

Parental Leave and Employment Protection Amendment Bill

Government Bill

Explanatory note

General policy statement

Overview

This Bill implements Government policy to extend the duration of paid parental leave from 12 to 14 weeks progressively over a 2-year period and provide new paid leave entitlements to employees who have worked for the same employer for between 6 and 12 months who are not currently covered by the Parental Leave and Employment Protection Act 1987 (the Act).

These amendments to the Act further a number of objectives supporting the birth or adoption of a child. This includes ensuring that the scheme is accessible to a wider number of employees, encouraging female workplace attachment, supporting families with leave and job protection, supporting the health and wellbeing of new mothers and babies, and improving New Zealand's compliance with international human rights instruments that provide rights to paid maternity leave.

Extension of paid parental leave from 12 to 14 weeks

The Bill amends the Act to provide that the duration of paid parental leave will be extended from 12 to 14 weeks progressively over a 2-year period. From 1 December 2004, eligible employees will be entitled to 13 weeks' paid parental leave to be taken in a continuous period. This will be extended to 14 weeks from 1 December 2005.

New entitlements for employees with between 6 and 12 months' service

The Bill provides a new set of entitlements for employees not currently eligible for paid parental leave under the Act.

Currently, an employee must be in employment with the same employer for an average of 10 hours per week during the immediately preceding 12 months to be entitled to maternity leave or parental leave.

Under the Bill, a female employee who has worked for the same employer for an average of 10 hours per week for between 6 and 12 months before her child is due will be eligible for maternity leave and paid parental leave for the period of paid parental leave only. This entitlement will be 13 weeks from 1 December 2004 and will extend to 14 weeks from 1 December 2005. However, such employees will not be entitled to extended leave.

The Bill amends the Act to provide 1 week's partner's/paternity leave for employees who have worked for the same employer for an average of 10 hours per week for between 6 and 12 months before their child is due. This builds on the existing entitlement of 2 weeks' partner's/paternity leave for employees with 12 months or more service under the Act.

Eligible employees may transfer their entitlement to parental leave payments to their spouse or partner. To ensure that all employees who are entitled to parental leave can effectively transfer payments, the Bill allows for extended partner's/paternity leave in some situations. This is where parental leave payments are transferred and the person to whom the payments are transferred has between 6 and 12 months service. However, where both partners have between 6 and 12 months service, the total amount of leave taken may not exceed 13 (rising to 14) weeks, not counting the first week of partner's/paternity leave.

The extension of eligibility to paid parental leave also applies in the case of adoption where an employee has worked for the same employer for an average of 10 hours per week for between 6 and 12 months. If an employee is nominated as the person primarily entitled to the parental leave payments (where 2 employees are adopting a child jointly) or if the employee is adopting a child alone, the employee will be entitled to 13 weeks (rising to 14 weeks) parental leave and parental leave payments.

These amendments recognise that a number of employees who have worked for the same employer for less than a year are not entitled to any paid parental leave under the existing provisions. These amendments ensure that a wider number of employees can access paid parental leave and obtain the benefits associated with paid leave that support the health and wellbeing of new mothers and babies.

Clause by clause analysis

Clause 1 is the Title clause. The principal Act amended by this Bill is the Parental Leave and Employment Protection Act 1987.

Clause 2 is the commencement clause. The following provisions come into force on 1 December 2004:

- providing an entitlement to 13 weeks' maternity leave and parental leave payments for employees who have worked for their employer for at least an average of 10 hours a week for between 6 and 12 months;
- providing an entitlement to 1 week's unpaid partner's/paternity leave for employees who have worked for their employer for at least an average of 10 hours a week for between 6 and 12 months;
- allowing extended partner's/paternity leave for the period of parental leave payments for certain employees who have worked for their employer for at least an average of 10 hours a week for between 6 and 12 months;
- increasing the duration of parental leave payments from 12 weeks to 13 weeks.

The following provisions come into force on 1 December 2005:

- increasing the duration of maternity leave for employees who have worked for their employer for at least an average of 10 hours a week for between 6 and 12 months;
- increasing the duration of parental leave payments from 13 weeks to 14 weeks.

