PARENTAL LEAVE POLICY

1. BACKGROUND

1.1 This Policy deals with unpaid parental leave which is governed by:

a) the *Fair Work Act 2009* (Cth) ('**FW Act**');

b) the Australian Government Paid Parental Leave scheme governed by the *Paid Parental Leave Act 2010* (Cth) ('**PPL Act**') incorporating changes as a result of the *Paid Parental Leave and Other Legislation Amendment (Dad and Partner Pay and Other Measures) Act 2012* (Cth);

c) the *Fair Work Amendment Act 2013 (*Cth); and

d) where applicable company funded paid parental leave.

1.2 Hope Diving Services Australia Pty Ltd ('HDSA Group') provides parental leave in accordance with the aforementioned legislation, as varied from time to time.

1.3 Parental leave is a general term encompassing birth-related and adoption-related leave.

2. COMMENCEMENT OF POLICY

2.1 This Policy will commence from 08/11/2021. It replaces all other parental leave policies (whether written or not), however, it does not create or confer any obligation, entitlement or benefit on any employee who is on parental leave at the time this Policy came into operation.

3. APPLICATION OF THIS POLICY

3.1 This Policy applies to employees of HDSA Group. It does not form part of any employee's contract of employment.

3.2 This Policy largely summarises the National Employment Standards on parental leave contained in the FW Act, but is not intended to override that standard or provide any legal entitlements.

4. DEFINITIONS

4.1 'Appropriate safe job' is a job that has the same ordinary hours of work as the employee's present position, or a different number of hours, as agreed to by the employee.

4.2 'Base Rate of Pay' means the rate of pay the employee receives for their ordinary working hours. It does not include any of the following:

a) Incentive based payments and bonuses;

b) Loadings;

c) Monetary allowances; and

d) Overtime or penalty rates.

4.3 'Child' includes an adopted child, stepchild and an adult child.

4.4 'Dad and Partner Pay' is a one-off payment made to eligible fathers and partners that relates to a period of up to 2 weeks. The period is called the person's DAPP period. The person's DAPP period may be the full 2 weeks or a lesser period.

4.5 'De facto partner' 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 difference sexes) and includes a former de facto partner of the employee.

4.6 'Employee couple' means two employees who are spouses or de facto partners of each other.

4.7 **'**Immediate family**'** means:

(a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or

(b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.

4.8 'PPL instalments' are the payments made to the employee pursuant to the Australian Government Paid Parental Leave scheme which provides eligible working mothers and initial primary carers paid leave for the duration they are not working, to a maximum of 18 weeks at the National Minimum Wage.

4.9 'Spouse' includes a former spouse, a de facto spouse or a former de facto spouse.

5. ELIGIBILITY FOR PARENTAL LEAVE IN ACCORDANCE WITH THE FW ACT

5.1 An employee, other than a casual employee, will be eligible to take unpaid parental leave if the employee has (or will have) completed at least 12 months' continuous service with HDSA Group immediately before:

a) the date of birth of the child, or expected date of birth (for birth-related leave); or

b) the day of placement of the child, or expected day of placement (for adoption-related leave).

5.2 For employees accessing adoption-related leave, the child must, at the day of placement or expected day of placement:

a) be under 16;

b) not have lived continuously with the employee for at least 6 months; and

c) not be a child of the employee's spouse or de facto partner.

<u>Casual employees</u>

5.3 A casual employee will be eligible to take unpaid parental leave if:

a) the employee has been (or will be) employed by HDSA Group on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months prior to the taking of parental leave; and

b) would have a reasonable expectation of employment by HDSA Group on a regular and systematic basis but for the birth, the expected birth, the placement or the expected placement.

5.4 Eligibility for all employees is also subject to employees meeting the relevant documentation requirements outlined below.

6. CONCURRENT LEAVE

Concurrent leave from date of birth

6.1 If an employee wishes to take a period of leave at the same time as their spouse, that concurrent period must not be for more than 8 weeks, which may be taken from the date of birth (for birth-related leave) or the day of placement (for adoption-related leave) (Concurrent Leave). Employees must give 10 weeks' notice of their intention to take concurrent parental leave and the concurrent leave is deducted from the total entitlement to unpaid parental leave. HDSA Group may extend the period of Concurrent Leave at its discretion.

