

Parental Leave Policy

1 Introduction

- 1.1 Flashbay Pty Ltd ("**the Company**") recognises and understands that the birth or adoption of a child is a special time in an employee's life and that an employee will usually require leave during this period.
- 1.2 This policy provides guidance for employees on entitlements and Company requirements relating to Parental leave.
- 1.3 Parental leave for this purpose encompasses maternity leave, paternity leave and adoption leave.
- 1.4 Employees are entitled to parental leave in accordance with the National Employment Standards (NES) if they have 12 months or more continuous service as at the expected date of birth or upon adoption, and the employee has, or will have responsibility for the care of the child.
- 1.5 Parental leave is unpaid by the Company. However, employees may be entitled to paid parental leave under the Statutory Paid Parental Leave Scheme (**PPL Scheme**) or any Company scheme as implemented and amended from time to time.

2 Scope

- 2.1 This Policy applies to all eligible employees of the Company in Australia, who:
 - i. are permanent employees of the Company and who have completed at least 12 months continuous service; and
 - ii. are Eligible Casual employees.

This policy does not apply to contractors or consultants.

- 2.2 This Policy will apply subject to and in accordance with the *Fair Work Act 2009* (Cth) ("**the Act**") as amended from time to time.

3 Definitions for Parental Leave

- 3.1 **Authorised leave** means leave, or an absence, whether paid or unpaid, that is authorised:
 - i. by the Company; or
 - ii. by or under a term or condition of an employee's employment; or

- iii. by or under a law, or an instrument in force under a law, of the Commonwealth, a State or a Territory.

3.2 **Continuous service** in relation to a period of an employee's service means service as an employee during the whole of the period, including (as a part of the period) any of the following periods:

- i. a period of authorised leave;
- ii. a period (the casual period) during which the employee was a casual employee, if:
 - a) during the casual period, the employee was engaged on a regular and systematic basis by the Company; and
 - b) during the casual period, the employee had a reasonable expectation of continuing employment by the Company.

3.3 **Day of placement of a child means** the earlier of the following days:

- i. the day on which the employee first takes custody of the child for the adoption;
- ii. the day on which the employee starts any travel that is reasonably necessary to take custody of the child for adoption.

3.4 **De facto spouse** of an employee, means a person who although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and includes a former de facto partner of the employee.

3.5 **Eligible casual employee** is, or will be, a casual employee who has been engaged on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months, and who, but for an expected birth or an expected placement of a child, would have a reasonable expectation of continuing engagements on a regular and systematic basis.

3.6 **Medical certificate** means a certificate signed by a medical practitioner.

3.7 **Medical practitioner** means a person registered, or licensed, as a medical practitioner under a law of a State or Territory that provides for the registration or licensing of medical practitioners.

3.8 **Parental leave** means a period of unpaid leave associated with the birth, stillbirth, premature birth or death of a child of the employee or the employee's spouse or de facto partner or the placement of a child with the employee for adoption.

3.9 **Statutory Paid Parental Leave Scheme** means the government funded paid parental leave scheme provided by the Paid Parental Leave Act 2010.

3.10 **Stillborn child** means a child has the definition contained within the Act.

4 Leave Form

4.1 An eligible employee who wants to apply for a period of parental leave must complete and submit a parental leave application form in accordance with this policy.

5 Unpaid Parental Leave

5.1 Eligible employees may access up to 12 months of unpaid parental leave.

5.2 Accrued Annual Leave or Long Service Leave can be taken as part of the employee's approved unpaid parental leave.

5.3 The period of parental leave may commence for pregnant employees up to 6 weeks before the expected date of birth. If the leave is not birth related, the period of parental leave must start on the date of birth of the child.

5.4 Where a pregnant employee continues to work during the 6-week period prior to the expected due date, the Company may require a medical certificate stating they are fit for work.

6 How to apply for Unpaid Parental Leave

6.1 In order to take unpaid parental leave, employees are required to provide at least 10 weeks' notice prior to starting the leave. This notice must:

- i. be in writing;
- ii. specify the start and end dates of the leave; and
- iii. for birth-related leave, be accompanied by a certificate from a medical practitioner that confirms the pregnancy and the expected date of birth; or
- iv. for adoption leave, be accompanied by evidence that confirms the day of placement or expected day of placement of the child, and that the child is, or will be, under 16 as at the day of placement or expected day of placement of the child.

