

Your answers suggest that you may not be entitled to take special maternity leave.

80 Unpaid special maternity leave

Entitlement to unpaid special maternity leave

- (1) A female employee is entitled to a period of unpaid special maternity leave if she is not fit for work during that period because:
 - (b) all of the following apply:
 - (i) she has been pregnant;
 - (ii) the pregnancy ends after a period of gestation of at least 12 weeks otherwise than by the birth of a living child;
 - (iii) the child is not stillborn.

77A Effect of stillbirth or death of child on unpaid parental leave

Stillbirth—preserving entitlement to birth-related leave

- (1) If:
 - (a) a child is stillborn; and
 - (b) an employee would have been entitled to unpaid parental leave that is birth-related leave, if the child had been born alive;then the employee is taken to be entitled to the unpaid parental leave, despite the stillbirth of the child.
- (2) A **stillborn** child is a child:
 - (a) who weighs at least 400 grams at delivery or whose period of gestation was at least 20 weeks; and
 - (b) who has not breathed since delivery; and
 - (c) whose heart has not beaten since delivery.