Clause 3 sets out the purpose of Part 1.

Clause 4 provides that the amendments that come into force on 1 December 2004 apply to an employee who takes parental leave if—

- the expected or actual date of delivery of the child is on or after 1 December 2004; or

- in the case of adoption, the employee or the employee's spouse assumes the care of the child with a view to adoption on or after 1 December 2004.

Clause 5 makes a consequential amendment to the Long Title.

Clause 6 makes a consequential amendment to the interpretation section.

Clause 7 amends section 2A so that teachers who are employed by more than 1 Board of Trustees are treated as having only 1 employment for the purposes of the Act.

Clause 8 amends section 7 so that a female employee who has been employed by her employer for at least an average of 10 hours a week for between 6 and 12 months is entitled to maternity leave.

Clause 9 amends section 8 so that an adoptive mother who has been employed by her employer for at least an average of 10 hours a week for between 6 and 12 months is entitled to maternity leave.

Clause 10 amends section 9, relating to the duration of maternity leave, so that—

- an employee who has been employed by her employer for at least an average of 10 hours a week for the immediately preceding 12 months is entitled to 14 weeks' maternity leave; and
- an employee who has been employed by her employer for at least an average of 10 hours a week over her period of employment, which is less than the immediately preceding 12 months but at least the immediately preceding 6 months, is entitled to 13 weeks' maternity leave.

Clause 11 amends section 17 so that a mother's spouse who has been employed by his or her employer for at least an average of 10 hours a week for between 6 and 12 months is entitled to partner's/paternity leave.

Clause 12 amends section 18 so that an adoptive mother's spouse who has been employed by his or her employer for at least an average of 10 hours a week for between 6 and 12 months is entitled to partner's/paternity leave.

Clause 13 substitutes *new sections 19 to 19B*. *New section 19* provides that an employee is entitled to 2 weeks' partner's/paternity leave if the employee has been employed by his or her employer for at least an average of 10 hours a week for 12 months. An employee

who has been employed by his or her employer for at least an average of 10 hours a week for between 6 and 12 months is entitled to 1 week's partner's/paternity leave.

New section 19A applies if neither employee is entitled to extended leave. The section extends the spouse's partner's/paternity leave entitlement to match any parental leave payments transferred to him or her.

New section 19B applies to a sole adoptive parent or to an adoptive parent who is not entitled to extended leave and who is nominated as primarily entitled to parental leave under section 71H. Under this section, his or her partner's/paternity leave entitlement is extended to 13 weeks (until 1 December 2005, when it will be extended to 14 weeks).

Clause 14 amends section 26 so that any partner's/paternity leave that is extended under *new section 19A* or *new section 19B* reduces the entitlement to extended leave.

Clause 15 makes a consequential amendment to section 45.

Clause 16 makes a consequential amendment to section 70A.

Clause 17 makes a consequential amendment to section 71A.

Clause 18 makes a consequential amendment to section 71J.

Clause 19 makes a consequential amendment to section 71L.

Clause 20 amends section 71M, which relates to the amount of parental leave payment, to take into account employees who are entitled to a parental leave payment but who have worked for their employer for a period shorter than 12 months.

Clause 21 makes a consequential amendment to section 72A.

Clause 22 allows employees who become entitled to parental leave as a result of the amendments to give notice before the amendments come into force or to give a shorter period of notice, if they cannot comply with the notice provisions because of the timing of the birth of adoption if their child.

Clause 23 sets out the purpose of Part 2.

Clause 24 provides that the amendments that come into force on 1 December 2005 apply to an employee who takes parental leave if—

- the expected or actual date of delivery of the child is on or after 1 December 2005; or

- in the case of adoption, the employee or the employee's spouse assumes the care of the child with a view to adoption on or after 1 December 2005.

Clause 25 makes a consequential amendment to the Long Title.

Clause 26 amends section 9 so that employees who have worked for their employer for at least an average of 10 hours a week for between 6 and 12 months are entitled to 14 weeks' maternity leave, just the same as employees who have worked for at least 12 months for the same employer.

