

## Changes to the Industrial Relations Act – Parental Leave

### Flexible Parental Leave

An employee who is entitled to take parental leave (parental, adoption, surrogacy or cultural recognition leave) can now take up to **30 days of flexible unpaid leave** in an unbroken or broken periods of leave within two years after the birth or adoption of the child [s 87B]. *This mirrors the National Employment Standard under the Fair Work Act.*

### Concurrent Leave

Currently, an employee may take up to 8 weeks unpaid leave at the same time with their spouse. An employee will now be able to also take their 52 weeks unpaid leave concurrently with their spouse. This leave can be taken in an unbroken or broken periods of at least two weeks at a time [s 59].

### Birth related leave – stillborn child

An employee and their spouse will be entitled to take their accrued paid sick leave and/or unpaid sick leave if **the pregnancy ends by the birth of a stillborn child** [s 85A]. This is in addition to a leave entitlement if a pregnancy ends before the expected date of birth, other than by the birth of a living child and if an employee suffers illness related to pregnancy before commencing parental leave. *This is consistent with the National Employment Standard under the Fair Work Act.*

### More flexible work options to work part time up to school age

An employee who has returned to work on a full time basis after taking parental leave may now apply to their employer to **work part time up until the child is school aged** [s 75(1)]. *This is consistent with the National Employment Standard under the Fair Work Act.*

For example, an employee who gives birth to a child takes an initial 52 weeks unpaid parental leave. Their spouse continues to work full time for this period, then elects to take the second year as unpaid parental leave while the birth parent returns to work full time. Currently the birth parent cannot apply to work part time during year three. The amendments will extend the right for the birth parent to apply to work part time from year three up until the child is school aged.

### Adoption related leave extended to 16 years

An employee and their spouse may take unpaid leave (short and long term leave) to care for a child who has been adopted. This form of leave has been extended to allow an employee to adopt a child up to the aged of 16 years (previously leave was restricted to adopt a child aged up to 5 years) [s 57 (definition of 'child')].

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### **Evidence required to take parental leave**

An employee wishing to take birth related leave for their own pregnancy or in relation to their spouse, must now provide evidence to their employer that would satisfy a reasonable person the person or their spouse is pregnant and the expected date of birth, consistent with the Fair Work Act.

An employer will have discretion to require that the evidence is a health practitioner's certificate, rather than a medical certificate. A health practitioner includes a medical practitioner, a midwife, or an Aboriginal and Torres Strait Islander health practitioner [Schedule 5 definitions].