

FAIR WORK ACT 2009 (Cth) – SUMMARY OF AMENDMENTS

Several important changes have been made to the [Fair Work Act 2009 \(Cth\)](#) since it commenced on 1 July 2009. The following is a summary of the amendments and provides links to the relevant legislation.

Legislation: [Fair Work Amendment Act 2015 \(Cth\)](#)

Date Commenced: 27 November 2015

Amendment: Parental Leave

Summary of Amendment: If an employee requests an additional 12 months beyond the available 12 month parental leave period, the employer can reject the request on reasonable business grounds. There is a new requirement that the employer must not refuse the request unless it has given the employee a reasonable opportunity to discuss it

Legislation: [Fair Work Amendment Act 2015 \(Cth\)](#)

Date Commenced: 27 November 2015

Amendment: Enterprise Bargaining (Greenfields Agreements)

Summary of Amendment: When negotiating a Greenfields Enterprise Agreement, an employer may now apply to the Fair Work Commission to approve the agreement if the parties cannot agree after a 6 month negotiating period. Parties negotiating Greenfields Agreements must now adhere to good faith bargaining requirements set out in the Fair Work Act 2009.

Legislation: [Fair Work Amendment Act 2015 \(Cth\)](#)

Date Commenced: 27 November 2015

Amendment: Protected Industrial Action

Summary of Amendment: Industrial action may only lawfully take place after bargaining for an enterprise agreement has commenced. Employee organisations/bargaining representatives may no longer take protected industrial action where an employer has refused to bargain.

Legislation: [Fair Work Amendment Act 2013 \(Cth\)](#)

Date Commenced: 1 January 2014

Amendment: Consultation – Changes to Rosters and Working Hours

Summary of Amendment All modern awards were varied to include a term requiring a business to consult its employees about changes to their regular roster or ordinary hours of work. Enterprise Bargaining Agreements (EBAs) made post-1 January 2014 will also be required to include such a term.

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Legislation: [Fair Work Amendment Act 2013 \(Cth\)](#)

Date Commenced: 1 January 2014

Amendment: Union right of entry

Summary of Amendment: Part 3-4 of the FW Act were amended in the following principal ways:

Where agreement cannot be reached between an employer and a union official (with a valid right-of-entry permit) about the **location of a meeting** at the workplace, a union may conduct the meeting with employees in the lunch-room. The Fair Work Commission also now has the power to deal with a union that frequently exercises a right of entry and where this results in an "unreasonable diversion" of the employer's critical resources.

Legislation: [Fair Work Amendment Act 2013 \(Cth\)](#)

Date Commenced: 1 January 2014

Amendment: Bullying

Summary of Amendment: A worker who "reasonably believes" he or she has been bullied in the workplace is able to apply to the Fair Work Commission for a "stop" order to stop the bullying.

Legislation: [Fair Work Amendment Act 2013 \(Cth\)](#)

Date Commenced: 1 July 2013

Amendment: Parental Leave

Summary of Amendments: Entitlements under the National Employment Standards were expanded.

Parents who are married or in a de facto relationship can take up to 8 weeks unpaid parental leave at the same time, instead of 3 weeks previously. This is known as **concurrent leave**.

In addition, employees are now entitled to take the leave in separate periods of, at least, two weeks within twelve months of the birth or adoption. Where unpaid **special maternity leave** is taken by an employee, it will no longer reduce the entitlement to 12 months unpaid parental leave.

Pregnant employees now have the right to request to be transferred to an appropriate safe job if their current position poses a threat to the pregnancy, regardless of their length of service. Previously, an employee only had a right to make such a request if she had completed at least 12 months' continuous service. Where no appropriate safe job is available, employees are now entitled to **paid "no safe job leave"** for the period where they would otherwise be entitled to unpaid parental leave. If an employee is not yet entitled to parental leave (because she has not completed 12 months continuous service), the employee will be entitled to unpaid "no safe job leave" for the risk period.

Legislation: [Fair Work Amendment Act 2013 \(Cth\)](#)

Date Commenced: 1 July 2013

Amendment: Flexible Working Arrangements

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Summary of Amendments: Prior to 1 July 2013, the only employees who could request a flexible working arrangement were parents or carers of children **under school age** or children under 18 with a disability. The number of circumstances has now been expanded to include employees who:

- > are carers of children who are of **school age or younger**;
- > are carers of people that are disabled, chronically or terminally ill, mentally ill or frail and aged;
- > themselves have a disability;
- > are 55 or over;
- > are victims of domestic violence;
- > are caring or supporting a member of their family or household because the other person is themselves a victim of domestic violence.

It is also now clearly stated that a parent or carer is entitled to request **part-time work** when returning from parental leave. A non-exhaustive list of "reasonable business grounds" that an employer can rely on to refuse an application for flexible work has also been included.

Legislation: [Fair Work Amendment Act 2012 \(Cth\)](#)

Date Commenced: 1 January 2013

Amendment: Unfair Dismissal and General Protections

Summary of Amendment: The **time limit** for lodging an unfair dismissal claim was extended from 14 to 21 days from the date of dismissal. The time limit for making a general protections claim (based on a dismissal) was also changed to 21 days from 60 days.

Legislation: [Fair Work Amendment Act 2012 \(Cth\)](#)

Date Commenced: 1 January 2013

Amendment: Name change

Summary of Amendments: Fair Work Australia was renamed the **Fair Work Commission**

Legislation: [Fair Work Amendment Act 2012 \(Cth\)](#)

Date Commenced: 1 January 2013

Amendment: Enterprise Bargaining

Summary of Amendment: A number of changes to the FW Act to fine-tune the EBA-making provisions:

The Act was clarified to make it clear that an EBA cannot be made with a single employee. The Act was clarified to make clear that employers are required to issue employees with a **notice of representation rights** at the commencement of bargaining only in the form prescribed in Schedule 2.1 of the *Fair Work Act*.

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> Factsheet



Legislation: [Paid Parental Leave and Other Legislation Amendment \(Dad and Partner Pay and Other Measure\) Act 2012 \(Cth\)](#)

Date Commenced: 1 October 2012

Section Amended: Parental Leave

Summary of Amendments: In 2012, the Gillard Government introduced a new right for employees on unpaid parental leave. Employees on such leave are now permitted to return to work for up to 10 paid **'keeping in touch days'** without breaking the continuity of the parental leave. Keeping in touch days were introduced so employees on parental leave could stay up to date with their workplace, refresh their skills and assist their return to work. A number of other changes were also made to the parental leave provisions of the FW Act:

- > A pregnant employee can now commence their unpaid parental leave earlier than 6 weeks before the expected date of birth, with the employer's agreement.
- > In the case of a stillbirth or infant death, employees on unpaid parental leave can now return to work within 4 weeks of giving notice to the employer.

Legislation: [Fair Work Amendment \(Family and Domestic Violence Leave\) Act 2018](#)

Date Commenced: 1 August 2018

Section Amended: Family and Domestic Violence Leave

Summary of Amendment: From 1 August 2018 all employees (including casuals) covered by a modern award are entitled to 5 days of unpaid leave if experiencing Family and Domestic Violence. This leave is available to the employee in the event they need to handle the impact of domestic and family violence and they are unable to outside of work. For example, to make arrangements for personal or family member safety (i.e. safe housing arrangements), to attend court hearings or to access police services.

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For assistance or more information, please contact the Workplace Relations Advice Line on **(03) 8662 5222**.

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