



# Parental Leave

Staff on Parental Leave present numerous problems for payroll and add some complexity when valuing accrued leave, non-return termination and general understanding of the pitfalls (*hopefully, but unlikely, to be resolved when the Holidays Act review is completed*).

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**WARNING:** It is fine to pay out any residual annual leave balance (*the employee's Entitlement from their leave balances*) before an employee goes on Parental Leave, but we advise you **DO NOT PAY OUT ANY LEAVE IN ADVANCE** (*e.g. do not use or pay out their estimated leave balance or termination value*).

If you do so then you will be paying for that leave at current Holidays Act rates (*probably too much*), you expose your employer to an additional cost of at least 8% for the advanced leave, and if the employee doesn't return to work you may not be able to recover the full value of the advanced leave paid.

## What is Parental Leave?

**Parental Leave encompasses five types of leave:** Maternity leave, Partner's/Paternity leave, Special leave, Preference leave and Extended leave.

Parental Leave is also followed by a further 12 months "shadow" period.

There are strict criteria for requesting and responding to Parental Leave requirements (*must always be in writing*). All forms are available from the MBIE (*aka Department of Labour*) website.

The following "rules" are subject to quite frequent revision and interpretation, so please always refer to MBIE for correct information. The following is provided as general information only.

- The Maternity portion of Parental Leave is paid for by the Government - not by the Employer (*unless you have an agreement to do so, in which case it's payable and has no effect on entitlement to Parental Leave payment from IRD*).
- Special leave is additional unpaid leave (*up to 10 days during pregnancy*)
- Partner's/Paternity Leave is unpaid leave (*up to 2 weeks*)
- Extended leave is unpaid leave for the remainder (*up to a total of 52 weeks, except where Preference leave applies*).
- Preference leave is provided as an additional unpaid period of continuous service of up to 26 weeks after Parental leave has ended in cases where the employee's original job could not be kept open. If the employee's job could not be held open (*get a lawyer*) then allow a further 26 weeks unpaid Preference leave after the Parental leave period has expired in case of re-employment.

Generally, the employee can be absent for up to 12 months.

## Some pitfalls to be aware of

- All annual leave accrued during both the Parental Leave period and the following 12 month "shadow" period (*so typically 8 weeks*) is payable using special Average Weekly Earnings rules calculated at the time the annual leave is used. goPayroll tracks these accruals automatically (*provided you have set the employee as being on Parental Leave*).

This weekly rate is often considerably less than normal annual leave rates! This rule uses a fixed divisor of 52 weeks, so an employee who has been paid \$15000 in the last 52 weeks would have each week of leave paid out at \$288.46 per week. Similarly, if they only received \$1000 in the last 12 months then each week would be worth only \$19.23!

- If an employee requests that a week of accrued leave be "cashed-up" then as far as MBIE are concerned this does NOT affect continuity of their Parental Leave (*and the rules around cashing up require a positive leave balance anyway*).
- On the other hand, if the employee is paid any annual leave (*or any other type of leave or earnings, other than as approved by MBIE*) during any section of Parental Leave, then the current Parental Leave section ENDS at that point. You should ALWAYS CHECK if a payment made during Parental Leave will impact the employee's entitlement to ongoing Maternity Leave payments.

**Recommendation:** any employee commencing Parental Leave should request payment of their unused annual leave (*it does not affect their entitlement to the Maternity Leave payment*).

### **Do NOT pay out their termination value or estimated leave accrued value!**

This avoids any potential negative valuation effects from extended periods of absence, partial return to work or resignation etc., and ensures the employee receives the full value of legally accrued leave.

## Setting up Parental Leave

When the employee's Parental Leave is confirmed (*you have the completed documentation*), set up their Parental Leave in *Staff..Contract..Misc..Parental Leave*

This can be done as soon as you know the leave details and, once set, you do not need to do anything further unless the return to work date changes for any reason

Misc contract settings 48

Required to work overtime? Agreed weekly value

Rostered hours of work? Agreed daily value

Working proprietor? Termination %

ACC code  Payslip password

**Leave Without Pay or Parental Leave**

Leave type

Leave start date  Leave end date

Select the leave type (*Parental Leave*), enter the Parental Leave Start and End dates (*these are REQUIRED, both legally and to ensure the PL period and it's shadow period are recognised*).

The Parental Leave status will change automatically at the end of the Shadow period (*this is important - do not change the status unless advised to do so by the helpdesk*).

Whilst the employee is on Parental Leave any Annual Leave entitlements will continue to accrue on their anniversary date. The annual leave accruals are flagged internally so goPayroll knows that it accrued during PL or the shadow period.

The balance of any annual leave accruals subject to PL AWE rules is shown in the leave balances dialog (*right-click the employee's name and select Leave balances*).

