

*By Law-10 - Maternity Leave - 12 Month Option*

PERIOD OF MATERNITY LEAVE

10. (1) The Chief Executive Officer shall grant to an employee who is pregnant, subject to clause (2) and clause (22), a period of leave for maternity purposes not exceeding 52 weeks.
10. (2) Where an employee is eligible for maternity leave the Chief Executive Officer may grant leave but shall not grant leave beyond a date which, but for the grant of leave, would have been the employee's cessation date or end of tenure.
10. (3) Subject to clause (4), an employee referred to in clause (1) or (2) shall commence the absence on leave 6 weeks before the expected date of birth and the absence shall extend 8 weeks after the actual date of birth.
10. (3A) With exception of the provision contained in clause (4) the commencement date of maternity leave may not be deferred under any circumstance and once commenced the paid maternity leave period cannot be interrupted by any other form of leave.
10. (4) The Chief Executive Officer may permit the employee referred to in clause (1) or (2) to commence leave closer to the expected date of birth or return to duty less than 8 weeks after the date of birth where -
  - (a) the employee produces to the Chief Executive Officer medical evidence of the employee's fitness to continue or resume duty; and
  - (b) the Chief Executive Officer approves the employee's continuance on duty or return to duty.

DOCUMENTS IN SUPPORT OF APPLICATION

10. (5) An employee shall furnish to the Chief Executive Officer the following documents in support of an application for maternity leave:
  - (a) not less than 3 months before the commencement of leave, medical evidence stating the estimated date of confinement to establish the commencement date of the leave; and
  - (b) the child's birth certificate or extract of birth as soon as it is available.

PAYMENT DURING MATERNITY LEAVE

10. (6) Where an employee has been employed continuously in the Public Sector for 12 months before commencing leave in accordance with clause (1), (2) or (3), the first 14 weeks of the employee's absence from duty will be with pay.
10. (7) Where an employee's qualifying period of 12 months' service referred to in clause (6) ends during the 14 week period commencing 6 weeks before the estimated date of confinement, payment shall be made only for that part of the 14 week period occurring after the end of the qualifying period.

Issued 1 December 2004

## UTILISATION OF LEAVE CREDITS

10. (8) Within a total period of 52 weeks after the employee commences maternity leave and after the first 14 weeks of maternity leave, whether paid or unpaid, the Chief Executive Officer shall, on application by an employee, approve -
- (a) the use of accrued recreation leave or long service leave or both; or
  - (b) the employee's absence on leave without pay, provided that paid leave is utilised prior to commencing leave without pay.
10. (9) An employee shall not be granted sick leave in respect of breast feeding or for similar child care purposes but an employee may utilise accrued sick leave entitlements after furnishing to the Chief Executive Officer medical evidence in accordance with By-law 7 (1).

## EMPLOYMENT WHILE ON MATERNITY LEAVE

10. (10) Subject to the Chief Executive Officer's approval, an employee on maternity leave without pay may return to duty for any period with the Agency, or another Agency.
10. (11) An employee on maternity leave without pay may engage in outside employment in accordance with section 61 of the Act.
10. (12) Employment under clauses (10) and (11) shall -
- (a) not prevent the employee from recommencing maternity leave; and
  - (b) not extend the maximum period of maternity leave prescribed under clause (1); and
  - (c) be undertaken during the period prescribed under clause (3) only where the employee produces to the Chief Executive Officer medical evidence of the employee's fitness to undertake employment.

## EFFECT OF LEAVE ON SERVICE

10. (14) The whole of the period of paid maternity leave under this By-law shall count as service for all purposes.
10. (15) Subject to clause (15B), unpaid leave granted under this By-law shall not count as service for any purpose.
10. (15B) With the exception of any period during which the employee is engaged in outside employment during normal working hours, unpaid leave resulting from the application of clause (7) shall count as service for all purposes.

## PREMATURE BIRTH, TERMINATION OF PREGNANCY, STILLBIRTH AND DEATH

10. (16) Where an employee's child is born prematurely after the commencement of maternity leave, the entitlement to and period of paid and unpaid leave remain unchanged.

10. (17) Where an employee's child is born prematurely before the scheduled commencement of maternity leave, the leave shall be deemed to have commenced on the date of the child's birth.
10. (18) Where an employee's pregnancy is terminated before the scheduled commencement of maternity leave but not more than 20 weeks before the estimated date of confinement, maternity leave shall be deemed to have commenced on the date of termination and may continue subject to this By-law.
10. (19) Where an employee's pregnancy is terminated more than 20 weeks before the estimated date of confinement, the employee shall have no eligibility for maternity leave and any leave required as a result of the termination may be granted under the normal provisions applying to the type of leave applied for.
10. (20) Where an employee's child is stillborn less than 20 weeks before the estimated date of confinement or after that date, or dies during the period of maternity leave, leave in accordance with this By-law continues unless the employee elects to resume duty before the expiration of 52 weeks maternity leave.
10. (21) The return to duty by an employee referred to in clauses (16) to (20) shall be subject to the provisions of clause (4).

#### EFFECT OF LEAVE WITHOUT PAY

10. (22) Where an employee has -
  - (a) applied for leave without pay for a period exceeding 6 weeks;
  - (b) been granted approval for the leave; and
  - (c) utilised at least 6 weeks of the leave,

the employee shall not be entitled to apply for maternity leave under this By-law until the approved period of leave without pay has expired.
10. (23) Where an employee's period of leave without pay ends during the 14 week period commencing 6 weeks before the estimated date of confinement, payment shall only be made for the part of the 14 week period occurring after the end of the leave without pay.

#### *By-Law 11 Maternity Leave - 6 Year Option*

#### PERIOD OF MATERNITY LEAVE

11. (1) The Chief Executive Officer may grant maternity leave under this By-law to an employee who is pregnant where the employee has completed not less than 12 months service before commencing the leave.
11. (2) Subject to clause (3), an employee who is pregnant shall cease duty and commence maternity leave not later than 6 weeks before the estimated date of confinement and shall remain absent from duty on maternity leave for a period of 14 weeks which shall be unpaid leave except to the extent that clause (7) applies.

Issued 1 December 2004