Clause 27 allows an employee's partner's/paternity leave to be extended to up to 14 weeks to match the parental leave payments transferred to him or her.

Clause 28 allows an adoptive parent's partner's/paternity leave to be extended to 14 weeks.

Clause 29 makes a consequential amendment to section 71A.

Clause 30 makes a consequential amendment to section 71J.

Clause 31 makes a consequential amendment to section 71L.

Regulatory impact and business compliance cost statement

Background

The Act provides for unpaid leave from work for birth mothers or adoptive parents and their partner/spouse on either the birth of a child or the adoption of a child under 5. Employees are entitled to up to 12 months' parental leave if they have worked for their employer for 12 months and at least an average of 10 hours each week, including at least 1 hour per week or 40 hours per month (the tenure requirement). Employers, in most cases, are required to hold an employee's job open while the employee is on parental leave.

The Parental Leave and Employment Protection (Paid Parental Leave) Amendment Act 2002 came in to force in July 2002. Currently it provides 12 weeks' taxpayer funded paid parental leave. Under the scheme, eligible mothers and adoptive parents can transfer some or all of their paid parental leave to their eligible spouse or partner.

Statement of the nature and magnitude of the problem and the need for Government action

When the paid parental leave scheme was established in July 2002, Cabinet directed officials to evaluate the implementation and effectiveness of the scheme after 1 year, and report on proposals to enhance the scheme in terms of eligibility and possible alternative funding mechanisms.

An evaluation of the paid parental leave scheme and stakeholder consultation identified that the current eligibility criteria do not cover all employees in an equitable way, in particular—

- many employees, particularly those that may be low paid or seasonal, are unable to access paid leave when they have a baby due to the tenure requirement for 1 year's service in their current job (estimated at 6 800 employees per year); and
- for those employees who are eligible for paid parental leave, the scheme does not provide an appropriate length of payment. The International Labour Organisation (ILO) Convention 183 on Maternity Protection (not ratified by New Zealand) provides for a minimum period of 14 weeks' paid maternity leave. New Zealand policy is not aligned with the maternity leave requirements of this Convention.

Regulatory action is needed to address these problems as there are limited incentives for market forces and bargaining outcomes to address them.

Statement of the public policy objective

The objective of this legislation is to ensure that the paid parental leave scheme is accessible to a wide range of employees, regardless of their different economic positions, and better align New Zealand policy with international human rights standards relating to paid parental leave.

Statement of the feasible options to achieve the desired objective

Preferred option

The status quo does not sufficiently meet the policy objectives. The key features of the preferred option are that, from 1 December 2004,—

- the length of paid parental leave be increased from 12 to 13 weeks, and then to 14 weeks from 1 December 2005; and
- the tenure requirement be reduced to 6 months' continuous employment with the same employer for a minimum leave period of the paid parental leave period (for example, if an employee takes 14 weeks' paid parental leave, that employee is on leave for that time and his or her job is protected).

Statement of net benefit of proposal

Government

The package of preferred options is estimated to cost \$17.3 m net fiscal expenditure for 2005/06.

Paid parental leave is one component of government policy to support the achievement of high quality working lives. It is government policy to ensure that the paid parental leave scheme is implemented correctly and that it is effective in providing appropriate levels of leave and payment to the maximum number of employees in the best and fairest manner. Further, the extension of paid parental leave to 14 weeks will align the entitlement to the minimum 14 week maternity leave requirement of ILO Convention 183.

Society/employees

This proposal will provide entitlements to leave for an estimated 3 400 employed mothers. The reduced tenure requirement will increase access for lower income employees and seasonal employees. The benefits of leave include more time for mothers to bond with a newborn or adopted child and enhanced health and wellbeing for new parents and their children. There are no direct costs to society or employees from the proposal.

Business

The benefits for business of parental leave include increased employee retention for those taking parental leave, as more employees will be able to take taxpayer funded paid leave from their employer.

