



STANDARD INTERPRETATION GUIDELINE 2019-05

INCOME TAX ACT 2015 – INCOME TAX (EMPLOYMENT INCENTIVES) REGULATIONS 2016 – EMPLOYMENT INCENTIVES

This Standard Interpretation Guideline (SIG) sets out Fiji Revenue and Customs Service's (FRCS) policy and operational practice in relation to employment incentives provided under the Income Tax (Employment Incentives) Regulations 2016.

The SIG is issued with the authority of the Chief Executive Officer (CEO) of FRCS.

All legislative references in this SIG are to the Income Tax Act 2015 and the Income Tax (Employment Incentives) Regulations 2016 (unless otherwise states)

This SIG is in effect from 8th of March 2019 to 31st March 2020.

The SIG is withdrawn following the changes to the Income Tax (Employment Incentives) Regulations 2016 from the COVID-19 Response Supplementary Budget through Income Tax (Employment Incentives) (Amendment) Regulations 2020)

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EXECUTIVE SUMMARY

1. Tax incentives are measures that are intended to encourage individuals and businesses to spend money or to save money by reducing the amount of tax that they have to pay. These incentives can also be used to address policy issues or to promote growth and development in target areas.
2. Employment tax incentives provides deductions for cost incurred in providing employment opportunities and up-skilling the Fijian workforce.
3. The Income Tax Act 2015 provides for a number of employment incentives through the Income Tax (Employment Incentives) Regulations 2016.
4. The incentives provided are aimed at:
 - a. developing the labor market for:
 - i. First time employees;
 - ii. Work placements;
 - iii. Part time workers;
 - b. Providing opportunities for
 - i. Persons with disabilities; and
 - c. Promotes and assists with:
 - i. Employee development; and
 - d. Recognizes and provides support for:
 - i. Family care leave; and
 - ii. Paternity leave.

INTRODUCTION

5. Employers or taxpayers, in the absence of incentives tend to underinvest in the labor market as an employer. This is because of the inherent risk and uncertainty that the labor or human capital market entails. One of the risks in investing in human capital is that employees may move employment before the employer has a chance to recoup its investment.
6. The provision of employment incentives is primarily twofold:
 - a. The incentives may increase investment in human capital; and
 - b. The incentives mitigate the risk taken on by employers when making an investment.

7. A number of countries have employed such incentives in order to address unemployment, social welfare issues and to develop human capital through professional and curriculum development.¹
8. In order to avail employment incentives a person must apply to the Chief Executive Officer (CEO) of FRCS. The person must also register with the CEO for providing such information as the CEO may require².
9. This SIG aims to provide a comprehensive analysis on the employment incentives provided with the aim of clearly setting out FRCS's interpretation and application of the relevant laws.
10. The context of this SIG requires the terms "persons" and "employers" to be used interchangeably. Although defined separately in the Act, in this SIG the "person" is looked at from its perspective as an employer.
11. Examples illustrated in this SIG demonstrates the CEO's interpretation and application of the legislative provisions relating to employment incentives.
12. The full text of the legislative provisions is contained in Appendix Two.

LEGISLATIVE ANALYSIS

13. The Minister is empowered under section 25A of the Income Tax Act 2015 to make Regulations prescribing employment incentives, including deductions from business income, the procedural requirements and to prescribe offences, which allow for the proper administration of the incentives by the CEO of FRCS.

First-Time Employees

14. A person³ or an employer is allowed the following deductions for any salary or wages paid to a qualifying employee:
 - a. 150% of salary or wages paid between 1 January 1997 and 31 July 2016; and
 - b. 200% of salary or wages paid between 1 August 2016 and 31 December 2020.
15. The deduction is only available if the salary or wages paid to the qualifying employee in respect of which the deduction is claimed is not less than the minimum wage prescribed for the particular industry or sector⁴.

¹ Employment Tax Incentive (ETI) The Employment Tax Incentive (ETI) is an incentive that was launched by SARS (South Africa) with the aim of encouraging employers to hire young job seekers

² Regulation 1 of Income Tax (Employment Incentives) Regulations 2016

³ As per definition in section 2 of Income Tax Act 2015

⁴ Regulation 4(1)

16. The 'qualifying employee' in this regard refers to an additional employee who:
- commences employment in Fiji after 31 December 1996; and
 - has not previously been in full-time employment⁵.
17. The deduction is also restricted to the salary and wages paid to the qualifying employee in respect of the 12-month period commencing from the date of appointment of the employee⁶. This also means that the deduction can only be claimed once per employee.
18. The Regulations also provide measures to safeguard against scheming mechanisms which employers might undertake to take abuse the incentive. An employer may hire first-time employees in a 12-month period to take advantage of the incentive after which the employment of the said employee may be terminated.
19. In order to address the possible scheming, the Regulations provides the CEO the discretion to grant the deduction only if he or she is satisfied that the employer has not terminated the employment of any qualifying employee in order to take advantage of the deduction⁷.