6.2 Employees must confirm this information at least 4 weeks before the intended start date of the leave.

7 Unpaid Pre-Adoption Leave

7.1 An employee is entitled up to 2 days of unpaid pre-adoption leave to attend any interviews or examinations required in order to obtain approval for the employee's adoption of a child.

- 7.2 Unpaid pre-adoption leave is not available if:
- i. the employee could instead take some other form of leave; and
 - i. the Company directs the employee to take that other form of leave.
- 7.3 The employee must give the Company notice of the taking of unpaid pre-adoption leave.
- 7.4 The notice must be given to the Company as soon as practicable and must advise the Company of the period, or expected period of the leave.
- 7.5 The Company may request evidence of the requirement to attend an interview or examination.
- 7.6 Where an employee fails to provide notice or evidence as required, they will not be entitled to unpaid pre-adoption leave.

8 Flexible unpaid parental leave

- 8.1 An employee may take up to 30 days of unpaid parental leave during the 24-month period starting on the date of birth or day of placement of the child.
- 8.2 Flexible unpaid parental leave is unpaid parental leave and so comes out of the employee's entitlement to 12 months unpaid parental leave.
- 8.3 Flexible unpaid parental leave is available in full to both part-time and casual employees.
- 8.4 The employee must take flexible unpaid parental leave as:
- i. a single continuous period of one or more days; or
 - ii. separate periods of one or more days each.
- 8.5 A member of an employee couple may take flexible unpaid parental leave on the same day as the other member of the employee couple is taking unpaid parental leave only if the total of all periods of unpaid parental leave the first employee takes at the same time as the other employee is no longer than 8 weeks.

9 Members of an employee couple who each intend to take leave

- 9.1 Employees who are members of an employee couple and who both intend to take leave, must take the leave separately in one continuous period. A period of parental leave taken by one member of an employee couple will reduce the overall leave available to the couple. For example, if a spouse is taking 12 weeks parental leave as the primary care giver, this would result in the couple's shared entitlement to 24 months (104 weeks) of parental leave being reduced to 92 weeks.
- 9.2 If the leave is birth-related (other than flexible unpaid parental leave) one

employee's period of leave must start in accordance with the following rules:

- i. if the employee is a female employee who is pregnant with, or gives birth to, the child, the period of leave may start up to 6 weeks before the expected date of birth of the child, or earlier if agreed, but must not start later than the date of birth of the child;
- ii. if subparagraph (i) does not apply, the period of leave must start on the date of birth of the child; and
- iii. any period of unpaid parental leave that the other employee takes must start immediately after the end of the first employee's period of leave.

9.3 If the leave is adoption leave (other than flexible unpaid parental leave):

- i. one employee's period of leave must start on the day of placement of the child; and
- ii. any period of unpaid parental leave that the other employee takes must start immediately after the end of the first employee's period of leave.

9.4 Members of an employee couple can also take concurrent leave. If concurrent leave is taken, the concurrent leave must not be longer than 8 weeks in total. Unless agreed by the Company an employee may take the concurrent leave in separate periods, but each period must not be less than 2 weeks in length.

10 Extending Parental Leave

10.1 Employees who have already taken a period of 12 months of parental leave, may request a maximum of a further 52 weeks leave (104 weeks in total), unless the employee is a member of an employee couple. This request to extend leave must be done with a no less than 4 weeks written notice prior to the end of the initial period of parental leave. Upon receipt of this request, the Company will review the request and advise the employee in writing if the extension is approved within 21 days after the request is made. The business may refuse the request on reasonable business grounds and must provide the response in writing and include the details of the reason for the refusal.

11 Special Parental Leave

11.1 Female employees are entitled to a period of unpaid special maternity leave if they are not fit for work during that period because the employee has a pregnancy-related illness or the pregnancy ends after a period of gestation of at least 12 weeks other than by birth of a living child. In these circumstances the employee may be eligible for unpaid special parental leave as is considered necessary by a medical practitioner.