The entitlement to paid parental leave is taxpayer funded and therefore there is no cost to business. Employers will have to fill a position or respond in some way when a new mother takes time off work to recover after childbirth (regardless of whether the employer

has to hold the job open under the Act). The proposals do not impose any material increment in compliance costs to business.

Consultation

The Treasury, Ministry of Social Development, Department of Prime Minister and Cabinet, Ministry of Justice, Te Puni Kokiri, Ministry of Women's Affairs, Ministry of Economic Development, and the Inland Revenue Department have been consulted on the proposals.

Thirty-four submissions were received in response to the consultation process accompanying the review of paid parental leave. There were 17 submissions from individuals and submissions from the National Advisory Council for the Employment of Women, National Council of Women of New Zealand, Rural Women New Zealand, Women's Health Action, New Zealand Federation of Business and Professional Women Inc, Aotearoa Tertiary Students Association, New Zealand University Students' Association, New Zealand Council of Trade Unions, Association of University Staff, New Zealand Nurses Organisation, Business New Zealand, Human Resources Institute of New Zealand, New Zealand College of Midwives, Parents Centres New Zealand Inc, PACIFICA, Whitireia Community Law Centre, and the Human Rights Commission.

Hon Ruth Dyson

Parental Leave and Employment Protection Amendment Bill

Government Bill

Contents

1	Title	14	Duration of extended leave
2	Commencement	15	Early ending and extension of parental leave
Part 1			
Amendments that come into force on 1 December 2004			
3	Purpose of this Part	16	Role of Labour Inspectors
4	Application of this Part	17	Purpose
5	Long Title	18	Duration of parental leave payment
6	Interpretation	19	End of parental leave payment
7	Interpretation: multiple employments	20	Amount of parental leave payment
8	Entitlement of female employee to maternity leave	21	Eligibility criteria based on average hours of work and allowing for periods of authorised leave
9	Entitlement of adoptive mother to maternity leave	22	Giving of notice: transitional provision
10	Duration of maternity leave	Part 2	
11	Entitlement of employee to partner's/paternity leave	Amendments that come into force on 1 December 2005	
12	Entitlement of other adoptive parent to partner's/paternity leave	23	Purpose of this Part
13	New sections 19 to 19B substituted	24	Application of this Part
19	Duration of partner's/paternity leave	25	Long Title
19A	Extension of partner's/paternity leave entitlements in certain circumstances	26	Duration of maternity leave
19B	Extension of partner's/paternity leave of adoptive parent	27	Extension of partner's/paternity leave entitlements in certain circumstances
		28	Extension of partner's/paternity leave of adoptive parent
		29	Purpose
		30	Duration of parental leave payment
		31	End of parental leave payment

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Parental Leave and Employment Protection Amendment Act **2004**.

- (2) In this Act, the Parental Leave and Employment Protection Act 1987¹ is called “the principal Act”.

¹ 1987 No 129

2 Commencement

- (1) Part 2 comes into force on 1 December 2005.
- (2) The rest of this Act comes into force on 1 December 2004. 5

Part 1 Amendments that come into force on 1 December 2004

3 Purpose of this Part

The purpose of this Part is— 10

- (a) to clarify that the employment of a teacher in more than 1 State or integrated school (whether at the same time or consecutively) is 1 employment under the principal Act; and
- (b) to provide, for the period from 1 December 2004 to 30 November 2005, an entitlement to 13 weeks of maternity leave and parental leave payments for employees who have worked for their employer for at least an average of 10 hours a week for between 6 and 12 months; however these employees are not entitled to extended leave; and 15 20
- (c) to provide an entitlement to 1 week of unpaid partner’s/paternity leave for employees who have worked for their employer for at least an average of 10 hours a week for between 6 and 12 months; however these employees are not entitled to extended leave; and 25
- (d) to allow extended partner’s/paternity leave for the period of parental leave payments for certain employees who have worked for their employer for at least an average of 10 hours a week for between 6 and 12 months; and 30
- (e) to increase, for the period from 1 December 2004 to 30 November 2005, the duration of parental leave payments from 12 to 13 weeks.