First-Time Employee Deductions Examples

Peter owns and operates an I.T. firm in Fiji and his tax year commences on 1st January. He is looking to expand his business and in doing so is looking to hire new employees. He hires John and Samantha whose details are as follows:

John [21 years old]	Samantha [23 years old]
 <ul style="list-style-type: none">• Has just completed his Bachelor's Degree• Was never employed previously	 <ul style="list-style-type: none">• Has just completed her Bachelor's Degree• Was employed in fast food chains on a temporary or casual basis while she completed her studies

⁵ Regulation 4(4)

⁶ Regulation 4(3)

⁷ Regulation 4(2)

The minimum wage rate for the sector is \$2.68 per hour.

Both John and Samantha commence employment on 1st March 2018 at an entry level rate of \$3 per hour.

In April of 2019, Samantha resigns from her role as she has found better offers elsewhere. John is still employed with Peter

Does Peter qualify for the first-time employee deduction?

In order to determine whether Peter is eligible for the first-time employee deduction, the CEO will look at the following:

1. *Have John and Samantha previously been in full-time employment?*

For John it is quite simple as he had never been employed prior to this employment, therefore he has not previously been in full time employment.

While Samantha has been employed previously, her employment is considered to be part time employment⁸.

2. *Are John and Samantha being paid below the national minimum wage rate for that sector?*

The wage rate for John and Samantha are above the national minimum wage rate for that sector

3. *Has Peter taken advantage or abused the incentive?*

Samantha has resigned voluntarily while John is still employed with Peter. Therefore, the CEO may be satisfied that Peter has not terminated the employment of Samantha in order to take advantage of the deduction.

Therefore, Peter would qualify for the first-time employee deduction. Note that the deduction can only be claimed in the Return of Income for 2019 and not 2018 as both John and Samantha need to complete 12 months of employment before Peter is eligible to claim the deduction.

Work Placements

20. A person or employer is allowed a deduction of 200% of the amount of any salary or wages paid for employment of a student (including attaches⁹) for a period not exceeding 6 months in a 12-month period.

⁸ Full-time or part-time employment is not defined in the Income Tax Act 2015 however, part time employment is defined in the Employment Relations Act 2007

⁹ The deduction is available to students and attaches as long as the conditions under para 21 are satisfied.

21. The deduction is available:

- a. if the salary or wages is paid to the student before his or her graduation;
- b. the employment forms part of the students course requirements of a higher education institution as defined in the Higher Education Act 2008¹⁰; and
- c. if it is claimed between 1 August 2016 and 31 December 2020¹¹.

22. In order to qualify for the incentive, the employer must provide confirmation from the student's higher education institution on the course requirements of the student.

23. This incentive (unlike the incentive for first time employee) may be claimed over a number of 12-month periods¹².

Work Placements Examples

Michelle is currently studying Marine Science at one of the renowned universities in Fiji. One of the requirements of the course is to undergo work placement for nine months with a private or state run marine research firm.

Jonathon is a Marine Researcher and operates an aquatic research and veterinary company. He offers a placement spot to Michelle for the required nine months in 2018. During the length of the placement Jonathon pays Michelle wages of \$500 per month.

Does Jonathon qualify for the work placement deduction?

In order to determine whether Jonathon is eligible for the work placement deduction, the CEO will look at the following:

1. *Is Michelle a student?*

Yes, Michelle is currently a student and she has not graduated yet.

2. Does the work placement form a part of the students course requirements of a higher education institution?

Yes, Michelle is required to complete her placement before she can complete her course

¹⁰ Regulation 5(1) refer to Appendix for definition

¹¹ Regulation 5(2)

¹² while this incentive is available every year, in practice it might not happen as work placements are usually for a few months only

Therefore, Jonathon is eligible to claim for the work placement deduction. However, Jonathon is only eligible to claim the deduction for a 6-month period only which would be calculated as below:

$$6 \text{ months} \times \$500 = \$3000$$

$$\$3000 \text{ at } 200\% = \underline{\$6000} \text{ deduction}$$

Part Time Workers

24. A person or employer is allowed a deduction of 200% of the amount of any salary or wages paid for employment of a student for a period not exceeding 3 months in a 12-month period.

