

House of Representatives

Supplementary Order Paper

Wednesday, 25 February 2015

Parental Leave and Employment Protection (Six Months' Paid Leave) Amendment Bill

Proposed amendments

Sue Moroney, in Committee, to move the following amendments:

Clause 2

Replace *clause 2* (page 1, lines 5 to 7) with:

2 Commencement

- (1) Except as provided in **subsections (2) and (3)**, this Act comes into force on the day after the date on which it receives the Royal assent.
- (2) **Sections 5(1), 6(1), and 7(1)** come into force on 1 July 2015.
- (3) **Sections 5(2), 6(2), and 7(2)** come into force on 1 July 2017.

New clauses 4 to 8

After *clause 3* (page 1, after line 10), insert:

4 Purpose

The purpose of this Act is to extend the duration of maternity leave, paternity leave, extended leave, and the parental leave payment to a maximum of 26 weeks in respect of a person who gives birth—

- (a) to 2 or more children as a result of 1 pregnancy and assumes or intends to assume the care of those children; or
- (b) to 1 or more surviving children before 37 weeks of gestation; or
- (c) to a child whose impairment would entitle the person to a government-funded disability support service.

5 Section 71J amended (Duration of parental leave payment)

- (1) In section 71J(b), replace “16 weeks.” with “16 weeks; or” and after paragraph (b), insert:
 - “(c) for 22 weeks in respect of a person who gives birth—
 - “(i) to 2 or more children as a result of 1 pregnancy and assumes or intends to assume the care of those children; or
 - “(ii) to 1 or more children before 37 weeks of gestation, where the child or children survive birth for the duration of the parental leave payment; or
 - “(iii) to a child whose impairment would entitle the person to a government-funded disability support service.”
- (2) Replace section 71J(c) with:
 - “(c) for 26 weeks in respect of a person who gives birth—
 - “(i) to 2 or more children as a result of 1 pregnancy and assumes or intends to assume the care of those children; or
 - “(ii) to 1 or more children before 37 weeks of gestation, where the child or children survive birth for the duration of the parental leave payment; or
 - “(iii) to a child whose impairment would entitle the person to a government-funded disability support service.”

6 Consequential amendments

- (1) In the following provisions, 16 weeks means 16 weeks, or in respect of a person who gives birth to 2 or more children as a result of 1 pregnancy and assumes or intends to assume the care of those children, or to 1 or more children before 37 weeks of gestation where the child or children survive birth for the duration of the parental leave payment, or to a child whose impairment would entitle the person to a government-funded disability support service, 22 weeks:
 - (a) section 1A(c):
 - (b) section 9(1) and (3):
 - (c) section 19A(3):
 - (d) section 19B(2)(a):
 - (e) section 26(2):
 - (f) section 27(2)(c):
 - (g) section 32(d)(i):
 - (h) section 45(4)(a) and (c)(i):
 - (i) section 71A:
 - (j) section 71L(1)(a):

- (k) section 71LA(1)(a).
- (2) In the following provisions, 16 weeks means 16 weeks, or in respect of a person who gives birth to 2 or more children as a result of 1 pregnancy and assumes or intends to assume the care of those children, or to 1 or more children before 37 weeks of gestation where the child or children survive birth for the duration of the parental leave payment, or to a child whose impairment would entitle the person to a government-funded disability support service, 26 weeks:
 - (a) section 1A(c):
 - (b) section 9(1) and (3):
 - (c) section 19A(3):
 - (d) section 19B(2)(a):
 - (e) section 26(2):
 - (f) section 27(2)(c):
 - (g) section 32(d)(i):
 - (h) section 45(4)(a) and (c)(i):
 - (i) section 71A:
 - (j) section 71L(1)(a):
 - (k) section 71LA(1)(a).
- (3) In Schedule 1AA, replace Part 2 with:

“Part 2

**“Transitional provision relating to amendments to
this Act made by sections 5(1), 6(1), and 7(1) of
Parental Leave and Employment Protection (Six
Months' Paid Leave) Amendment Act 2014**

- “2 Application of sections 5(1), 6(1), and 7(1) of Parental Leave and Employment Protection (Six Months' Paid Leave) Amendment Act 2014**
- “(1) The amendments made by sections 5(1), 6(1), and 7(1) of the Parental Leave and Employment Protection (Six Months' Paid Leave) Amendment Act 2014 apply to an employee or self-employed person who takes parental leave in respect of a child if—**
 - “(a) the expected date of delivery of the child is on or after 1 July 2015; or**
 - “(b) the child is born on or after 1 July 2015; or**
 - “(c) in the case of adoption, the date on which the employee or self-employed person, or his or her spouse or partner, with a view to adoption, assumes the care of the child is on or after 1 July 2015.**
- “(2) An employee or self-employed person to whom the amendments referred to in **subclause (1)** apply may, before 1 July 2015,—**

- “(a) give notice of a wish to take parental leave, in which case the employee may begin his or her parental leave before 1 July 2015 as if those amendments were already in force; and
- “(b) apply for a parental leave payment under Part 7A as if those amendments were already in force.