4 Application of this Part

The amendments made by this Part apply to an employee who takes parental leave from his or her employment in respect of a child if—

- (a) the expected date of delivery of the child is on or after 1 December 2004; or 5
- (b) the child is born on or after 1 December 2004; or
- (c) in the case of adoption, the date on which the employee or the employee’s spouse, with a view to adoption, assumes the care of the child, is on or after 1 December 2004. 10

5 Long Title

The Long Title of the principal Act is amended by omitting the words “12 weeks”, and substituting the words “13 weeks”. 15

6 Interpretation

Section 2(3) of the principal Act is amended by adding the words “(or lesser period, as the case may be)”.

7 Interpretation: multiple employments

Section 2A of the principal Act is amended by adding, as subsections (2) and (3), the following subsections: 20

- “(2) For the purposes of determining the entitlement of a teacher to rights and benefits in respect of parental leave and parental leave payment, if the teacher, during a 12-month period (or lesser period as the case may be), is employed by more than 1 Board of Trustees to work in more than 1 State school or integrated school (whether concurrently or consecutively), those employments must be treated as 1 employment. 25

- “(3) In **subsection (2)**,—

“**Board of Trustees** means a Board of Trustees constituted under Part 9 of the Education Act 1989 30

“**integrated school** has the same meaning as in section 145 of the Education Act 1989

“**state school** has the same meaning as in section 2 of the Education Act 1989 35

“**teacher** has the same meaning as in section 91A of the Education Act 1989.”

- 8 Entitlement of female employee to maternity leave** 5
Section 7 of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
- “(b) who, at the expected date of delivery, will have been in the employment of the same employer for at least an average of 10 hours a week over—
- “(i) the immediately preceding 12 months; or
- “(ii) her period of employment, if it is shorter than the immediately preceding 12 months but not shorter than the immediately preceding 6 months,—”.
- 9 Entitlement of adoptive mother to maternity leave** 15
Section 8(1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
- “(b) who, at the date on which she, with a view to adoption, first assumes the care of the child, will have been in the employment of the same employer for at least an average of 10 hours a week over—
- “(i) the immediately preceding 12 months; or
- “(ii) her period of employment, if it is shorter than the immediately preceding 12 months but not shorter than the immediately preceding 6 months,—”.
- 10 Duration of maternity leave** 25
- (1) Section 9 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:
- “(1) Subject to subsection (2), maternity leave must be taken in 1 continuous period not exceeding—
- “(a) 14 weeks if **section 7(b)(i)** or **section 8(1)(b)(i)** applies to the employee; or
- “(b) 13 weeks if **section 7(b)(ii)** or **section 8(1)(b)(ii)** applies to the employee.”
- (2) Section 9 of the principal Act is amended by repealing subsection (3), and substituting the following subsection: 35
- “(3) A period of maternity leave in excess of 13 or 14 weeks (as the case may be) taken by a female employee under subsection (2)

is to be treated as maternity leave for the purposes of this Act, but must not be taken into account in assessing under section 26 any period of extended leave to which the female employee or her spouse may be entitled under this Act.”

- 11 Entitlement of employee to partner’s/paternity leave** 5
Section 17 of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:
“(c) who, at the expected date of delivery for that child, will have been in the employment of the same employer for at least an average of 10 hours a week over— 10
 “(i) the immediately preceding 12 months; or
 “(ii) the employee’s period of employment, if it is shorter than the immediately preceding 12 months but not shorter than the immediately preceding 6 months,—”. 15
- 12 Entitlement of other adoptive parent to partner’s/paternity leave**
Section 18(1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
“(b) who, at the date on which he or she, with a view to adoption, first assumes the care of the child, will have been in the employment of the same employer for at least an average of 10 hours a week over— 20
 “(i) the immediately preceding 12 months; or
 “(ii) the employee’s period of employment, if it is shorter than the immediately preceding 12 months but not shorter than the immediately preceding 6 months,—”. 25
- 13 New sections 19 to 19B substituted**
The principal Act is amended by repealing section 19, and substituting the following sections: 30
- “19 Duration of partner’s/paternity leave**
Partner’s/paternity leave must be taken in 1 continuous period not exceeding—
 “(a) 2 weeks if **section 17(c)(i)** or **section 18(1)(b)(i)** applies to the employee; or 35

“(b) 1 week if **section 17(c)(ii)** or **section 18(1)(b)(ii)** applies to the employee.

