

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

Member's Bill

As reported from the Government Administration Committee

## **Commentary**

### **Recommendation**

The Government Administration Committee has examined the Parental Leave and Employment Protection (Six Months' Paid Leave and Work Contact Hours) Amendment Bill. The committee is unable to agree on whether the bill should be passed. Should the House decide to progress the bill, we recommend that the amendments we discuss, as set out in the attached version of the bill, be incorporated.

### **Introduction**

This is a member's bill in the name of Sue Moroney. It seeks to extend the period of paid parental leave from 16 to 26 weeks. The bill also provides for "work contact hours". Work contact hours would allow recipients of paid parental leave to return to work for a limited amount of time, without losing their entitlement to paid leave.

### **Updating implementation dates**

The bill as introduced seeks to increase paid parental leave in two phases. Part 1 of the bill, which would increase paid leave to 22 weeks, would come into effect on 1 April 2016. Part 2 would increase paid leave to 26 weeks, effective from 1 April 2018.

The date for implementation of Part 1 has now passed. Thus we recommend amending clause 2(1) to change the date to 1 April 2017.

### **Work contact hours**

The bill as introduced provides for work contact hours. However, on 17 March 2016 the Parental Leave and Employment Protection Amendment Act 2016 received Royal assent. That legislation provides for "keeping in touch days", which are comparable

to the work contact hours set out in this bill. Given the similarity, we recommend deleting all clauses that propose to implement the work contact hours.

### **Changing current paid parental leave weeks**

As introduced, the bill would extend the period of paid parental leave from 16 to 26 weeks. However, since its introduction, a number of amendments have been made to the principal Act, including changes to increase the amount of paid parental leave to 18 weeks. We recommend amending all mentions of 16 weeks in the bill to 18 weeks, and aligning the clauses of the bill with the recent changes to sections in the principal Act.

## **Appendix**

### **Committee process**

The Parental Leave and Employment Protection (Six Months' Paid Leave and Work Contact Hours) Amendment Bill was referred to the committee on 16 September 2015. The closing date for submissions was 6 November 2015. We received and considered 6,755 submissions (including 5,129 form submissions and 1,626 individual submissions) from interested groups and individuals. We heard from 25 submitters. We received advice from the Ministry of Business, Innovation and Employment.

### **Committee membership**

Hon Ruth Dyson (Chairperson)

Kris Faafoi

Paul Foster-Bell

Brett Hudson

Mojo Mathers

Mark Mitchell

Sue Moroney replaced Kris Faafoi for this item of business.

Denise Roche replaced Mojo Mathers for this item of business.



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**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted unanimously

~~text deleted unanimously~~



*Sue Moroney*

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

Member's Bill

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22	<del>Section 19B amended (Extension of partner's/paternity leave of adoptive parent)</del>	<del>5</del>
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**Schedule 1**

**Amendments to Parental Leave and Employment Protection  
Regulations ~~2002~~2016 that come into force on 1 April ~~2016~~2017**

**Schedule 2**

**Amendments to Parental Leave and Employment Protection  
Regulations ~~2002~~2016 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~~6 Months' Paid Leave and Work Contact Hours) Amendment Act **2015**.

**2 Commencement**

(1) **Part 1** comes into force on 1 April ~~2016~~2017.

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- (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**). 5

**Part 1**

**Amendments to come into force on 1 April 20162017**

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

In section 1A(c), replace “~~16~~18 weeks” with “22 weeks”. 10

**4A Section 1B amended (Outline)**

In section 1B(3)(a)(i) and (iii), (b)(i) and (iii), (c)(ii), and (d)(ii), replace “18 weeks” with “22 weeks”.

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

- (1) In section 9(1) and (3), replace “~~16~~18 weeks” with “22 weeks”. 15
- (2) In section 9(2), replace “~~10~~12 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”.~~

**7 Section 19B amended (Extension of partner's/paternity leave of adoptive parent)** 20

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

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

In section 26(2)(3), replace “~~16~~18 weeks” with “22 weeks”.

