

# **Parental Leave and Employment Protection (Six Months' Paid Leave and Work Contact Hours) Amendment Bill**

Member's Bill

## **Explanatory note**

### **General policy statement**

The purpose of this bill is to extend paid parental leave to 26 weeks, which supports the WHO recommendations that breastfeeding is recommended up to 6 months of age for the best start in life for all babies.

The time invested into the first few years of a baby's life are crucial for healthy relationship building between parents and their children. This bill will extend paid parental leave from the current rate to 26 weeks to build healthy relationships in New Zealand families.

This bill aims to make a difference in the lives of working kiwis and to allow families to bond during those very important early months with their new babies.

This bill adds provisions around work contact hours, where working parents are entitled to the flexibility of returning to work for a certain amount of time during the parental leave period without losing their entitlement to paid parental leave.

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause and provides that *Part 1* comes into force on 1 April 2016, *Part 2* on 1 April 2018, and the rest of the Act on the day after the date on which it receives the Royal assent.

*Clause 3* states that the bill amends the Parental Leave and Employment Protection Act 1987.

## Part 1

### Amendments to come into force on 1 April 2016

*Part 1* contains amendments that are to come into force on 1 April 2016.

*Part 1*, except for *clauses 12 and 14*, amends various provisions that refer to the duration of parental leave. Currently at 16 weeks, parental leave is extended to 22 weeks. The relevant regulations are also amended accordingly.

*Clauses 12 and 14* relate to work contact hours. *Clause 14* inserts *new sections 71HA to 71HC*, and a *new cross-heading*, relating to those new sections. These new sections allow for those on 22 weeks of parental leave to work for contact hours, whilst on parental leave, without being regarded as having returned to work. *Clause 12* amends section 56, which relates to parental leave complaints, so that employees can use the parental leave complaint process in relation to work contact hours.

## Part 2

### Amendments to come into force on 1 April 2018

*Part 2* contains amendments that are to come into force on 1 April 2018.

*Part 2*, except for *clause 28*, further amends the provisions amended by *Part 1* that refer to the duration of parental leave. The effect of the later amendments is that the duration of parental leave is further extended from 22 weeks to 26 weeks. The relevant regulations are also amended accordingly.

*Clause 28* relates to work contact hours and amends *new section 71HA* by changing references to 22 weeks of parental leave to 26 weeks, in accordance with the changes to the duration of parental leave made by this Part of the bill.

*Sue Moroney*

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**Part 2**

**Amendments to come into force on 1 April 2018**

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20	Section 9 amended (Duration of maternity leave)	5
21	Section 19A amended (Extension of partner's/paternity leave entitlements for spouses or partners of employees in certain circumstances)	5
22	Section 19B amended (Extension of partner's/paternity leave of adoptive parent)	5
23	Section 26 amended (Duration of extended leave)	5
24	Section 27 amended (Extended leave to be shared between parents)	5
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27	Section 71A amended (Purpose)	6
28	Section 71HA amended (Work contact hours during parental leave)	6
29	Section 71J amended (Duration of parental leave payment)	6
30	Section 71L amended (End of parental leave payment for employees)	6
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**Schedule 1**

**Amendments to Parental Leave and Employment Protection  
Regulations 2002 that come into force on 1 April 2016**

**Schedule 2**

**Amendments to Parental Leave and Employment Protection  
Regulations 2002 that come into force on 1 April 2018**

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Parental Leave and Employment Protection (Six Months' Paid Leave and Work Contact Hours) Amendment Act **2015**.

**2 Commencement**

(1) **Part 1** comes into force on 1 April 2016.

(2) **Part 2** comes into force on 1 April 2018.

- (3) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

**3 Principal Act**

This Act amends the Parental Leave and Employment Protection Act 1987 (the **principal Act**).

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**Part 1**

**Amendments to come into force on 1 April 2016**

**4 Section 1A amended (Purpose)**

In section 1A(c), replace “16 weeks” with “22 weeks”.

**5 Section 9 amended (Duration of maternity leave)**

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- (1) In section 9(1) and (3), replace “16 weeks” with “22 weeks”.

- (2) In section 9(2), replace “10 weeks” with “16 weeks”.

**6 Section 19A amended (Extension of partner’s/paternity leave entitlements for spouses or partners of employees in certain circumstances)**

In section 19A(3), replace “16 weeks” with “22 weeks”.

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**7 Section 19B amended (Extension of partner’s/paternity leave of adoptive parent)**

In section 19B(2)(a), replace “16 weeks” with “22 weeks”.

**8 Section 26 amended (Duration of extended leave)**

In section 26(2), replace “16 weeks” with “22 weeks”.

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**9 Section 27 amended (Extended leave to be shared between parents)**

In section 27(2)(c), replace “16 weeks” with “22 weeks”.

**10 Section 32 amended (Requirements where extended leave sought)**

In section 32(d)(i), replace “16 weeks” with “22 weeks”.

**11 Section 45 amended (Early ending and extension of parental leave)**

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In section 45(4)(a) and (c)(i), replace “16 weeks” with “22 weeks”.

**12 Section 56 amended (Parental leave complaints)**

In section 56(1)(c), after “payment”, insert “or work contact hours under **sections 71HA to 71HC**”.

**13 Section 71A amended (Purpose)**

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In section 71A, replace “16 weeks” with “22 weeks”.