25. The deduction is available if:

- a. the employment is in an area related to the student's area of study¹³; and
- b. if it is claimed between 1 August 2016 and 31 December 2020¹⁴.

26. In order to qualify for the incentive, the employer must provide the following documentary evidence with the application:

- a. Confirmation from the student's school or institution on the student's area of study;
- b. A statutory declaration from the employer confirming that scope of work carried on by the student.

27. This incentive (similar to the work placement incentive) may be claimed over a number of 12-month periods.

Part Time Workers Examples

Mereoni is a second year law student. During her breaks she works as a paralegal in James Esquire Law firm. As a paralegal, Mereoni prepares legal documents and observes court appearances. In 2018, she works for a period of 2 months throughout the year while earning \$50 per day.

Does James Esquire Law qualify for the deduction?

In order to determine whether James Esquire Law is eligible for the part time worker's deduction, the CEO will look at the following:

1. *Is Mereoni a student?*

Yes, Mereoni is a law student

¹³ Regulation 6(1)

¹⁴ Regulation 5(2)

2. *Is her employment related to her area of study?*

Yes, Mereoni's part time employment is related to her law studies.

Therefore, James Esquire Law is eligible for the part time worker's deduction.

Persons with Disabilities

28. A person or employer is allowed a deduction of 300% of the amount of any salary or wages paid for employment of a person with a disability for a consecutive period of 3 years for the employee.

29. The incentive (as stated above) is available if the disable person has been or will be employed for a consecutive period of 3 years.

30. In the event that the disabled person is unfairly dismissed by the person, any deductions previously allowed by the CEO must be recouped¹⁵.

31. This deduction is only available if it is claimed between 1 August 2016 and 31 December 2022¹⁶.

32. The employer's application for registration must be supported by a medical certificate explaining the nature of the disability;

33. For avoidance of any doubt the CEO has relied on the definition of "disabled persons" under the Fiji National Council for Disabled Persons Act 1994 which is defined as follows:

"disabled persons" means persons, who as a result of physical, mental or sensory impairment are restricted or lacking in ability to perform an activity in the manner considered normal for human beings

Persons with Disabilities Examples

Anthony has been diagnosed with a hearing impairment. Anthony has been recently employed by Sera in her dairy store. Following 2 years of employment with Sera, Anthony's employment is terminated by Sera. No reason is provided for his dismissal

Will Sera qualify for the persons with disabilities deduction?

¹⁵ Regulation 7(1)

¹⁶ Regulation 7(2)

In order to determine whether Sera is eligible for the persons with disabilities deduction, the CEO will ask the following questions:

1. *Is Anthony a person with a disability?*

Yes, Anthony meets definition of a disabled person under the Fiji National Council for Disabled Persons Act 1994.

2. Has Anthony been unfairly dismissed from his employment?

Yes, insufficient reasons were provided by Sera for the dismissal of Anthony's employment. It would have been different if Anthony's employment was terminated due to performance or integrity issues.

Therefore, while Sera would have been eligible to claim the persons with disabilities deduction initially, these claims would have been recouped by the CEO upon the unfair dismissal of Anthony.

Employee Development

34. A person or employer is allowed a deduction of 150% of the amount of any education fees paid for an employee to study during the course of his or her employment¹⁷.

35. This deduction is available only if the employee is required to work for the employer for a minimum of one year upon the completion of the employee's study which includes individual units or courses that the employee may undertake.

36. The incentive is also available for the amount paid for training of employees, provided that the trainer is approved by the CEO¹⁸. The approval process is done through an application to the CEO with the documents referred to in the checklist found in Appendix Two. Approval may be sought from the CEO prior to the training.

37. The deduction under Regulation 8(1) is primarily available if the employees undertake certain courses or trainings such as certificates, diplomas, degree and post graduate programs (including specialized training programs) with a tertiary or vocational institution.

38. The deduction under Regulation 8(2) is available if an employer engages a trainer to train or upskill its employees. This may be evident in cases where the employee hires a specialized trainer

¹⁷ Regulation 8(1)

¹⁸ Regulation 8(2)

to train their staff on a particular subject or matter, such as OHS training, first aid training, or even subject matters which relates to the taxable activity of the employer.

39. The Regulation requires the accredited trainer to be approved by the CEO. The approval process is based on the checklist which is attached as an Appendix to this SIG.