**9 Section 27 amended (Extended leave to be shared between parents)** 25

~~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)(2)(a), replace “~~16~~18 weeks” with “22 weeks”.

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

In section 45(4)(a) and (e)(i), replace “~~16~~18 weeks” with “22 weeks”. 30

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**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)**

In section 71A(a), replace “1618 weeks” with “22 weeks”.

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**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:~~

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(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.~~

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(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~~

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(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.~~

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(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.~~

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(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.~~

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(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.

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**15 Section 71J amended (Duration of parental leave payment)**

In section 71J(1)(a) and (b), replace “~~18~~ weeks” with “22 weeks”.

**16 Section 71L amended (End of parental leave payment for employees)**

In section 71L(1)(a), replace “~~18~~ weeks” with “22 weeks”.

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**17 Section 71LA amended (End of parental leave payment for self-employed persons)**

In section 71LA(1)(a), replace “16 weeks” with “22 weeks”.

**18 Regulations amended**

The Parental Leave and Employment Protection Regulations ~~2002~~2016 are amended in the manner set out in **Schedule 1**.

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**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

**19A Section 1B amended (Outline)**

In section 1B(3)(a)(i) and (iii), (b)(i) and (iii), (c)(ii), and (d)(ii), replace “22 weeks” with “26 weeks”.

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

(1) In section 9(1) and (3), replace “22 weeks” with “26 weeks”.

25

(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”.

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

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In section 19B(2)(a), replace “22 weeks” with “26 weeks”.

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- 23 Section 26 amended (Duration of extended leave)**  
In section 26(2)(3), replace “22 weeks” with “26 weeks”.
- 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)** 5  
In section 32(d)(i)(2)(a), replace “22 weeks” with “26 weeks”.
- 26 Section 45 amended (Early ending and extension of parental leave)**  
In section 45(4)(a) and (e)(i), replace “22 weeks” with “26 weeks”.
- 27 Section 71A amended (Purpose)** 10  
In section 71A(a), 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)**  
In section 71J(1)(a) and (b), replace “22 weeks” with “26 weeks”.
- 30 Section 71L amended (End of parental leave payment for employees)** 15  
In section 71L(1)(a), replace “22 weeks” with “26 weeks”.
- 31 ~~Section 71LA amended (End of parental leave payment for self-employed persons)~~**  
~~In section 71LA(1)(a), replace “22 weeks” with “26 weeks”.~~
- 32 Regulations amended** 20  
The Parental Leave and Employment Protection Regulations ~~2002~~2016 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~~2016 that come into force on 1 April ~~2016~~2017**

**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)(a)(v), replace “~~18~~ weeks” with “22 weeks”.

**Regulation 10**

In regulation 10(2)(a)(iv), replace “18 weeks” with “22 weeks”.

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**Regulation 11**

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

**Regulation 12**

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

**Regulation 15**

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In regulation 15(3)(e), replace “18 weeks” with “22 weeks”.

**Schedule 2**

In the Schedule 2, form 12, notes 3 and 4, replace “~~18~~ weeks” with “22 weeks” in each place.

**Schedule 2**  
**Amendments to Parental Leave and Employment Protection**  
**Regulations ~~2002~~2016 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)(a)(v), replace “22 weeks” with “26 weeks”.

**Regulation 10**

10

In regulation 10(2)(a)(iv), replace “22 weeks” with “26 weeks”.

**Regulation 11**

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

**Regulation 12**

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

**Regulation 15**

15

In regulation 15(3)(e), replace “22 weeks” with “26 weeks”.

**Schedule 2**

In the Schedule 2, form 12, notes 3 and 4, replace “22 weeks” with “26 weeks” in each place.

**Legislative history**

23 July 2015  
16 September 2015

Introduction (Bill 51–1)  
First reading and referral to Government Administration  
Committee