

2001

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Mr Berry)

## Parental Leave (Private Sector Employees) Amendment Bill 2001

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2001 047B

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## **Parental Leave (Private Sector Employees) Amendment Bill 2001**

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### **A Bill for**

An Act to amend the *Parental Leave (Private Sector Employees) Act 1992*

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

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2001 047B

## Section 1

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### 1 Name of Act

This Act is the *Parental Leave (Private Sector Employees) Amendment Act 2001*.

### 2 Commencement

This Act commences on a day fixed by the Minister by notice in the Gazette.

*Note 1* The naming and commencement provisions automatically commence on the notification day (see *Legislation Act 2001*, s 75).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see *Legislation Act 2001*, s 77 (1)).

*Note 3* If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see *Legislation Act 2001*, s 79).

### 3 Act amended

This Act amends the *Parental Leave (Private Sector Employees) Act 1992*.

*Note* The Act is amended in the body of this Act and in sch 1.

### 4 Interpretation Section 3, definition of award

*substitute*

*award*—see the *Workplace Relations Act 1996* (Cwlth), section 4 (Interpretation).

### 5 Section 3, new definition of eligible casual employee

*insert*

*eligible casual employee*—see section 4 (Who is an eligible casual employee?).

**6 Section 3, definition of *employee***

*substitute*

*employee* means a person who is—

- (a) employed under a contract of service or apprenticeship on a full-time or part-time basis; or
- (b) employed under a contract for services; or
- (c) an eligible casual employee.

**7 Section 3, definition of *parental leave***

*omit*

the Parental Leave Case decision;

*substitute*

the parental leave test case standard established by the parental leave decision.

**8 Section 3, definition of *Parental Leave Case decision***

*omit*

**9 Section 3, new definition of *parental leave decision***

*insert*

*parental leave decision* means the decision of the Full Bench of the Australian Industrial Relations Commission, given in Melbourne on 31 May 2001 [PR904631].

**10 Section 3, definition of *relevant employer***

*omit*

a natural person

*substitute*

an individual

**11 New sections 3 and 4**

*insert*

**3 Words and expressions used in parental leave test case standard**

A word or expression used in the parental leave test case standard established by the parental leave decision has the same meaning in this Act.

**4 Who is an eligible casual employee?**

(1) An eligible casual employee is a casual employee—

(a) employed by an employer on a regular and systematic basis for—

(i) several periods of employment during a period of at least 12 months; or

(ii) an ongoing period of employment during a period of at least 12 months; and

(b) who has, apart from the relevant pregnancy or decision to adopt, a reasonable expectation of ongoing employment.

(2) A period mentioned in subsection (1) includes any period of authorised leave or absence.

(3) This Act applies to eligible casual employees even if some of the periods mentioned in subsection (1) were before the commencement of this section.

(4) Subsection (3) and this subsection expire 18 months after this section commences.

**12 Persons to whom Act applies**  
**Section 4**

*substitute*

**5 People to whom Act applies**

This Act applies to—

- (a) an employee of a relevant employer whose employment is not subject to an award; and
- (b) an employee of a relevant employer whose employment is subject to an award that—
  - (i) does not confer an entitlement to parental leave on the employee; and
  - (ii) does not preclude such an entitlement.

**6 People to whom Act does not apply**

This Act does not apply to a person mentioned in section 5 (People to whom Act applies) if the person has a more favourable entitlement to parental leave under some other law, instrument or contract of employment.

**13 Parental leave**  
**Section 5**

*omit everything after*

provided for

*substitute*

in the parental leave test case standard established by the parental leave decision.

**14 Section 5**

*renumber as section 7*

**Schedule 1**      Technical amendments—Parental Leave (Private Sector Employees)  
Act 1992

Amendment [1.1]

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1

2      **Schedule 1**      **Technical amendments—**  
3                              **Parental Leave (Private**  
4                              **Sector Employees) Act 1992**

5      (see s 3)

6      **[1.1] Section 1**

7                      *substitute*

8      **1 Name of Act**

9                      This Act is the *Parental Leave (Private Sector Employees) Act*  
10                     1992.

11      **[1.2] Section 3**

12                     *omit everything before the definition of authority, substitute*

13      **2 Definitions**

14                     In this Act:

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**Endnote**

**Act amended**

Act 1992 No 59 (not republished). See also Act 2001 No 44.

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