40. This incentive can be claimed over several periods.

Employee Development Examples

TelCo sends a few of their staff to undertake a course in telecommunication services while being employed at TelCo. As a condition of the study the staff are required to serve a bond of 2 years with the Telco.

Will the TelCo qualify for the employee development deduction?

In order to determine whether TelCo is eligible for the employee development deduction, the CEO will ask the following questions:

1. *Is the study undertaken during the course of the staff's employment?*

Yes, the staff are paid employees during the course of the study.

2. *Are the employees required to work for TelCo for a minimum of one year upon the completion of the study?*

Yes, the staff are bonded for 2 years with TelCo. This exceeds the one-year requirement.

Therefore, TelCo is eligible to claim the employee development deduction under Regulation 8(1).

In 2018 TelCo hires a motivational speaker from Singapore to train their staff on leadership and change management. The speaker has been accredited by a tertiary institute in Singapore.

Will TelCo be eligible to claim deduction for the costs associated with hiring the motivational speaker.

In order to determine whether TelCo is eligible for the employee development deduction the CEO will ask whether the training provider should be an approved training provider. In doing so, the CEO will look at factors listed in the attached checklist (Appendix Two). TelCo may seek prior approval of the trainer from the CEO before engaging the services of the motivational speaker.

Family Care Leave

41. Effective 1 January 2019, employers are allowed a deduction for 150% of the amount of any salary or wages paid to an employee during the 5 working days when the employee is on family care leave.
42. The family care leave is provided under section 68A of the Employment Relations Act 2007 and the same is defined and administered under the said Act accordingly.
43. Family care leave is available for:
 - a. employees who have completed more than 3 months of service with the same employer; and
 - b. who wishes to provide care or support to a member of the worker's immediate family or a member of the worker's household
44. A "household" refers to the occupants of a dwelling-house who are financially dependent on each other or an occupant of the dwelling-house; while "immediate family" consists of a worker's spouse, child, parent and sibling¹⁹.

Paternity Leave

45. Effective 1 January 2019, employers are allowed a deduction for 150% of the amount of any salary or wages paid to an employee during the 5 working days when the employee is on paternity leave.
46. The paternity leave is provided under section 101A of the Employment Relations Act 2007 and the same is defined and administered under the said Act accordingly.
47. The rules relating to the eligibility for paternity leave is replicated in Appendix Three.

Family Care and Paternity Leave Examples²⁰

Tax Deduction for Salaries/Wages Paid during Paternity and Family Care Leave

ABC Company has 3 employees: Peter; Margaret and Smith. Details of leave taken for 2019 are as follows:

¹⁹ Section 68A(1) of Employment Relations Act 2007

²⁰ Replicated from SIG 2018:22 [INCOME TAX ACT-2018/2019 BUDGET INCENTIVES]

Employee	Family Care		Paternal		Total Leave Days	Daily Rate	Total Leave Pay	Tax Deduction (150%)
	Entitlement	Taken	Entitlement	Taken				
Peter	5	3	5	0	3	\$100.00	\$300	\$450
Margaret	5	5	0	0	5	\$120.00	\$600	\$900
Smith	5	2	5	5	7	\$120.00	\$840	\$1260
Total								\$2610

Therefore, ABC Company is permitted a deduction of \$2,610 in the 2019 Return of Income

The Offence

48. A person who knowingly or recklessly:

- a. Makes a false or misleading statement in a material particular to a tax officer; or
- b. Omits from a statement made to a tax officer any matter or thing without which the statement is false or misleading in a material particular

commits an offence²¹.

49. Any offence under the Regulations attracts fines not exceeding \$200,000 or imprisonment for terms not exceeding 10 years, or both²².

