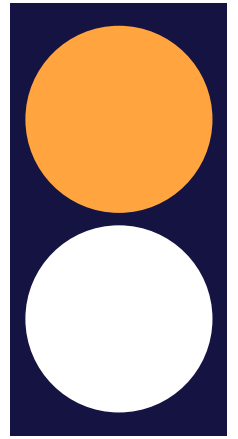


EMPLOYMENT LAW

ARTICLE: CHANGES TO PARENTAL LEAVE

SEPTEMBER 2023



Introduction

Unpaid Parental leave in the Fair Work Act has undergone significant changes as of 1 July 2023 and the Paid Parental Leave Scheme administered by Services Australia has also been changed.



Parental Leave Changes

1. Unpaid Parental Leave

The major changes in the Fair Work Act include:

<p>Provisions relating to 'employee couples' have been removed.</p>	<ul style="list-style-type: none"> ● allowing both parents to commence (and finish) parental leave, at any time in the 24 months following the birth or placement of their child. ● allowing both parents to take up to 12 months' unpaid parental leave over 24 months, regardless of the amount of leave the other parent takes. ● allowing both parents to request an extension of up to an additional 12 months, without impacting the amount of leave available to the other parent.
<p>Employers can only refuse a request for an extension if:</p>	<ul style="list-style-type: none"> ● the employer has discussed and genuinely tried to reach an agreement with the employee about an extension, but not reached an agreement. ● the employer has considered the consequences of refusing the extension. ● the refusal is on 'reasonable' business grounds.
<p>Employers must respond to the request in writing within 21 days. The written response must:</p>	<ul style="list-style-type: none"> ● include details of the reasons for refusal, including the employer's particular business grounds and how those grounds apply to the request. ● state an alternative period of extension the employer would be willing to agree to or that there isn't any extension they would agree to ● include the new dispute resolution provisions that the Commission will have.
<p>Flexible unpaid parental leave</p>	<ul style="list-style-type: none"> ● increasing the number of flexible parental leave days parents can take from 30 days up to 100 days over a 24-month period. ● enabling pregnant employees to access some of the 100 days flexible entitlement up to six weeks before the expected date of birth of their child.
<p>Concurrent Leave</p>	<ul style="list-style-type: none"> ● removing restrictions that prevent employees who are married or in a de facto relationship from taking more than eight weeks of unpaid parental leave at the same time.
<p>Service requirements</p>	<ul style="list-style-type: none"> ● Employees are still required to have 12 months' continuous service prior to being eligible to take Unpaid Parental Leave. There has been some amendment to the way in which the 12 months' service is determined, the relevant date will now be: ● For birth-related leave starting before the birth of the child or unpaid special parental leave – the expected date of birth of the child; or ● In any other case – the date on which the employee's period of leave is to start, which can be anytime within the first 24

months of the child's birth/adoption.

2. Paid Parental Leave Scheme

The changes in the Scheme administered by Services Australia include:

Where a child is born or adopted on or after 1 July 2023:

- the current payment of 18 weeks to the primary carer and the two weeks' Dad and Partner Pay will no longer apply. Instead, there is now an entitlement to 20 weeks' leave that can be taken flexibly in its entirety within two years of the child's birth or adoption.
- neither parent in a couple may take more than 18 weeks' leave (and each parent must therefore take at least two weeks of Paid Parental Leave)
- a new \$350,000 family income limit may apply where the individual income test is not met.
- expanded eligibility provisions will allow an eligible father or partner to receive PPL regardless of whether the birth parent or primary carer of an adopted child meets the income test, residency requirements or is serving a newly arrived resident's waiting period.

Employers should contact Services Australia for further information on the Paid Parental Leave Scheme.

3. Next Steps for Employers

Employers should update the organisation's Parental Leave Policy to include the amendments.

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Contact Information

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