Ending employment during parental leave

Resigning from a job while on parental leave

An employee can resign from their job while they're on parental leave. They:

- have to give the correct notice period to their employer
- can use their parental leave as the notice period.


Dismissed by an employer while on parental leave

If an employer dismisses an employee while they're on parental leave, the employee has to be paid instead of working the notice period.

This is because the employee can't work the notice period when they're on parental leave. For example, an employee who is entitled to 3 weeks' notice will get 3 weeks' pay instead of working.


Reasons for dismissing an employee on parental leave

An employer can't dismiss an employee because:

- of family or caring responsibilities
- they are pregnant
- they are on maternity or parental leave, or
- they are temporarily absent from work due to illness or injury.

This may be seen as discrimination, and it's unlawful to dismiss an employee for any of these reasons.

Redundancy while on parental leave

If an employee's job is made redundant while on parental leave, the employer has to:

- give them the correct notice
- pay out any entitlements, including redundancy pay.

All awards and registered agreements have a consultation process for when there are major changes to the workplace, such as redundancies.

Employers have to talk to an employee on unpaid parental leave if they decide to make a significant change in the workplace that will affect the employee's job. This has to occur as the decision is made, not when the employee comes back to work from parental leave.

Parental leave entitlements when a business changes owners

When a business changes owners, also known as a 'transfer of business', there might be a transfer of employment. This means that an employee keeps working at the business, but their employment transfers to the new business owner.

In this circumstance, employees entitled to unpaid parental leave with the old employer are still entitled to it with the new employer. This is because the new employer is required to recognise the employee's service with the old employer for parental leave entitlements.

This entitlement is recognised when the employee:

- provides the correct notice and evidence of intent to take parental leave under the old employer, or
• has already started unpaid parental leave with the old employer.

Need help resolving workplace issues about pregnancy, parental leave and returning to work?

For employees:
If you’ve lost your job, contact the Fair Work Commission (the Commission) first if you think you were sacked because of:

• discrimination
• a reason that is harsh, unjust or unreasonable
• another protected right.

You have 21 days from the day you were sacked to lodge an application with the Commission. Check the information at the Commission website to find out if you can apply for:


For employees and employers:
• Find information, downloadable guides and toolkits on pregnancy, parental leave and parents in the workplace on the Supporting working parents [Opens new window] (http://www.supportingworkingparents.gov.au/) website.
• If you think a mistake has been made about pay, parental leave or returning to work, see our Help resolving workplace issues [Opens new window] (www.fairwork.gov.au/How-we-will-help/How-we-help-you/Help-resolving-workplace-issues/default) section for practical advice on:
  • figuring out if a mistake has been made
  • talking to your employer or employee about fixing it
  • getting help from us if you still can’t resolve it.

What to do next
• Search the Awards [Opens new window] (www.fairwork.gov.au/awards-and-agreements/awards/list-of-awards/list-of-awards) to find the award that applies

Help for small business

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