

Parental Leave and Employment Protection (Shared Leave) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill amends the Parental Leave and Employment Protection Act 1987. It will ensure that paid parental leave can be split between spouses or partners who are caring for the child and taken at the same time, provided that the total paid parental leave taken by the couple does not exceed the maximum provided for a single primary carer.

It is important as part of building strong families that, where more than one parent or other carer will be involved in raising the child, both parents or carers should have an opportunity to bond with the child and support each other during the critical first few months, to improve short- and long-term child and societal outcomes.

The amendments in this Bill are designed to increase the flexibility of arrangements available to families and, as they do not increase the total paid parental leave available to a family unit, they will not increase the operating costs of providing paid parental leave.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. It provides that the Act comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Act amends the Parental Leave and Employment Protection Act 1987 (the **principal Act**).

Clause 4 amends section 7 to redefine what a primary carer is.

Clause 5 inserts *new section 9A* to ensure primary carer leave may be taken consecutively or concurrently with primary carer leave taken by a partner.

Clause 6 amends section 71J to ensure the continuous period may be consecutive, concurrent, or overlapping.

Nicola Willis

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Parental Leave and Employment Protection (Shared Leave) Amendment Act **2022**.

2 Commencement

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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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4 Section 7 amended (Meaning of primary carer)

- (1) In section 7(1)(b)(ii), replace “is the primary carer” with “is a primary carer”.
- (2) After section 7(3), insert:
- (4) A person and their spouse or partner may both be primary carers simultaneously if—
- (a) the person meets the criteria in subsection (1)(a) or (c); and
 - (b) the person has transferred part of their entitlement to a parental leave payment to the spouse or partner under section 71E; and
 - (c) the person and their spouse or partner decide to take parental leave in concurrent or overlapping periods in accordance with **section 9A**.

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5 New section 9A inserted (Primary carer leave may be taken consecutively or concurrently with primary carer leave taken by partner)

After section 9, insert:

9A Primary carer leave may be taken consecutively or concurrently with primary carer leave taken by partner

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- (1) This section applies if—
- (a) an employee takes a period of primary carer leave; and
 - (b) the employee transfers part of their entitlement to a parental leave payment to their spouse or partner under section 71E.
- (2) The employee’s primary carer leave may be taken for a period that is consecutive, concurrent, or overlapping with the spouse or partner’s primary carer leave.

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Example

Abby is entitled to 26 weeks of primary carer leave. Abby transfers 6 weeks of her entitlement to a parental leave payment to her partner Blair under section 71E. Blair may take 6 weeks of primary carer leave. That 6 weeks may be taken—

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- (a) for the period that immediately follows Abby’s 20 weeks of primary carer leave; or
- (b) for a period that is during Abby’s 20 weeks of primary carer leave (for instance, Blair may choose to take primary carer leave for the first 6 weeks following the birth of the child, with Abby taking primary carer leave for the last 2 weeks before the birth and the first 18 weeks following the birth); or
- (c) for a period that overlaps with Abby’s 20 weeks of primary carer leave (for instance, Blair may choose to take the first week of primary carer leave during Abby’s last week of primary carer leave).

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

In section 71J(1)(b), after “1 continuous period per person”, insert “(which, in accordance with section 9A, may be consecutive, concurrent, or overlapping)”.

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