



CHANGES TO PAID PARENTAL LEAVE MEAN MUCH MORE FLEXIBILITY FOR PARENTS

The Federal Government has amended its Paid Parental Leave (“PPL”) scheme so as to provide wider and more flexible options to families seeking access to PPL.

The changes aim to introduce key aspects of the Government’s Women’s Economic Security Package (as announced in the 2018-19 Mid-Year Economic and Fiscal Outlook), which includes measures to support women’s economic independence by allowing parents and carers to access PPL more flexibly.

The key amendments to the *Paid Parental Leave Act 2010* (Cth) (“PPL Act”), which apply to families whose children are born or adopted on or after 1 July 2020, are:

- removal of the requirement for parents to take a single block of 18 weeks paid parental leave period under the PPL Act; and
- introduction of the flexibility of accessing up to the last 6 weeks (30 days) of the maximum 18 week (90 days) PPL on a flexible basis negotiated with an employer (as long as it is used within 24 months of the birth or adoption of the child).

Previously, eligible employees could only take PPL as a continuous 18 week block within the first 12 months after the birth or adoption of the child. The recent amendments now allow eligible

employees to access PPL for a maximum of 18 weeks in a variety of different ways, across 24 months, as follows:

- a set period of 12 weeks must still be taken as one continuous block of PPL, and must be taken within the first 12 months of the adoption or birth of a child;
- however, after that first 12 week period concludes, a parent can return to work at any time and use the balance of their PPL (up to 6 weeks/30 days) on any day, or block of days, they choose once they are back to work (provided it is within the 24 month timeframe from birth/adoption of the child);
- and, of course, there is no obligation on a parent to use the flexible PPL days. An employee may, if they so choose, take the full 18 weeks’ PPL as one continuous block if that is what they prefer to do.

The aim of the PPL Act is to allow parents to be supported with greater flexibility and choice in their transition back to work after the birth or adoption of their child, and during the critical first 2 years of a child’s development. A stated objective of the legislation is to provide carers with greater flexibility to balance work and family life.

How will the new Flexible Paid Parental Leave days work?

There are many ways that an employee can use the flexible PPL days, and we expect that parents will use the flexible arrangements to support whatever approach works best in the circumstances.

However, to take an example, if Jacinta, who works 5 days per week, has a child, she will initially claim the 12 weeks set PPL period. After that initial period, Jacinta might agree to return

to work three days per week. In that case, Jacinta could apply to be paid the flexible PPL days on the two days per week that she is not working. In this scenario, Jacinta will be paid for 3 days of work according to her agreed salary with her employer, and she will be paid two days flexible PPL at the national minimum wage rate (which, in most cases, will be administered and paid to the employee by the Government).

What about transferring your Flexible Paid Parental Leave days?

The Government's PPL scheme already allows a birth mother or adoptive parent to transfer some or all of their leave to a second carer of the child. This often happens if, for example, the birth mother returns to work early.

These new amendments now also give the birth mother or adoptive parent the flexibility to give permission to a second carer to use some or all of the flexible PPL days. The following example is given in the Government's Explanatory Memorandum to illustrate how this might work:

Evelyn and Jane are married and have conceived a child with the help of their close friend Tom, who donated sperm. Each of Evelyn, Jane and Tom wishes Tom to maintain a close relationship

with the child.

Evelyn (the birth mother) makes a claim for 12 weeks Paid Parental Leave plus 10 Flexible Paid Parental Leave days. Evelyn also gives a permission for a secondary claim to be made for the remaining 20 Flexible days, and both Tom and Jane may make a claim for those 20 Flexible days in respect of the child (Tom because he is a parent of the child; and Jane because she is the partner of the primary claimant, Evelyn).

In this way, the ability to transfer the flexible paid parental leave days can give great flexibility and support to, not only the birth or adoptive mother, but also to eligible parents and carers.

Implications for employers

These amendments to the PPL Act provide real opportunities that can benefit employees and employers alike.

To reap the benefits of these amendments to the legislation, employers should:

- take active steps to update their parental leave policies and processes to ensure consistency and compliance with the amended PPL Act;
- consult with staff members about these changes, especially any staff members whose children are or will be born or adopted on or after 1 July 2020, to ensure that those staff members are informed of the benefits and flexibility available to them via the Government's PPL scheme;
- consider how your business can allow employees access to the flexible parental

leave days to facilitate a gradual transition back to work after the birth or adoption of a child;

- schedule training with managers and leaders within your business to ensure that those persons with responsibility for team members, are educated about the benefits that their team members can access by way of flexible parental leave options, to ensure that those managers not only comply with the laws, but support the flexible approach that this legislation is designed to encourage within workplaces.

Of course, this more flexible Government PPL scheme is only one strategy available to employers to provide staff members with greater flexibility and support during a period of parental leave and during an employee's transition back to paid work. Many employers support working parents in additional ways, such as employer funded parental leave, the provision of continued

access to company property during parental leave (such as car, mobile phone), the continuing accrual of long service leave entitlements during parental leave or offering a return to work 'bonus' when employees return to work after parental leave.

The retention of talented staff members who have taken a period of parental leave to care for a child is an important part of the success of many businesses in the Australian economy. Benefits for employers who support a flexible approach for staff members during the critical first 2 years of a child's development include improved employee productivity upon their return to work, employee loyalty, retention of company know-how, and reduction in future training and recruitment costs.

Please contact Harmers Workplace Lawyers on 02 9267 4322 if you want to discuss the implications of the changes to paid parental leave laws on your business.

"Having a government and employer-funded 'flexible' paid parental leave scheme is vital to enable parents to share the care. Providing both parents with an equal opportunity to take leave not only benefits families, it supports gender equality and inclusion in the workplace."

Emma Walsh

CEO

Parents At Work

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