“19A Extension of partner’s/paternity leave entitlements in certain circumstances

- “(1) This section applies if— 5
- “(a) an employee (**employee A**) is entitled to—
- “(i) maternity leave under **section 7(b)** or **section 8(1)(b)**;
or
- “(ii) partner’s/paternity leave under **section 18(1)(b)**; and
- “(b) employee A’s spouse (**employee B**) is entitled to partner’s/paternity leave under **section 17(c)(ii)** or **18(1)(b)(ii)**; and 10
- “(c) employee A transfers all or part of his or her entitlement to parental leave payments to employee B under section 71E. 15
- “(2) Employee B’s entitlement to partner’s/paternity leave is extended so that it is the same as the period of parental leave payments transferred to him or her.
- “(3) However, if **section 7(b)(ii)** or **section 8(1)(b)(ii)** or **section 18(1)(b)(ii)** applies to employee A, the total period formed by adding together maternity leave or partner’s/paternity leave taken by employee A and extended partner’s/paternity leave taken by employee B may not exceed 13 weeks. 20
- “(4) The taking by employee B of partner’s/paternity leave under **section 19** does not reduce the leave entitlements of either employee under **subsection (3)**. 25

“19B Extension of partner’s/paternity leave of adoptive parent

- “(1) This section applies if **section 18(1)(b)(ii)** applies to an employee and he or she— 30
- “(a) assumes alone, with a view to adoption, the care of a child; or
- “(b) is nominated as primarily entitled to a parental leave payment under section 71H.
- “(2) The employee’s entitlement to partner’s/paternity leave is the shorter of the following: 35
- “(a) 13 weeks (including any period of partner’s/paternity leave to which the employee is entitled under **section 19**):

“(b) if **subsection (1)(b)** applies, the period during which the employee receives the parental leave payment.”

14 Duration of extended leave

- (1) Section 26(1) of the principal Act is amended by omitting the expression “subsection (2)”, and substituting the words “subsections (2) and (4)”. 5
- (2) Section 26 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:
- “(4) The taking by an employee of a period of partner’s/paternity leave affects the period of extended leave to which the employee and his or her spouse is entitled in accordance with this Act as follows: 10
- “(a) the period is not reduced by the taking of partner’s/paternity leave referred to in **section 19**:
- “(b) the period is reduced by the period of extended partner’s/paternity leave taken under **section 19A** or **section 19B**.” 15

15 Early ending and extension of parental leave

- Section 45(4) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph: 20
- “(b) in the case of a period of partner’s/paternity leave, the duration of partner’s/paternity leave exceeds—
- “(i) 2 weeks if **section 17(c)(i)** or **section 18(1)(b)(i)** applies to the employee; or
- “(ii) 1 week if **section 17(c)(ii)** or **section 18(1)(b)(ii)** applies to the employee.” 25

16 Role of Labour Inspectors

Section 70A(1)(a) of the principal Act is amended by inserting, after the word “period”, the words “(or lesser period, as the case may be)”. 30

17 Purpose

Section 71A of the principal Act is amended by omitting the words “12 weeks”, and substituting the words “13 weeks”.

18 Duration of parental leave payment

- (1) Section 71J(a) of the principal Act is amended by omitting the words “12 weeks”, and substituting the words “13 weeks”.
- (2) Section 71J(b) of the principal Act is amended by omitting the words “12 weeks”, and substituting the words “13 weeks”. 5

19 End of parental leave payment

Section 71L(1)(a) of the principal Act is amended by omitting the words “12 weeks”, and substituting the words “13 weeks”.

