

COVID-19 update: Changes to the Parental Leave Scheme

The COVID-19 Response (Further Management Measures) Legislation Bill (the Bill) has introduced changes to the parental leave scheme.

Under the proposed amendments to the parental leave scheme governed by the Parental Leave and Employment Protection Act 1987 (the **Act**), essential workers who are currently on parental leave will be able to temporarily return to work, without losing their entitlements under the Act.

A person may be deemed a "COVID-19 response worker" under the Act if:

1. that person is currently entitled to parental leave;
2. that person has agreed to return to work temporarily to respond to circumstances related to the outbreak of COVID-19 (or is a self-employed person who wants to return to work temporarily as a result of the outbreak of COVID-19); and
3. in the circumstances of COVID-19, that person's role cannot reasonably be filled by another person (because of that person's skill, qualifications, or experience), or there is a higher than usual demand for workers doing that role.

COVID-19 response workers should be aware of the consequences of returning to work on a temporary basis, including that the worker will not receive any parental leave payments or pre-term baby payments during the period they return to work. Any parental payments received during the temporary return to work are deemed to be an "overpayment" and must be returned.

Parental leave payments may resume following the workers' temporary return to work, if specified criteria are met, including that the return to work was for no longer than 12 weeks (unless a labour inspector has deemed a longer period reasonable) and the return to work was for one continuous period (unless a labour inspector deems that more than one period was reasonable).

The Bill had its first reading on 5 May 2020, and has been referred to the Epidemic Response Committee who is due to report back on 12 May 2020. We expect that this Bill will be passed into law on an urgent basis, and therefore changes to the Act will take effect shortly.

Want to know more?

If you have any questions about parental leave and your entitlements, please contact our specialist [Employment Team](#).