

Going back to work early

Employee asks to return to work

An employee on unpaid parental leave can shorten their leave, if their employer agrees. If the employer doesn't agree, then the employee has to return to work on the planned date.

No notice period is required when an employee and employer agree to the new return date.

This doesn't apply when there's a still birth or infant death.

Employer asks employee to return to work

An employer can ask an employee to return earlier than planned from unpaid parental leave if they no longer have responsibility for the care of the child.

The employee has to return to work if their employer makes such a request.

An employer has to give written notice to the employee stating the return to work date. The return to work date has to be at least:

- 4 weeks after notice to return to work is given
- 6 weeks after the birth of a child, if the employee was pregnant.

This does not apply when there's a still birth or infant death.

Effect on partner's unpaid parental leave

Returning to work early from unpaid parental leave can affect an employee partner's leave dates and entitlements.

If an employee returns to work early the partner will need to start their leave earlier as unpaid parental leave has to be taken in one continuous period.

The partner should discuss any changes to the timing of unpaid parental leave with their employer before taking the leave.

Returning to work due to still birth or infant death

An employee can reduce or cancel their period of unpaid parental leave if there's a still birth or infant death.

Before unpaid parental leave has started

If unpaid parental leave hasn't started, the employee or employer can cancel the leave with written notice.

Where there's a still birth or infant death, the employee can no longer take unpaid parental leave. They can take sick leave or special maternity leave instead if they're unable to work.

After unpaid parental leave has started

If the employee has started unpaid parental leave but the child is still born or dies, the employee is still entitled to be on unpaid parental leave until the employer or employee end the leave.

An employee can end the leave by giving their employer 4 weeks notice. The employer needs to respond with a return to work date within that 4 weeks.

An employer can end the leave by giving at least 6 weeks notice in writing requesting the employee return to work on a specific day.

Source reference: [Fair Work Act 2009 s.77, 77A and 78](http://www.comlaw.gov.au/Series/C2009A00028) ¹ (<http://www.comlaw.gov.au/Series/C2009A00028>)

What to do next

- Use the [Application to reduce, extend or cancel leave within initial 12 months template \(DOC 69KB\)](http://www.fairwork.gov.au/ArticleDocuments/766/Application-to-vary-parental-leave-within-12-months.doc.aspx) (www.fairwork.gov.au/ArticleDocuments/766/Application-to-vary-parental-leave-within-12-months.doc.aspx) when returning to work early.
- Find out about [Pregnant employee entitlements](http://www.fairwork.gov.au/Leave/maternity-and-parental-leave/pregnant-employee-entitlements) (www.fairwork.gov.au/Leave/maternity-and-parental-leave/pregnant-employee-entitlements)

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) .

You might also be interested in

- [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)
- [Sick and carer's leave \(www.fairwork.gov.au/leave/sick-and-carers-leave/default\)](http://www.fairwork.gov.au/leave/sick-and-carers-leave/default)

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

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