partner Leave (two types: short and longer term);
- special maternity leave;
- pre-adoption leave;
- a safe job or no safe job leave;
- a right to request returning to work part-time until the child is school age;
- protections regarding returning to work after parental leave.

## 2. What is Primary Caregiver Parental Leave?

Primary Caregiver Parental Leave is one type of parental leave available. It is taken where the employee meets the definition of 'primary caregiver' in the enterprise agreement and has that responsibility on and immediately following the birth or adoption of their child. This is usually the birth giver (i.e. mother of the child). If an employee does not meet these requirements they cannot take Primary Caregiver Parental Leave but instead may be eligible for Partner Leave.

An employee is required to provide a statutory declaration stating that the employee will be the 'primary caregiver' at all times whilst on leave. Only one parent can be the primary caregiver at any given time. It is not intended for an employee to access Primary Caregiver Parental Leave where they are providing spousal support in circumstances where their spouse, the birth giver, had a caesarean section. There will be exceptions, for example, where the birth giver suffers a post-natal medically certified condition that prevents them from caring for their new born child, but not where they voluntarily choose not to.

Paid Primary Caregiver Parental Leave is available to employees with at least 12 months continuous service at time of commencing parental leave.

### a. How much Primary Caregiver Parental Leave am I entitled to?

It depends on your length of continuous NTPS service:

Length of Continuous NTPS Service	Paid / Unpaid Leave
<12 months and eligible casual employees	Up to 52 weeks unpaid <i>(right to request a further 12 months)</i>
12 months and <5 years	14 weeks paid + 142 weeks unpaid
5 or more years	18 weeks paid + 138 weeks unpaid

Paid Primary Caregiver Parental Leave can be taken at half pay.

b. [When do I have to start my Primary Caregiver Parental Leave?](#)

An employee who is pregnant may commence Primary Caregiver Parental Leave at any time within six weeks immediately prior to the expected date of birth of the child. A pregnant employee may continue to work within the six week period provided they have submitted a medical certificate from a doctor certifying them fit to work their normal duties.

An employee who is adopting a child may commence Primary Caregiver Parental Leave at any time within two weeks before the day of placement.

In all other cases, Primary Caregiver Parental Leave commences on the date of birth or day of placement of the child.

c. [Can I take other leave after my paid Primary Caregiver Parental Leave is finished?](#)

Yes. You can access your entitlement to accrued recreation and long service leave after your paid Primary Caregiver Parental Leave finishes.

Employees eligible for 12 months unpaid Primary Caregiver Parental Leave may access accrued recreation leave at any time during a period of unpaid parental leave (note: an employee with less than 12 months service is unlikely to have accrued long service leave entitlements).

### **3. [What is Partner Leave?](#)**

Partner Leave is for an employee who will have a parental responsibility for the care of their child but who is not the 'primary caregiver' as defined in the enterprise agreement. The amount of Partner Leave available depends on the employee's length of continuous NTPS service at the time of commencing parental leave.

Partner Leave entitlements consist of two types:

- **8 weeks Partner Leave** (short term leave) taken in the child's first year of life or placement at the same time as the primary caregiver of the child may be on leave and caring for the child; and
- **Longer Partner Leave** (up to 12 months or 3 years) where the employee will have a parental responsibility for the care of their child.

a. [Is the 8 weeks Partner Leave paid?](#)

Some of the eight weeks can be paid. The amount of paid leave depends on your length of continuous NTPS service at the time of commencing parental leave:

Length of Continuous NTPS Service	Paid / Unpaid Leave <i>Leave must be taken in first 12 months since birth/placement of child</i>
<12 months and eligible casual employees	Up to 8 weeks unpaid leave.
12 months and <5 years	Up to 8 weeks including 1 week paid.
5 or more years	Up to 8 weeks including 2 weeks paid.

Paid Parental Leave under '8 week' entitlement can be taken at half pay.

b. How much Longer Term Partner Leave am I entitled to?

It depends on your length of continuous NTPS service at the time of commencing parental leave:

Length of Continuous NTPS Service	Paid / Unpaid Leave
<12 months and eligible casual employees	Up to 52 weeks unpaid. <i>Leave may commence at any time after birth/placement but must end within 24 months of the date of birth or day of placement of the child.</i>
At least 12 months	Up to 156 weeks (3 years) unpaid. <i>Leave may commence at any time after birth/placement but must end within 3 years of the date of birth or day of placement of the child.</i>

c. Is there any paid Longer Term Partner Leave?

Yes. A portion of Longer Term Partner Leave taken can be paid where an employee (excluding casuals) meets the eligibility requirements and requests to access the paid leave within 14 weeks (or 18 weeks) of the child's birth or placement. Access to paid Longer Term Partner Leave and the portion of leave paid is limited to the 14 week period following the birth or placement of the child. This period is extended to 18 weeks where an employee has five or more years of continuous service.

No paid Longer Term Partner Leave is payable for any period of Partner Leave taken by the employee that extends beyond, or commences after, the 14 (or 18) week period following the child's birth or placement.