Extended concurrent leave following the birth

6.2 If an employee wishes to take a longer period of concurrent leave or take multiple periods of concurrent leave at the same time as their spouse, that concurrent period must not be for more than 8 weeks, which may be taken from the date of birth (for birth-related leave) or the day of placement (for adoption-related leave) (Short Parental Leave) or in periods of at least two weeks each with four weeks' notice for the second and subsequent periods.

7. PERIOD OF PARENTAL LEAVE – THE 12 MONTH LIMIT

7.1 Except as noted below, the amount of parental leave that an eligible employee is entitled to take is 12 months (the Guarantee Period), less any leave taken as outlined below:

a) any period of leave that the employee has taken concurrently with the other member of the employee couple;

b) any period of parental leave taken by the employee's spouse;

c) any period of birth-related leave the employee has been required to take under the 'Timing of Parental Leave' section of this Policy;

d) any period of paid leave the employee has taken while taking unpaid parental leave (called the '**Deducted Leave**').

7.2 An employee may not take paid personal/carer's leave or be paid community service leave while taking unpaid parental leave.

Continuous period

7.3 With the exception of special maternity leave, concurrent leave and keeping in touch days, any parental leave taken must be taken in one continuous period unless otherwise agreed between HDSA Group and the employee.

8. EXTENDING UNPAID PARENTAL LEAVE WITHIN THE GUARANTEE PERIOD

8.1 An employee who initially applied for a period of less than the Guarantee Period may extend once, without requiring the consent of HDSA Group, the period of unpaid parental leave by giving HDSA Group written notice of the extension at least 4 weeks before the end of the original leave period (the First Extension).

8.2 The notice must specify the new end date for the First Extension. The total period of leave, including the First Extension and all Deducted Leave, must not total more than 12 months.

8.3 During the Guarantee Period, if an employee wishes to extend their period of parental leave after the First Extension, they may do so only with HDSA Group's consent.

9. EXTENDING UNPAID PARENTAL LEAVE FOR UP TO AN ADDITIONAL 12 MONTHS AFTER THE EXPIRATION OF THE GUARANTEED PERIOD

9.1 An employee may request that their period of unpaid parental leave be extended for up to an additional 12 months following the expiry of the Guarantee Period (the Extended Leave Period).

9.2 In order to request an extension past the Guarantee Period, the employee must submit the request in writing to HDSA Group at least 4 weeks before the end of the Guarantee Period. That request must include any particulars nominated by HDSA Group.

9.3 Employees should be aware that HDSA Group does not have to grant the request for the Extended Leave Period. HDSA Group is entitled to refuse the request on reasonable business grounds. If HDSA Group refuses the request, it will write to the employee detailing the reasons for the refusal.

9.4 A member of an employee couple who wishes to request the Extended Leave Period must also specify in their request:

a) the length of the proposed extension;

b) the amount of unpaid parental leave that the other member of the employee couple has taken up to the time of making the request;

c) the amount of time that the other member proposes to take after submission of the request;

d) that they will be responsible for the care of the child during the Extended Leave Period;

e) that the amount of Extended Leave Period for the couple will not exceed 12 months.

10. REDUCING UNPAID PARENTAL LEAVE

10.1 If HDSA Group agrees, an employee whose period of unpaid parental leave has started may reduce the period of unpaid parental leave he or she takes.

11. TIMING OF PARENTAL LEAVE

Birth-related leave

11.1 Birth-related leave for a female employee who is pregnant may start up to 6 weeks before the expected date of birth of the child. Otherwise, the employee's leave must not start later than the day of the birth of the child, or immediately after the parental leave of their spouse.

11.2 HDSA Group may ask that the pregnant employee provide a medical certificate or other evidence that would satisfy a reasonable person stating:

a) that the employee is fit for work, and

b) if the employee is fit for work — whether it is inadvisable for the employee to continue working, considering illness or risks arising out of the pregnancy or hazards connected with the position.

11.3 HDSA Group may require the pregnant employee to take unpaid parental leave during the 6 week period before the expected date of birth if:

a) the employee has not provided the requested medical evidence within 7 days after the request; or

b) the employee has provided the medical evidence but the evidence states that it is inadvisable for her to continue in her present position during the stated risk period, and there is no safe job available to transfer the employee to.

Adoption-related leave

11.4 Any employee who applies for and is granted unpaid adoption-related leave must, as a condition of the leave, start the leave on the day of the placement of the child. However, if the other member of the employee couple has responsibility for the care of the child from the day of the placement, the employee may take the unpaid adoption related leave from the date their partner's leave finishes.