Leave Balances: Sally Jones

Leave type	Anniv date	Entitlement	Estimate	Valuation
Annual leave	13-Apr-23	5.8	6.063 weeks	4064.92
Parental unused	4	4		
Parental valuation	615.4			
Estimated holiday	\$43.728/hr		92.959 hours	
Rain leave	25-Aug-15	0	0 days	0.00
Sick leave	25-Aug-15	39	39 days	13643.14
Ordinary Weekly ear...	1749.12			
Weekly avg (52 weeks)	153.85			

[Learn more about leave balances](#)

## Payment for leave accrued in the Parental Leave and subsequent "shadow period"

The Parental Leave and Employment Protection Act overrides the requirements of the Holidays Act.

If the employee becomes "entitled to an annual holiday on pay" (*this means they have accrued 4 weeks annual leave*) during their Parental Leave period and the following 12 months "shadow" period (*up to 2 years total - that's 8 weeks of annual leave*) then that leave is to be paid at the average weekly earnings for the 12 months prior to the period in which the leave is taken (*using a fixed divisor of 52 weeks*).

This potentially de-values what a week of leave is worth (*as all the empty weeks contribute to the average*).

The valuation rules "expire" at the end of the PL shadow period and any residual entitlement then becomes subject to normal Holidays Act valuation rules.

Here's a typical example of SmoothPay's Annual Leave Assistant where the employee still has a balance of annual leave accrued during PL or it's shadow period:

Leave and Termination Wizard for Jones, Sally

Annual leave (Holidays Act compliant)

Consume 1 weeks  Cash-up?

Consume 0.0000 days

Consume 0.0000 hours

Consume remaining entitlement of 5.8 weeks

Consume estimated balance to date of 6.063 weeks  Termination value

Consume remaining Parental Leave Accrued Leave of 4 weeks

Ordinary weekly earnings (OWE) \$1749.12 [4wk avg \$2000.00]  
Average weekly earnings (AWE) \$153.85  
Agreed weekly value \$0.00  
Parental Accrued Leave weekly value \$153.85

Cancel Permanent, Full time, Waged, Regular hrs OK

**NOTE!** In order to consume leave that accrued whilst on Parental Leave (*or it's shadow*) then the leave being consumed **MUST** be in weeks - the other options will always use contract or Holidays Act rules. This is by design and influenced by weeks being the only legitimate measure of annual leave.

## Termination with Parental Leave accrued balance

If an employee leaves and still has unused annual leave that accumulated whilst on Parental Leave, then simply prepare and process a Final Pay as usual (*make any current pay entries then hit the Termination tool*). Any unused leave will be split out at appropriate values automatically.

## Employee resigns before returning to work

If an employee resigns before returning to work then s46 of the Act provides for one of the following:

1. If there is an agreement in place to deal with this situation (*e.g. in their contract*) then follow the terms of that agreement, otherwise
2. Employment is deemed to have ended at the date the employee started Parental Leave and goPayroll's termination tool will automatically void any annual leave accruals during the Parental Leave period and calculate a correct final pay entitlement (*note, it may be negative if you allowed the employee to consume more leave than their entitlement balance*)

## Related Topics and Resources

### Our helpdesk

Payroll administration is not a simple job! It requires knowledge of an enormous amount of legislation and generally accepted principles developed over decades. It's easy to be misled by "common knowledge" (*e.g. accruing leave in hours or days is incorrect etc. yet it's still prevalent in the majority of popular payroll applications - all completely illegal, misleading and inaccurate*) and end up with your leave processing and records in a real shambles.

goPayroll provides a complete range of guides and tutorials for all aspects of the software available on our website and our HelpDesk provides expert advice on using goPayroll whenever you need it.

### Forms, Publications and Websites

The best source of information related to Parental Leave is the Ministry of Business, Innovation and Employment (MBIE, also known as the Department of Labour, employment NZ) - for a full range of information and forms see: <https://www.employment.govt.nz/leave-and-holidays/parental-leave/>

IRD also get into the act and provide more information about their role here: <https://www.ird.govt.nz/topics/paid-parental-leave>

Some (not all) Employers Associations are worth their weight in gold, especially when it comes to employment procedures. For definitive advice, you must refer to MBIE, though sometimes an Employers Advocate can provide practical and cost saving advice.

The Holidays Act (and amendments) and Parental Leave and Employment Protection Act determine how leave should be accrued, valued and consumed. All NZ legislation is available online.

Wolters Kluwer (*previously CCH*) produce two superb reference guides, *New Zealand Employment Law Guide* and *Guide to Holidays and Leave*. These can be ordered at their website <https://books.wolterskluwer.co.nz/collections/hr-and-employment>