

## Applying for parental leave

Before an employee can take parental leave they need to give their employer a certain amount of written notice. They may also need to provide evidence if the employer asks for it.

The applicable notice requirements depend on which type of parental leave the employee wants to take. An employee can take:

- continuous parental leave
- flexible parental leave.

### Notice requirements for continuous parental leave

Employees who want to take unpaid parental leave need to give their employer notice that they are taking leave and confirm the dates.

If an employee can't give the appropriate notice (for example, the baby is born prematurely), they will still be entitled to take the leave as long as they provide notice as soon as possible.

#### 10 weeks before starting leave

An employee has to give notice to their employer at least 10 weeks before starting their unpaid parental leave. This notice needs to be in writing, and say how much leave they want to take, including the starting and finishing dates.

If an employee can't give 10 weeks' notice, they need to provide as much notice as possible.

#### 4 weeks before starting leave

An employee has to confirm their parental leave dates with their employer at least 4 weeks before they are due to start their leave. If there have been any changes to the dates the employee should tell their employer as soon as possible.

If an employee can't provide 4 weeks' notice, they need to provide as much notice as possible.

#### Concurrent leave notice

Employees who are taking concurrent leave (parents taking leave at the same time) need to provide at least 10 weeks' notice to their employer for their first period of concurrent leave. For second and later periods, they need to provide at least 4 weeks' notice.

If an employee can't provide these notice periods, they need to provide as much notice as possible.

### Notice requirements for flexible parental leave

An employee who wants to take flexible parental leave needs to tell their employer:

- at the same time they give notice of their continuous parental leave, or
- at least 10 weeks before the start of their flexible parental leave, if they're only taking flexible parental leave.

Notice can also be provided later if the employer agrees.

When they give notice, an employee needs to tell their employer the total number of days of flexible parental leave they intend to take. An employee can take up to 30 days of flexible parental leave.

#### 4 weeks before starting leave

An employee must confirm their flexible parental leave dates with their employer at least 4 weeks before they start their leave. If there have been any changes to the dates, the employee should tell their employer as soon as possible.

If an employee can't give 4 weeks' notice, they need to give as much notice as possible.

### Pre-adoption leave notice

Employees who are taking pre-adoption leave have to give their employer notice that they are taking leave as soon as possible (this can be after the leave has started). They should also tell their employer how long they expect to be on leave.

### Evidence requirements

Employers can ask employees for evidence of the expected date of birth or of the date of placement of an adopted child, for example a medical certificate or statutory declaration.

An employer can specifically ask for a medical certificate from their employee giving the expected date of birth. Employers can also ask for evidence to support pre-adoption leave.

If an employee doesn't provide the evidence their employer asks for, they won't be entitled to the leave.

## Hiring replacement employees

Many employers will hire a new employee to cover someone who is on parental leave. During the application process the employer has to tell potential employees that:

- the job will be temporary
- the employee who is taking leave has the right to return to their job
- there are situations where the employer or employee can end the parental leave (eg. stillbirth or employee ceasing to have responsibility for the child).

Source reference: [Fair Work Act 2009 s.74 and 84A \(http://www.comlaw.gov.au/Series/C2009A00028\)](http://www.comlaw.gov.au/Series/C2009A00028)

## 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:

- [unfair dismissal](https://www.fwc.gov.au/termination-of-employment/unfair-dismissal) (not available if you lost your job because of a genuine [Redundancy](http://www.fairwork.gov.au/Ending-employment/Redundancy/default) )
- [a general protections dismissal](https://www.fwc.gov.au/termination-employment/general-protections-dismissal)
- [unlawful termination](https://www.fwc.gov.au/termination-employment/unlawful-termination)

### For employees and employers:

- Find information, downloadable guides and toolkits on pregnancy, parental leave and parents in the workplace on the [Supporting working parents](http://www.supportingworkingparents.gov.au/) website.
- Learn about [discrimination](http://www.fairwork.gov.au/Employee-entitlements/Protections-at-work/protections-from-discrimination-at-work) and [bullying and harassment](http://www.fairwork.gov.au/Employee-entitlements/bullying-and-harassment) and what can be done to stop it.
- If you think a mistake has been made about pay, parental leave or returning to work, see our [Fixing a workplace problem](http://www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/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

- Use the [Parental leave - notification form \(PDF 269.1KB\)](http://www.fairwork.gov.au/ArticleDocuments/766/Parental-leave-request-template.pdf.aspx) to apply for parental leave

### Help for small business

Find tools, resources and information you might need in our [Small business showcase](http://www.fairwork.gov.au/small-business-showcase/default) .

### You might also be interested in

- [Maternity and parental leave](http://www.fairwork.gov.au/Leave/maternity-and-parental-leave/default)
- [Taking parental leave](http://www.fairwork.gov.au/Leave/maternity-and-parental-leave/taking-parental-leave)

- [Returning to work from parental leave \(www.fairwork.gov.au/Leave/maternity-and-parental-leave/returning-to-work-from-parental-leave\)](http://www.fairwork.gov.au/Leave/maternity-and-parental-leave/returning-to-work-from-parental-leave)

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## Contact us

Fair Work Online: [www.fairwork.gov.au](http://www.fairwork.gov.au)

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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