11.2 If an employee requires a period of unpaid special maternity leave, they should

provide notice to their manager as soon as possible including details on the expected duration of their leave.

- 11.3 If the special maternity leave is taken for a pregnancy related illness, it ends either when the pregnancy ends or the illness ends (whichever is earlier).
- 11.4 Employees may be required to provide evidence to support their application for special parental leave (e.g. a medical certificate).

12 Transfer to a safe job

- 12.1 If a medical practitioner advises against a female employee continuing her present job because of illness resulting from her pregnancy or because of job hazards, then, if practicable, the employee will be transferred to a safe job at the same rate of pay until parental leave commences.
- 12.2 The Company will transfer an employee to a suitable safe job should there be a position available that:
 - i. has the same ordinary hours of work as the employee's present position; or
 - i. a different number of ordinary hours agreed to by the employee.
- 12.3 If there is no appropriate safe job available, then the employee may be entitled to paid no safe job leave for the risk period. Paid no safe job leave is paid at the ordinary rate of pay for the employees ordinary hours of work.

13 Keeping in touch days

- 13.1 Whilst on parental leave employees will have access to 10 keeping in touch days. Keeping in touch days provides employees with the opportunity to stay up to date with what is happening in the business and in the employee's team whilst the employee is on leave. Employees are entitled to 10 keeping in touch days during parental leave, without it affecting the employee's unpaid parental leave entitlement.
- 13.2 On a keeping in touch day, employees are entitled to be paid their normal wage for the day (or part day) of work.
- 13.3 Upon consultation and agreement with the employee's manager, the employee can choose to either work 1 keeping in touch day at a time, or work the entire 10 days in a single, continuous period.

14 Effect of stillborn or death of child on unpaid parental leave

- 14.1 If a child is stillborn or dies during the first 24-months of life and an employee would have been entitled to unpaid parental leave that is birth-related leave if the child had been born alive, then the employee is still entitled to take unpaid parental leave.

14.2 Alternatively, an employee may:

- i. before the period of leave starts, give the Company written notice cancelling the leave; or
- ii. if the period of leave has started, give the Company written notice of the specific day the employee wishes to return to work which must be at least 4 weeks after the Company receives the notice.

14.3 An employee who experiences a stillbirth or death of a child may be entitled to take compassionate leave while on unpaid parental leave.

15 Hospitalised children

15.1 An employee may agree with the Company to pause the period of unpaid parental leave in circumstances where the child is required to be hospitalised after birth because:

- i. the child was born prematurely; or
- ii. the child developed a complication or contracted an illness during gestation period; or
- iii. the child developed a complication or contracted an illness following its birth.

15.2 This means that employees may return to work while their child is in hospital and the period back at work will not be deducted from an employee unpaid parental leave balance.

15.3 The period back at work must start after the birth of the child and will end at the earliest of the following:

- i. the time agreed by the employee and the Company;
- ii. the end of the day of the child's first discharge from hospital;
- iii. if the child passes away before being discharged, the end of that day the child dies.

15.4 In order for this section to be of effect, an employee must have provided the Company the appropriate notice of the taking of a period of unpaid parental leave (the original period).

15.5 The employee must give the Company evidence that the child is hospitalised or that the employee is fit for work.

16 Returning from Parental Leave

16.1 Employees must confirm their return from parental leave no less than 4 weeks prior

to the agreed date. It is the employee's responsibility to confirm this with their manager. Employees returning from parental leave are entitled to the same position they held prior to commencing parental leave provided this position still exists. Alternatively, the Company may, on a request made by the employee, agree to placement in a different role taking into account the changes in the employee's circumstances.

17 Breach of this policy

17.1 Any employee who is found to have breached this policy may be subject to disciplinary action, up to and including termination of employment.

Due to the complexity and recent changes to Parental Leave entitlements, terms & Conditions, it is advisable to refer to the latest information available online at the following Fair Work government site at any time.
<https://www.fairwork.gov.au/leave/maternity-and-parental-leave>