

1992
LEGISLATIVE ASSEMBLY
FOR THE
AUSTRALIAN CAPITAL TERRITORY

PARENTAL LEAVE (PRIVATE SECTOR) EMPLOYEES BILL 1992

EXPLANATORY MEMORANDUM

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Background

On 26 July 1990 the Australian Industrial Relations Commission handed down its decision in the Parental Leave Test Case. That decision established an entitlement to parental leave which has been included in a number of industrial awards. An outline of the entitlements is attached.

Main features of the Bill

This Bill extends that entitlement (see clause 5) to employees in the private sector who are not employed under an industrial award and to employees who are employed under an award that does not provide for parental leave or preclude the leave (see clause 4).

Clause 4 refers to employees of a "relevant employer", that term is defined to in clause 3 in a way which excludes governments and their authorities.

It is necessary to provide that the entitlement is not available to an employee who is employed under an award which precludes the leave because ACT legislation which is inconsistent with an Industrial Relations Commission award is inoperative to the extent of the inconsistency.

Formal matters

The formal citation and commencement provisions of the Bill are contained in clauses 1 and 2. Commencement is delayed so as to allow for employers to be advised of their obligation to provide the entitlement.

Clause 3 deals with interpretation.

Financial Considerations

There are no direct costs to Government associated with the Bill. Employers will incur some additional costs in keeping a position open for an employee on unpaid parental leave and in covering absences for such an employee but these costs will be partially offset by the advantages of retaining skilled employees.

OUTLINE OF PRINCIPAL PARENTAL LEAVE ENTITLEMENTS

Maternity Leave

- Up to 52 weeks unpaid leave that must include 6 weeks compulsory leave following the confinement.

Paternity Leave

- An unbroken period of 1 week's unpaid leave at the time of the spouse's confinement and a further unbroken period of up to 51 weeks unpaid leave to be the primary care-giver of the child.

Adoption Leave

- An unbroken period of up to 52 weeks from the time of placement to be the primary care-giver of the child.
- An unbroken period of 3 weeks (included in the 52 limit weeks above) following initial placement of the child.

General Conditions

- A period of 12 months continuous prior service is required to be eligible.
- The entitlement to unpaid parental leave is a net entitlement between spouses. For example, where the mother takes 20 weeks of maternity leave then the father can only take 32 weeks of paternity leave.
- The leave entitlement does not extend beyond the child's first birthday or beyond one year after the initial placement of an adopted child.

Other provisions in the Draft Parental Leave Clause cover administrative aspects and part time work.