“Part 3

“Transitional provision relating to amendments to this Act made by sections 5(2), 6(2), and 7(2) of Parental Leave and Employment Protection (Six Months' Paid Leave) Amendment Act 2014

- “3 **Application of sections 5(2), 6(2), and 7(2) of Parental Leave and Employment Protection (Six Months' Paid Leave) Amendment Act 2014**
- “(1) The amendments made by **sections 5(2), 6(2), and 7(2)** of the Parental Leave and Employment Protection (Six Months' Paid Leave) Amendment Act 2014 apply to an employee or self-employed person who takes parental leave in respect of a child if—
- “(a) the expected date of delivery of the child is on or after 1 July 2017; or
 - “(b) the child is born on or after 1 July 2017; or
 - “(c) in the case of adoption, the date on which the employee or self-employed person, or his or her spouse or partner, with a view to adoption, assumes the care of the child is on or after 1 July 2017.
- “(2) An employee or self-employed person to whom the amendments referred to in **subclause (1)** apply may, before 1 July 2017,—
- “(a) give notice of a wish to take parental leave, in which case the employee may begin his or her parental leave before 1 July 2017 as if those amendments were already in force; and
 - “(b) apply for a parental leave payment under Part 7A as if those amendments were already in force.”

7 **Regulations amended**

- (1) In the following provisions of the Parental Leave and Employment Protection Regulations 2002, **16 weeks** means 16 weeks, or in respect of a person who gives birth to 2 or more children as a result of 1 pregnancy and assumes or intends to assume the care of those children, or to 1 or more children before 37 weeks of gestation where the child or children survive birth for the duration of the parental leave payment, or to a child whose

impairment would entitle the person to a government-funded disability support service, 22 weeks:

- (a) regulation 8(1)(d)(iii) and (1A)(b):
- (b) regulation 9(2)(b):
- (c) regulation 11(3)(b):
- (d) regulation 12(2)(b):
- (e) Schedule, form 1.

- (2) In the following provisions of the Parental Leave and Employment Protection Regulations 2002, **16 weeks** means 16 weeks, or in respect of a person who gives birth to 2 or more children as a result of 1 pregnancy and assumes or intends to assume the care of those children, or to 1 or more children before 37 weeks of gestation where the child or children survive birth for the duration of the parental leave payment, or to a child whose impairment would entitle the person to a government-funded disability support service, 26 weeks:

- (a) regulation 8(1)(d)(iii) and (1A)(b):
- (b) regulation 9(2)(b):
- (c) regulation 11(3)(b):
- (d) regulation 12(2)(b):
- (e) Schedule, form 1.

8 Consequential amendments to Parental Leave and Employment Protection Amendment Act 2014

- (1) This section amends the Parental Leave and Employment Protection Amendment Act 2014.
- (2) Repeal sections 19 to 31.

Explanatory note

This Supplementary Order Paper amends the commencement clause, specifies an increase in the duration of parental leave payments and related leave entitlements in specified circumstances, and makes consequential amendments to the principal Act. *Clause 2* is amended to change the date of commencement from 1 April to 1 July in the relevant years, so that there is alignment with the annual adjustment to the maximum rate of paid parental leave. This is adjusted on 1 July each year in line with any increase in average weekly earnings. *New clause 4* clarifies that the Bill aligns maternity, paternity, and extended leave with the increased paid parental leave. *New clause 5* provides that parents who have 2 or more children as a result of 1 pregnancy, or whose pregnancy results in a live birth before 37 weeks of gestation, or who have a child whose impairment would entitle the parents to a government-funded disability support service, be entitled to 22 weeks paid parental leave from 1 July 2015, and then from 1 July 2017, 26 weeks paid parental leave. *New clauses 6 and 7* deal with consequential amend-

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ments by replacing the terms 16 weeks and 22 weeks in other sections of the principal Act and in the Parental Leave and Employment Protection Regulations 2002. *Clause 6* also replaces Part 2 of Schedule 1AA inserted by the Parental Leave and Employment Protection Amendment Act 2014 with new Parts 2 and 3 that contain transitional provisions aligning with the amendments proposed by the Bill. *New clause 8* repeals sections 19 to 31 of the Parental Leave and Employment Protection Amendment Act 2014 because those sections are superseded by the new paid parental leave provisions established by the Bill.