11.5 An employee may also access up to 2 days' unpaid pre-adoption leave if required to attend an interview or an examination in order to obtain approval for the adoption and the employee cannot take some other form of leave.

12. NOTICE AND EVIDENCE

12.1 An employee who wishes to take parental leave must submit a Request for Parental Leave Form to HDSA Group to provide notice of the intention to take parental leave and the intended start date and end dates of the leave:

a) at least 10 weeks before starting the leave, or

b) if 10 weeks' notice is not practicable, as soon as is practicable.

12.2 At least 4 weeks before the intended start date, an employee is required to confirm their intended start and end dates of the leave.

12.3 HDSA Group will consider the request and whether the employee is eligible for leave and will, advise the employee whether the request is granted or declined.

12.4 At the time an employee submits a request for parental leave, they must, if requested, give HDSA Group evidence of:

a) the date of birth/expected date of birth — (for birth-related leave); or

b) the day of placement/expected day of placement and that the child is or will be under 16 as at this day (for adoption-related leave).

12.5 If any of the information provided by an employee who applies for parental leave changes, the employee must notify HDSA Group of the change as soon as practicable.

13. ENDING UNPAID PARENTAL LEAVE

13.1 An employee who takes parental leave should be aware that HDSA Group may give the employee 4 weeks' notice directing the employee to return to work if the employee ceases to be responsible for the care of the child.

14. UNPAID SPECIAL MATERNITY LEAVE

14.1 Special Maternity Leave is leave taken by a female employee because she is suffering from a pregnancy related illness or whose pregnancy ended (other than by the birth of a living child) within 28 weeks of the expected date of birth.

14.2 Special Maternity Leave can arise during pregnancy (in circumstances of pregnancy-related illness) or at the end of pregnancy if the pregnancy ends other than by the birth of a living child.

14.3 An employee who wishes to apply for unpaid special maternity leave should submit a Request for Leave form together with a medical certificate outlining the period of the absence.

Special maternity leave taken does not affect an employee's entitlement to unpaid parental leave or the "guarantee period" of parental leave.

15. TRANSFER TO A SAFE JOB

15.1 HDSA Group may direct a pregnant employee to provide medical information concerning her pregnancy to determine whether it is safe for the employee to perform her position and/or work during her pregnancy.

15.2 If an employee provides a medical certificate stating that she is unfit to work, she may be entitled to unpaid special maternity leave, as outlined above. Alternatively, HDSA Group will consider appropriate arrangements having regard to the particular circumstances.

15.3 If an employee provides a medical certificate stating that she is fit to work, but that it is inadvisable for her to continue in her present position because of illness, or risks arising out of her pregnancy, or hazards connected with that position, HDSA Group:

(a) may transfer the employee to a safe job if there is an appropriate safe job available. The employee's terms and conditions of employment will otherwise remain unchanged; or

(b) may require the employee to take paid leave. The paid leave will cease at the end of the risk period in the medical certificate, when the employee gives birth, or when the pregnancy otherwise ends. This leave will be paid at the base rate of pay for the employee's ordinary hours in the risk period.

15.4 In the event that an employee who:

(a) is not eligible to take a period of unpaid parental leave; and

(b) is unable to perform their job; and

(c) there is no 'safe job' to be transferred into;

(d) then they will be entitled to take a period of unpaid 'no safe job' leave.

15.5 In the event that an employee who:

(a) is eligible to take a period of unpaid parental leave; and

(b) is unable to perform their job; and

(c) there is no 'safe job' to be transferred into;

(d) then they will be entitled to a period of paid 'no safe job' leave.

15.6 In order to be entitled to transfer to a safe job and/or 'no safe job' leave (paid or unpaid) in these circumstances, must comply with the documentation requirements outlined in this Policy.

16. RETURN TO WORK FROM PARENTAL LEAVE

16.1 Upon return to work from parental leave, the employee is entitled to:

(a) return to the position that they held immediately before going on parental leave; or

(b) if the employee was promoted or voluntarily transferred to a new position during the period of parental leave, be employed in the new position; or

(c) if, before commencing parental leave, the employee began working part time because of her pregnancy (or because of his spouse or de facto partner's pregnancy) or was transferred to a safe job because of her pregnancy, to the position the employee held immediately before working part time or being transferred to a safe job; or

(d) if that position no longer exists, an available position for which the employee is qualified and suited nearest in status and pay to the pre-parental leave position.

