



Government Sector Labour Relations

Shaping a contemporary government sector workforce

Circular

Circular 5/2023 – Minimum Unpaid Parental Leave Provisions

Background

1. The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* and *Fair Work Legislation Amendment (Protecting Worker Entitlements) Act 2023* have amended unpaid parental leave (UPL) provisions under the *Fair Work Act 2009* (Cth) (FW Act).
2. UPL under Division 5 of Part 2-2 and related provisions of the FW Act apply to the WA public sector.

Summary of Changes

3. The main changes are as follows:
 - a. both parents can take up to 12 months of UPL (and request an extension of up to 12 months), regardless of the amount of leave taken by the other parent;
 - b. employee couples are no longer prevented from accessing more than 8 weeks UPL concurrently;
 - c. UPL can start at any point during the 24 months after birth or placement of the child;
 - d. employees taking UPL can access up to 100 days of their 12 month leave entitlement flexibly (including single days) during the 24 month period after birth or placement; and
 - e. pregnant employees can access flexible UPL in the six weeks before the expected date of birth of their child.

Next Steps

4. Government Sector Labour Relations is reviewing industrial instruments to ensure consistency with provisions of the FW Act.
5. As an interim measure:
 - a. refer to the [Fair Work Ombudsman website](#) for information on minimum UPL entitlements; and
 - b. ensure your organisation manages parental leave consistent with statutory and industrial instrument provisions – whichever provides a better entitlement for an individual employee.
6. Please note that there have also been changes to the national paid parental leave scheme for a child born or adopted from 1 July 2023. More information about these changes can be found on the Services Australia website at <https://www.servicesaustralia.gov.au/parental-leave-pay>
7. Please contact your [Labour Relations Adviser](#) if you require further information on unpaid parental leave.

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