20 Amount of parental leave payment 10

Section 71M(2) of the principal Act is amended by repealing the definition of **average weekly earnings**, and substituting the following definition:

“**average weekly earnings** means one fifty-second of the employee’s gross earnings during the year ending with the expected date of delivery (or, in the case of adoption, the date on which the employee assumes the care of the child with a view to adoption), except that— 15

“(a) if section 72A applies, the divisor of 52 must be reduced by the number of complete weeks during which the employee was absent from work on leave without pay in a circumstance described in subsection (2) of that section: 20

“(b) if the employee has been in the employment of his or her employer for a period that is shorter than 12 months ending on the expected date of delivery (or, in the case of adoption, the date on which the employee assumes the care of the child with a view to adoption), the divisor of 52 must be reduced so that it represents the number of complete or part weeks that the employee worked for the employer in the period of employment until that date”. 25 30

21 Eligibility criteria based on average hours of work and allowing for periods of authorised leave

Section 72A(1) of the principal Act is amended by inserting, after the word “period”, the words “(or lesser period, as the case may be)”. 35

- 22 Giving of notice: transitional provision**
- (1) This section applies to an employee who is entitled to parental leave as a result of the commencement of this Part and who is unable to give the notice required under—
- (a) section 31(1) of the principal Act because there is less than 3 months between the commencement of this Part and the expected date of delivery; or 5
 - (b) section 33(a) or (b) of the principal Act within 14 days of receiving the relevant notice or of the relevant order being made, because the notice was received or the order was made before the commencement of this Part. 10
- (2) An employee to whom this section applies:
- (a) is not required to give notice under section 31 or section 33 within the time periods referred to in those sections, but must give the notice as soon as practicable; 15
 - (b) may give notice under section 31 or 33 (as applicable) before the commencement of this Part as if this Part were already in force.

Part 2
Amendments that come into force on 20
1 December 2005

- 23 Purpose of this Part**
- The purpose of this Part is to increase, from 1 December 2005,—
- (a) the duration of maternity leave from 13 to 14 weeks for employees who have worked for their employer for at least an average of 10 hours a week for between 6 and 12 months; however, these employees are not entitled to extended leave; and 25
 - (b) the duration of parental leave payments from 13 to 14 weeks. 30
- 24 Application of this Part**
- The amendments made by this Part apply to an employee who takes parental leave from his or her employment in respect of a child if— 35
- (a) the expected date of delivery of the child is on or after 1 December 2005; or
 - (b) the child is born on or after 1 December 2005; or

- (c) in the case of adoption, the date on which the employee, or the employee's spouse, with a view to adoption, assumes the care of the child is on or after 1 December 2005.
- 25 Long Title** 5
The Long Title of the principal Act is amended by omitting the words "13 weeks", and substituting the words "14 weeks".
- 26 Duration of maternity leave**
(1) **Section 9(1)** of the principal Act is amended by repealing subsection (1), and substituting the following subsection: 10
“(1) Maternity leave must be taken in 1 continuous period not exceeding 14 weeks, subject to subsection (2).”
(2) Section 9(3) of the principal Act is amended by omitting the words "13 or 14 weeks (as the case may be)", and substituting the words "14 weeks". 15
- 27 Extension of partner's/paternity leave entitlements in certain circumstances**
Section 19A(3) of the principal Act is amended by omitting the words "13 weeks", and substituting the words "14 weeks". 20
- 28 Extension of partner's/paternity leave of adoptive parent**
Section 19B(2) of the principal Act is amended by omitting the words "13 weeks", and substituting the words "14 weeks".
- 29 Purpose** 25
Section 71A of the principal Act is amended by omitting the words "13 weeks", and substituting the words "14 weeks".
- 30 Duration of parental leave payment**
(1) Section 71J(a) of the principal Act is amended by omitting the words "13 weeks", and substituting the words "14 weeks". 30
(2) Section 71J(b) of the principal Act is amended by omitting the words "13 weeks", and substituting the words "14 weeks".

31 End of parental leave payment

Section 71L(1)(a) of the principal Act is amended by omitting the words “13 weeks”, and substituting the words “14 weeks”.