

## Returning to work from parental leave

### Right to return to the same job

An employee who's been on unpaid parental leave is entitled to come back to the job they had before going on leave.

They're entitled to this job even if another person is working in their role as a replacement.

If the employee was transferred to a safe job before they took unpaid parental leave or they reduced their hours due to the pregnancy, then they're entitled to return to the job they had before the transfer or reduction.

Visit the [Pregnant employee entitlements \(https://www.fairwork.gov.au/Leave/maternity-and-parental-leave/pregnant-employee-entitlements\)](https://www.fairwork.gov.au/Leave/maternity-and-parental-leave/pregnant-employee-entitlements) page for information on transferring to a safe job during pregnancy.

### Employees on fixed term contracts

An employer doesn't have to extend an employee's fixed term contract because they're taking unpaid parental leave.

If the employee is on a fixed term contract and it ends while they are on unpaid parental leave, they're not entitled to return to the same job (unless an employment contract says otherwise).

If they're on a fixed term contract and it ends after they come back from leave, they're entitled to return to the same job and finish working the contract.

### When an employee's job no longer exists

If an employee's job doesn't exist anymore or it has changed, then they have to be offered a suitable available job that:

- the employee is qualified and suited to work in
- is nearest to their old job in pay and status.

If an employee's job doesn't exist anymore after they come back from unpaid parental leave, this may mean a redundancy has taken place.

If the job still exists and someone else is doing it, (the 'replacement employee') then there's no redundancy. Visit the [Applying for parental leave \(https://www.fairwork.gov.au/Leave/maternity-and-parental-leave/applying-for-parental-leave\)](https://www.fairwork.gov.au/Leave/maternity-and-parental-leave/applying-for-parental-leave) for requirements when hiring replacement employees.

### Discussing changes to an employee's job

If an employer decides to make significant changes to an employee's job (eg. to status, pay or location) while they're on unpaid parental leave, they have to:

- discuss these changes with the employee
- give them an opportunity to talk about these changes, even if they're on leave.

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

### Changing hours and requesting flexible working arrangements

Certain employees, such as parents returning to work after taking parental leave, have the right to request flexible working arrangements.

Flexible working arrangements include working part-time instead of full-time and changing starting and finishing times of work or working from home.

Visit the [Flexible working arrangements \(https://www.fairwork.gov.au/Employee-entitlements/Flexibility-in-the-workplace/flexible-working-arrangements\)](https://www.fairwork.gov.au/Employee-entitlements/Flexibility-in-the-workplace/flexible-working-arrangements) page for information on requesting an arrangement.

## Breastfeeding in the workplace

A best practice employer can support employees who are breastfeeding by making sure they have suitable facilities available - examples include a private room for breastfeeding, somewhere where the employee can store a breast pump, and a fridge where they store any breast milk.

Employees should also be given appropriate breaks so that they can breastfeed or express.

Breastfeeding is a protected ground of discrimination. Making an employee feel uncomfortable about breastfeeding, or not providing adequate facilities or breaks, may constitute discrimination. It may also be a breach of work health and safety laws.

For more information about discrimination, see [Protection from discrimination at work \(https://www.fairwork.gov.au/employee-entitlements/protections-at-work/protection-from-discrimination-at-work\)](https://www.fairwork.gov.au/employee-entitlements/protections-at-work/protection-from-discrimination-at-work) .

For more information about workplace health and safety, contact your relevant [state or territory health and safety body \(https://www.fairwork.gov.au/website-information/related-sites\)](https://www.fairwork.gov.au/website-information/related-sites) .

The Australian Breastfeeding Association (<https://www.breastfeeding.asn.au/workplace/>) [↗](https://www.breastfeeding.asn.au/workplace/) can help with developing policies that support breastfeeding women in the workplace.

## 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 ↗ \(https://www.fwc.gov.au/termination-of-employment/unfair-dismissal\)](https://www.fwc.gov.au/termination-of-employment/unfair-dismissal) (not available if you lost your job because of a genuine [Redundancy \(www.fairwork.gov.au/Ending-employment/Redundancy/default\)](http://www.fairwork.gov.au/Ending-employment/Redundancy/default) )
- [a general protections dismissal ↗ \(https://www.fwc.gov.au/termination-employment/general-protections-dismissal\)](https://www.fwc.gov.au/termination-employment/general-protections-dismissal)
- [unlawful termination ↗ \(https://www.fwc.gov.au/termination-employment/unlawful-termination\)](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 \(http://www.supportingworkingparents.gov.au/\)](http://www.supportingworkingparents.gov.au/) [↗](http://www.supportingworkingparents.gov.au/) website.
- Learn about [discrimination \(www.fairwork.gov.au/Employee-entitlements/Protections-at-work/protections-from-discrimination-at-work\)](http://www.fairwork.gov.au/Employee-entitlements/Protections-at-work/protections-from-discrimination-at-work) and [bullying and harassment \(www.fairwork.gov.au/Employee-entitlements/bullying-and-harassment\)](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 [Help resolving workplace issues \(www.fairwork.gov.au/How-we-will-help/How-we-help-you/Help-resolving-workplace-issues/default\)](http://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

- Read the [Parental leave best practice guide \(www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/parental-leave\)](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/parental-leave) for information on returning to the same job and flexible working arrangements
- Visit the [Protection from discrimination at work \(www.fairwork.gov.au/employee-entitlements/protections-at-work/protection-from-discrimination-at-work\)](http://www.fairwork.gov.au/employee-entitlements/protections-at-work/protection-from-discrimination-at-work) page to learn about discrimination
- Visit the [Redundancy page \(www.fairwork.gov.au/ending-employment/redundancy/default\)](http://www.fairwork.gov.au/ending-employment/redundancy/default) for information about redundancy pay

### Help for small business

- Find tools, resources and information you might need on our [Small business page \(www.fairwork.gov.au/Find-help-for/Small-business/default\)](http://www.fairwork.gov.au/Find-help-for/Small-business/default) .

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## You might also be interested in

- [Work and family best practice guide \(www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/work-and-family\)](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/work-and-family)
- [Maternity and parental leave \(www.fairwork.gov.au/Leave/maternity-and-parental-leave/default\)](http://www.fairwork.gov.au/Leave/maternity-and-parental-leave/default)
- Toolkits and information on the [Supporting working parents \(http://www.supportingworkingparents.gov.au/\)](http://www.supportingworkingparents.gov.au/)  website, including guides to creating workplace policies.

**Page reference No: 1963**

## 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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