**14 New sections 71HA to 71HC and cross-heading inserted**

After section 71H, insert:

*Work contact hours*

**71HA Work contact hours during parental leave**

- (1) An employee on 22 week paid parental leave or on extended leave may work, upon fair agreement between the employee and the employer, the following work contact hours: 5
- (a) up to 42 hours in the 22 week paid parental leave period:
  - (b) up to 156 hours in the 52 week period which includes the unpaid parental leave period. 10
- (2) An employer whose employee works any work contact hours must, by fair agreement with the employee, —
- (a) pay the employee for the hours worked,—
    - (i) at the hourly rate paid to the employee before he or she took up parental leave; and 15
    - (ii) in the pay period or pay periods during which, or immediately after, the hours are worked; or
  - (b) give the employee leave, as time in lieu of the work contact hours, after the employee returns to work.
- (3) Despite section 71Q, payments (including for time in lieu) made under **subsection (2)** must not come out of public money appropriated for expenditure in providing parental leave payments. 20
- (4) Payment made, or leave given as time in lieu, under **subsection (2)** is in addition to, and not instead of, any parental leave payment to which the employee is entitled under Part 7A. 25
- (5) Nothing in this section requires an employee to work during the period when he or she is on parental leave.

**71HB Effect of working for work contact hours**

- (1) An employee who works any work contact hours is not regarded as having returned to work from parental leave by reason only of undertaking those hours of work. 30
- (2) Any work contact hours worked do not extend any period of parental leave.

**71HC Transfer of work contact hours**

To the extent that a person transfers all or part of his or her entitlement to parental leave payments to his or her spouse or partner under section 71E, the spouse or partner is entitled to work any work contact hours to the extent that the person would have been entitled to them had the transfer not been made. 35

- 15 Section 71J amended (Duration of parental leave payment)**  
In section 71J(a) and (b), replace “16 weeks” with “22 weeks”.
- 16 Section 71L amended (End of parental leave payment for employees)**  
In section 71L(1)(a), replace “16 weeks” with “22 weeks”.
- 17 Section 71LA amended (End of parental leave payment for self-employed persons)** 5  
In section 71LA(1)(a), replace “16 weeks” with “22 weeks”.
- 18 Regulations amended**  
The Parental Leave and Employment Protection Regulations 2002 are amended  
in the manner set out in **Schedule 1**. 10

## Part 2

### Amendments to come into force on 1 April 2018

- 19 Section 1A amended (Purpose)**  
In section 1A(c), replace “22 weeks” with “26 weeks”.
- 20 Section 9 amended (Duration of maternity leave)** 15  
(1) In section 9(1) and (3), replace “22 weeks” with “26 weeks”.  
(2) In section 9(2), replace “16 weeks” with “20 weeks”.
- 21 Section 19A amended (Extension of partner’s/paternity leave entitlements for spouses or partners of employees in certain circumstances)**  
In section 19A(3), replace “22 weeks” with “26 weeks”. 20
- 22 Section 19B amended (Extension of partner’s/paternity leave of adoptive parent)**  
In section 19B(2)(a), replace “22 weeks” with “26 weeks”.
- 23 Section 26 amended (Duration of extended leave)**  
In section 26(2), replace “22 weeks” with “26 weeks”. 25
- 24 Section 27 amended (Extended leave to be shared between parents)**  
In section 27(2)(c), replace “22 weeks” with “26 weeks”.
- 25 Section 32 amended (Requirements where extended leave sought)**  
In section 32(d)(i), replace “22 weeks” with “26 weeks”.
- 26 Section 45 amended (Early ending and extension of parental leave)** 30  
In section 45(4)(a) and (c)(i), replace “22 weeks” with “26 weeks”.

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Part 2 cl 27

- 27 Section 71A amended (Purpose)**  
In section 71A, replace “22 weeks” with “26 weeks”.
- 28 Section 71HA amended (Work contact hours during parental leave)**  
In **section 71HA**, replace “22” with “26” in each place.
- 29 Section 71J amended (Duration of parental leave payment)** 5  
In section 71J(a) and (b), replace “22 weeks” with “26 weeks”.
- 30 Section 71L amended (End of parental leave payment for employees)**  
In section 71L(1)(a), replace “22 weeks” with “26 weeks”.
- 31 Section 71LA amended (End of parental leave payment for self-employed persons)** 10  
In section 71LA(1)(a), replace “22 weeks” with “26 weeks”.
- 32 Regulations amended**  
The Parental Leave and Employment Protection Regulations 2002 are amended in the manner set out in **Schedule 2**.



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**Schedule 1**  
**Amendments to Parental Leave and Employment Protection**  
**Regulations 2002 that come into force on 1 April 2016**

**s 18**

**Regulation 8**

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In regulation 8(1)(d)(iii) and (1A)(b), replace “16 weeks” with “22 weeks”.

**Regulation 9**

In regulation 9(2)(b), replace “16 weeks” with “22 weeks”.

**Regulation 11**

In regulation 11(3)(b), replace “16 weeks” with “22 weeks”.

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**Regulation 12**

In regulation 12(2)(b), replace “16 weeks” with “22 weeks”.

**Schedule**

In the Schedule, form 1, notes, replace “16 weeks” with “22 weeks” in each place.

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**Schedule 2**  
**Amendments to Parental Leave and Employment Protection**  
**Regulations 2002 that come into force on 1 April 2018**

**s 32**

**Regulation 8**

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In regulation 8(1)(d)(iii) and (1A)(b), replace “22 weeks” with “26 weeks”.

**Regulation 9**

In regulation 9(2)(b), replace “22 weeks” with “26 weeks”.

**Regulation 11**

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In regulation 11(3)(b), replace “22 weeks” with “26 weeks”.

**Regulation 12**

In regulation 12(2)(b), replace “22 weeks” with “26 weeks”.

**Schedule**

In the Schedule, form 1, notes, replace “22 weeks” with “26 weeks” in each place.