17. REQUEST FOR FLEXIBLE WORKING ARRANGEMENTS

17.1 An employee that has returned from parental leave may request in writing a flexible working arrangement.

17.2 The employer will consider the request and respond in writing within 21 days to advise the employee of the outcome of the request.

17.3 Flexible working arrangements may take any form but typically relate to the hours of work and arrangements for the performance of work including examples such as the timing of meal breaks, span of hours, a temporary or permanent shift to part-time employment or working from home arrangements.

18. REPLACEMENT EMPLOYEES

18.1 HDSA Group may engage a temporary replacement for an employee who is on parental leave. The replacement employee will be advised that the engagement to do that work is temporary and advised of the employee's right to return to their former position.

19. 'KEEPING IN TOUCH IN TOUCH DAYS' DURING PARENTAL LEAVE

19.1 An employee on parental leave may return to the workplace and perform work during the period of parental leave for the purposes of keeping in touch with work.

19.2 The employee must not take more than ten 'keeping in touch days' during a period of paid parental leave.

19.3 An employee must be paid as they normally would during the keeping in touch days.

19.4 Employees may work ten 'keeping in touch days' in a row or spread them out and take them individually.

19.5 Keeping in touch days have to be taken at least 42 days after the birth of the child. An employee can apply to their employer to take the 'keeping in touch days' earlier than 42 days after the birth of the child. If an employee requests a keeping in touch day earlier than 42 days, it cannot be taken earlier than 14 days after the birth.

20. CONTACT DURING LEAVE

20.1 HDSA Group may be required to consult with employees whilst they are on parental leave about significant work matters that directly impact on them. It is therefore important that an employee informs HDSA Group of their contact details no less than 2 weeks before the commencement of leave and as and when those details change during the period of parental leave.

21. OBLIGATIONS DURING LEAVE

21.1 The employee must not engage in any conduct during the period of parental leave which is inconsistent with the employee's contract of employment or their general employee obligations to HDSA Group. This includes but is not limited to engaging in other employment and using or disclosing confidential information.

21.2 Employees can also obtain further guidance regarding their entitlements to parental leave and obligations to HDSA Group during any period of parental leave from Human Resources.

22. PAID PARENTAL LEAVE UNDER THE PPL ACT

22.1 An employee may be entitled to paid parental leave in accordance with the *Paid Parental Leave Act 2010 (Cth)* ('PPL Act')

22.2 The PPL Act is an Australian Government scheme which provides eligible working mothers and initial primary carers paid leave for the duration they are not working, to a maximum of 18 weeks at the National Minimum Wage ('PPL Instalments').

The PPL scheme also provides eligible working dads or partners (including adopting parents and same-sex couples) to receive up to two weeks' pay at the National Minimum Wage after the birth of their baby if born or adopted.

22.3 Eligible working dads or partners must not be working during this time or must be on unpaid leave.

22.4 Employees are required to make their own request for PPL Instalments and/or DAPP to the Department of Human Services who will make an independent assessment of an employee's eligibility. More detailed information can be found at the Department of Human Services website.

22.5 Employees are encouraged to obtain independent advice in relation to the Australian Government's PPL scheme.

23. CONTINUITY OF SERVICE AND ACCRUALS

23.1 Any period of parental leave does not break an employee's continuity of service. However, a period of parental leave does not count as service for the calculation of entitlements and benefits. This includes calculation of payment in lieu of notice, redundancy/severance payments and bonuses and incentives.

23.2 During the period of time while the employee is absent from work on parental leave and receiving PPL Instalments, the employee will not accrue any form of paid leave including annual leave, personal carers leave and long service leave.

23.3 The PPL Act provides for 'Keeping in Touch' days which allow an employer and an employee to agree upon attendance of up to a maximum of 10 occasions whilst on parental leave make-up pay without affecting the break of unpaid parental leave. Employees who extend their unpaid leave by 12 months are entitled to a further 10 'Keeping in Touch' days.

23.4 Employees may request 'Keeping in Touch' days a fortnight from the birth or placement of their child, but requires the employer to wait 42 days before asking the employee for such a day.

If an employee works on a 'Keeping in Touch' day, that employee is entitled to payment under their relevant contract or industrial instrument.

24. FORMS

24.1 The forms referred to in this Policy can be obtained from Human Resources.

Variations

HDSA Group reserves the right to vary, replace or terminate this policy from time to time.