The eligibility requirements for paid Longer Term Partner Leave are:

- the employee, other than a casual employee, has at least 12 months continuous NTPS service;
- the employee does not have an entitlement to the Combined Parental Leave provisions under the Parental Leave clause (see question 5 below)

*(Note: the employee is not required to access the Combined Parental Leave provisions, it is sufficient that an employee is eligible);*

- the employee's spouse was the primary caregiver at and immediately following the time of the birth or placement of the child;
- within the first 14 weeks (or 18 weeks) from birth/placement, the employee's spouse is no longer able to be the primary caregiver (e.g. returns to work or study) and as a consequence the employee has taken over caring responsibilities for the child such that the employee is the person who now meets the child's physical needs more than anyone else; and
- the notice and evidence requirements for taking Longer Term Partner Leave have been complied with.

The amount of paid Longer Term Partner Leave is calculated from the time the employee takes over caring responsibilities up until 14 weeks (or 18 weeks) following birth/placement of the child. Paid Longer Term Partner Leave cannot be taken at half pay and must be taken in a single continuous period of leave.

#### *Paid Longer Term Partner Leave – An example*

*An employee's spouse, who is not an NTPS employee, gives birth to a child and is off work for six weeks after the child is born as the primary caregiver. The NTPS employee (the child's other parent) has over five years of continuous service and takes two weeks paid partner (short term) leave when the baby is born. When the child is six weeks old the employee's spouse returns to their non-NTPS job and the NTPS employee takes longer term partner leave to take over care of the couple's child. The NTPS employee would be paid for 12 weeks of the longer term partner leave after providing evidence showing that their spouse had ceased to be primary caregiver. This payment covers the period from the seventh to the eighteenth week following the birth of the child.*

## **4. Who do I have to notify and when?**

You need to advise your CEO/Manager at least 10 weeks before the start of the proposed parental leave with expected start and finish dates. This then needs to be confirmed at least 4 weeks before the intended start of the parental leave.

For Partner Leave you should advise your CEO/Manager at least 4 weeks prior to the expected date of birth/placement.

## **5. What is 'Combined Parental Leave'?**

Combined Parental Leave provisions are for NTPS employee couples who intend to take parental leave. Each employee must have at least 12 months continuous service and an entitlement to paid parental leave. The Combined Parental Leave provisions facilitate an employee's access to additional paid parental leave through using some of their partner's NTPS paid leave entitlement. Any paid parental leave taken is paid at the employee's salary for the period of leave, not their partner's salary.

[For more information and examples on how Combined Parental Leave operates see 'Supplement to Commissioner's Information Sheet – Parental Leave New Provisions 2018'](#)

If you are considering this type of leave please contact your HR unit for further advice.

## **6. Other types of Parental Leave**

There are a range of other types of parental leave available such as:

- Pre-adoption leave – up to two days unpaid leave to attend interviews etc.
- Special Maternity Leave – where there are complications with a pregnancy or the pregnancy ends other than by the birth of a living child.
- No safe job leave – where you aren't able to do your normal job because of risks to your pregnancy and your agency is unable to find you a job that you can undertake safely during the risk period.

For further information on these types of leave please contact your HR unit.

## **7. Planning your return to work**

### NTPS employment while on Parental Leave

If your manager or CEO agrees, while you are on unpaid parental leave you may request to return to work for specified periods within the agency or in another NTPS agency. When the period of work ceases you can recommence parental leave (up to the maximum period permitted and subject to notice requirements).

An employee on unpaid parental leave may only engage in outside employment (i.e. non-NTPS employment) in accordance with section 61 of the *Public Sector Employment and Management Act*.

### Keeping in touch days

During a period of parental leave you can agree to attend the workplace on up to 10 separate occasions (up to one day per occasion) to keep up to date with any developments occurring in your workplace. This is to help you to gradually transition back to work. These days or part days are paid.

### Return to work

There are some options to consider when returning to work such as:

- **Returning within 6 weeks of giving birth:** If you are the birth giver and wish to return to work within six weeks of the baby being born, a medical certificate must be provided stating that you are fit to return to work during that period.
- **Returning to Work Early:** If you are wanting to return to work earlier than you had originally agreed with your manager or CEO then you will need to apply, in writing, to your CEO to return earlier. You will need to provide four weeks notice before your requested return date if on parental leave of up to 52 weeks, or 12 weeks notice before your requested return date if you are on parental leave for a period longer than 52 weeks.

- **Returning at conclusion of leave:** If you are returning to work at the conclusion of your leave, as on your expected date of return you should confirm this with your manager or CEO. This should be done four weeks before your expected date of return if you have been on parental leave for up to 52 weeks, or 12 weeks before your expected return date if you have been on parental leave for more than 52 weeks.
- **Flexible Work:** you can make a request for a flexible work arrangement (e.g. if you are a parent or have responsibility for the care of a child who is school aged or younger) as part of your return from parental leave. Flexible work arrangements may involve when hours are worked within or outside the span of hours.
- **Returning Part-Time:** you can make a request for a part time arrangement as part of your return from parental leave. The arrangement will need to be agreed with the appropriate delegate.

## **8. Relevant Legislation**

- Northern Territory Public Sector 2017 – 2021 Enterprise Agreement [AE427964]: clause 37 Parental Leave
- 2017 – 2021 Jacana Energy Enterprise Agreement [AE428022]: clause 51 Parental Leave