50. The prosecution of this offence is administered by the Tax Administration Act 2009.

51. For further information and clarification in regard to this SIG, please email us at tipu@frcs.org.fj

²¹ Regulation 9

²² Section 25A of Income Tax Act 2015

APPENDIX ONE: SUMMARY OF EMPLOYMENT INCENTIVES

Incentive	Deduction Allowed	Conditions	Timeline
First Time Employees	150% of salary or wages	<ul style="list-style-type: none"> Employee commences employment in Fiji after 31 December 1996 Employee has not previously been in full-time employment Employee is not paid less than the national minimum wage 	1 January 1997 to 31 July 2016
	200% of salary or wages	<ul style="list-style-type: none"> Employment has not been terminated to take advantage of the incentive 	1 August 2016 to 31 December 2020
Work Placements	200% of salary or wages	<ul style="list-style-type: none"> Employee has to be a student Employees' placement must form a part of the students course requirements of a higher education institution Not exceeding 6 months in a 12 month period 	1 August 2016 to 31 December 2020
Part Time Workers	200% of salary or wages	<ul style="list-style-type: none"> Employee has to be a student Employees' part time employment must be related to the student's area of study Not exceeding 3 months in a 12-month period 	1 August 2016 to 31 December 2020
Persons with Disabilities	300% of salary or wages	<ul style="list-style-type: none"> Employee must have a medical certificate and must meet the definition of a disabled person Employee must not be unfairly dismissed Allowed for a consecutive 3-year period per employee 	1 August 2016 to 31 December 2022
Employee Development	150% of education fees	<ul style="list-style-type: none"> Employees study during the course of the employment Employees are required to work for the employer for a minimum of one year from the completion of the study Cost of trainer approved by CEO 	No timelines ²³
Family Care Leave	150% of salary or wages	<ul style="list-style-type: none"> Salary or wages paid to an employee during the 5 working days when the employee is on family care leave 	No timelines ²⁴
Paternity Leave	150% of salary or wages	<ul style="list-style-type: none"> Salary or wages paid to an employee during the 5 working days when the employee is on paternity leave 	No timelines ²⁵

²³ Effective from 1 August 2018 (Legal Notice 45 of 2018)

²⁴ Refer to note 23

²⁵ Refer to note 23

APPENDIX TWO:



**CHECKLIST FOR APPROVAL OF TRAINER UNDER REGULATION 8(2) OF THE INCOME TAX
(EMPLOYMENT INCENTIVES) REGULATIONS 2016**

Taxpayer:

Tin:

For all Applications:

Registration of Employment Taxation Scheme Form Duly Completed and Signed

Details of Trainer: *Attach documents as applicable*

- Evidence of any accreditation of trainer
- Evidence of any previous training provided in Fiji
- Evidence of institution from which trainer is engaged
- Evidence of qualifications of trainer
- Evidence of training provided including any lesson or curriculum plan and attendance sheet

OFFICE USE ONLY

Names of:

Receiving Officer: _____ Lodgment Officer: _____

Data Entry Officer: _____ Processing Officer: _____

APPENDIX THREE: LEGISLATION

Income Tax (Employment Incentives) (Amendment) Regulations 2016

PART 1 — PRELIMINARY

[IT 24,640] Short title and commencement

1 (1) These Regulations may be cited as the Income Tax (Employment Incentives) Regulations 2016.

(2) These Regulations come into force on 1 August 2016.

[IT 24,645] Interpretation

2 (1) In these Regulations, unless the context otherwise requires, "Act" means the Income Tax Act 2015.

(2) In these Regulations, words and phrases have the same meaning as under the Act unless the context otherwise requires.

PART 2 — EMPLOYMENT INCENTIVES

[IT 24,650] Registration for employment incentives

3 (1) A person may, where applicable, apply to the CEO for an employment incentive specified in these Regulations.

(2) An application under subregulation (1) must be made in the form approved by the CEO.

(3) A person who applies for an employment incentive under subregulation (1) must register with the CEO by providing such information as the CEO may require.

[IT 24,655] First-time employees

4 (1) A person carrying on business in Fiji is allowed a deduction for—

(a) 150% of the amount of any salary or wages paid to a qualifying employee between 1 January 1997 and 31 July 2016; and

(b) 200% of the amount of any salary or wages paid to a qualifying employee between 1 August 2016 and 31 December 2020, provided that the salary or wages paid to the qualifying employee in respect of whom the deduction is claimed must not be less than the minimum wage prescribed by written law for a particular industry or sector.

(2) The deduction under subregulation (1) is not available unless the CEO is satisfied that such person has not terminated the employment of any qualifying employee in order to take advantage of the deduction.

(3) Notwithstanding subregulations (1) and (2), the deduction under subregulation (1) is restricted to the salary and wages paid in respect of the 12-month period commencing from the date of the appointment of the qualifying employee.

(4) For the purpose of subregulations (1) to (3), "qualifying employee" means an additional employee who commences employment in Fiji after 31 December 1996 and who has not previously been in full-time paid employment.

[IT 24,660] Work placements

5 (1) A person is allowed a deduction for 200% of the amount of any salary or wages paid to a student for employment of the student for a period not exceeding 6 months in a 12-month period before the student's graduation where the employment forms part of the student's course requirements of a higher education institution as defined in the Higher Education Act 2008.

