



Job security and gender equality

Unpaid parental leave

These amendments form part of an Australian Government commitment to improve job security and put gender equality at the centre of the workplace relations system.

What has changed?

The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* amends the *Fair Work Act 2009* (the Act) to strengthen the right to request an extension of unpaid parental leave.

The amendments allow the Fair Work Commission (the Commission) to deal with a dispute about a request for an extension, including by conciliation, mediation or mandatory arbitration, in circumstances where employers and employees cannot agree on a solution at the workplace level.

What do these changes mean?

The National Employment Standards in the Act provide eligible employees with an entitlement to unpaid parental leave. An employee taking 12 months unpaid parental leave can request an extension of a further 12 months leave (up to 24 months in total), unless their partner has already taken 12 months of leave. The [Fair Work Ombudsman's website](#) provides more details on this existing entitlement.

Previously, the Act contained minimal guidance on how an employer needed to respond to a request for an extension of unpaid parental leave and limited the Commission's ability to deal with disputes about the reason for refusing a request.

The amendments will mean that when an eligible employee makes a request for an extension of unpaid parental leave, their employer has an obligation to discuss the request with them. If their employer refuses a request, the employer will need to provide reasons in writing. The employer

will also need to consider and inform the employee in writing if there is any other period of extension they would be willing to agree to.

The threshold of “reasonable business grounds” for refusing a request has not changed. However, the amendments provide additional guidance on this threshold by listing examples of reasonable business grounds on which an employer can refuse a request.

Without limiting these grounds, they include the following:

- that the extension of the period of unpaid parental leave requested by the employee would be too costly for the employer;
- that there is no capacity to change the working arrangements of other employees to accommodate the extension of the period of unpaid parental leave requested by the employee;
- that it would be impractical to change the working arrangements of other employees, or recruit new employees, to accommodate the extension of the period of unpaid parental leave requested by the employee;
- that the extension of the period of unpaid parental leave requested by the employee would be likely to result in a significant loss in efficiency or productivity;
- that the extension of the period of unpaid parental leave requested by the employee would be likely to have a significant negative impact on customer service.

The specific circumstances of the employer, including but not limited to the size and nature of the employer’s enterprise, are relevant to whether an employer has reasonable business grounds to refuse a request.

The amendments also provide increased access to dispute resolution for employees through the Commission if they cannot resolve disputes about an extension of unpaid parental leave at the workplace level. The Commission can resolve a dispute by conciliation, mediation or mandatory arbitration. Unless there are exceptional circumstances the Commission must first attempt to resolve the dispute using non-binding methods, such as conciliation or mediation, before it can arbitrate a dispute.

When will these changes come into effect?

These changes will come into effect on 6 June 2023.

For more information on the *Secure Jobs, Better Pay* package visit:

www.dewr.gov.au/workplace-relations.