



Australia to expand leave protections, provide flexibility

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Parents of stillborn babies would be given more leave, and all parents would be able to use unpaid parental leave more flexibly, under the “Fair Work Amendment (Improving unpaid parental leave for parents of stillborn babies and other measures) Bill 2020” recently introduced by the government.

Highlights

Leave for parents of stillborn babies. The bill would improve and clarify minimum unpaid leave entitlements for parents of stillborn babies and babies who die during the first 24 months of life. The measures:

- Grant parents of stillborn babies the same entitlement to leave as parents of live babies.
- Remove an employer’s freedom to recall a parent on leave back to work or to cancel any upcoming planned leave following a stillbirth or death of a child or infant.
- Ensure that impacted employees can return to work earlier if they wish to do so, subject to providing their employer with at least four weeks’ written notice.
- Allow employees who are on unpaid leave to take compassionate leave following the stillbirth or death of the child.
- Clarify that employees can take compassionate leave following a stillbirth, if that child would have been an immediate family or household member.

The bill would also improve unpaid leave entitlements for parents who experience premature birth and other birth-related complications that require the baby’s immediate hospitalization. Currently, parents of premature babies have the same entitlement to unpaid leave as other parents.

More flexibility for unpaid leave. Under the bill, parents could take up to 30 days of flexible unpaid parental leave until their child turns two, consistent with recent changes to paid leave. The Paid Parental Leave Amendment (Flexibility Measures) Act 2020 allows parents to take the first 12 weeks of paid leave in a continuous block within 12 months of the birth or adoption, and the remaining 30 days at any time within 24 months of the birth or adoption. Currently, parents who choose to take unpaid parental leave are generally required to do so in one continuous period, which means they forfeit any unused leave if they return to work before the 12-month period ends.

Related resources

Non-Mercer resource

- [Fair Work Amendment \(Improving unpaid parental leave for parents of stillborn babies and other measures\) Bill 2020](#) (Government, 3 Sep 2020)

Mercer Law & Policy resource

- [Australia increases parental leave flexibility](#) (18 Jun 2020)

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