(2) The deduction under subregulation (1) may only be claimed between 1 August 2016 and 31 December 2020.

[IT 24,665] Part-time workers

6 (1) A person is allowed a deduction for 200% of the amount of any salary or wages paid to a student for employment of the student in an area related to the student's area of study for a period not exceeding 3 months in a 12-month period.

(2) The deduction under subregulation (1) may only be claimed between 1 August 2016 and 31 December 2020.

[IT24,670] Persons with disabilities

7 (1) A person is allowed a deduction for 300% of the amount of any salary or wages paid to a person with a disability for a consecutive period of three years, provided that if the employee is unfairly dismissed, any deduction allowed must be recouped by the CEO.

(2) The deduction under subregulation (1) may only be claimed between 1 August 2016 and 31 December 2022.

[IT24,675] Employee Development

8 (1) A person is allowed a deduction for 150% of the amount paid by the person for an employee's education fees to study during the course of the employee's employment, provided that the employee is required to work for the person for a minimum of one year upon the completion of the employee's study.

(2) A person is allowed a deduction for 150% of the amount paid for training the person's employee, provided that the training is conducted through a training provider approved by the CEO.

Family Care Leave

8A (1) A person is allowed a deduction for 150% of the amount of any salary or wages paid to an employee during the 5 working days when the employee is on family care leave.

(2) For the purpose of subregulation (1), "family care leave" means the family care leave

entitlement provided under section 68A of the Employment Relations Act 2007.

Paternity leave

8B.(1) A person is allowed a deduction for 150% of the amount of any salary or wages paid to an employee during the 5 working days when the employee is on paternity leave.

(2) For the purpose of subregulation (1), "paternity leave" means the paternity leave entitlement provided under section 101A of the Employment Relations Act 2007.

PART 3 — MISCELLANEOUS

[IT 24,680] Offence

9 (1) A person who knowingly or recklessly—

(a) makes a false or misleading statement in a material particular to a tax officer; or

(b) omits from a statement made to a tax officer any matter or thing without which the statement is false or misleading in a material particular, commits an offence.

(2) For the purpose of subregulation (1), the Tax Administration Act 2009 applies.

Higher Education Act 2008

[Section 4]

"higher education institution" means an educational institution in or operating in Fiji that provides award-conferring post-secondary education or provides educational support services for students of other higher education institutions including overseas institutions, including but not limited to—

(a) technical and vocational education and training centres;

(b) information technology centres;

(c) secretarial schools;

- (d) language schools;
- (e) hospitality training centres;
- (f) educational agencies;
- (g) caregiving training providers;
- (h) performing arts and sports academies;
- (i) religious educational institutions;
- (j) colleges; and
- (k) universities;

Employment Relations Act 2007

Family care leave

68A.—(1) In this section—

“household” means the occupants of a dwelling-house who are financially dependent on each other or an occupant of the dwelling-house; and

“immediate family” consists of a worker’s spouse, child, parent and sibling.

(2) Where a worker has completed more than 3 months’ continuous service with the same employer and wishes to provide care or support to a member of the worker’s immediate family or a member of the worker’s household, the worker is entitled to paid family care leave of not less than 5 working days during each year of service.

(3) Family care leave entitlement must not be accumulated and unused family care leave for each year automatically lapses in the next year.

(4) For a worker to be entitled to family care leave, the worker must, as soon as reasonably practicable, notify the employer of his or her absence or intended absence and the reason for it.

Rights of men on paternity leave

101A.— (1) A man whose partner is entitled to maternity leave under this Part, or would be entitled to maternity leave under this Part if she were employed, is entitled to paternity leave and

to abstain from work for a period of not less than 5 working days provided that he—

(a) is or is to be a primary caregiver for his child; and

(b) produces to his employer a certificate from a registered medical practitioner or registered nurse specifying the possible date of birth of his child.

(2) Where a man has completed more than 3 months’ continuous service with the same employer he is entitled to paid paternity leave for a period of not less than 5 working days, as follows—

(a) for the first 3 births, to the normal remuneration he would have received as if he had been at work; and

(b) for the fourth and subsequent births, to half the normal remuneration he would have received as if he had been at work.

(3) The man may only proceed on paternity leave during the 3 months immediately before the date specified under subsection 1(b) and the 3 months after the birth of his child.

(4) The paternity leave entitlement under this section may be taken in a lump sum period or in shorter periods amounting in the aggregate to not less than 5 working days, as agreed between the man and his employer