

*The statutory protection from the dismissal applies in your circumstances if your maternity or parental leave satisfies statutory requirements. Your answers suggest that you may be entitled to apply for the Fair Work Commissioner to deal with the matter.*

### **772 Employment not to be terminated on certain grounds**

- (1) An employer must not terminate an employee's employment for one or more of the following reasons, or for reasons including one or more of the following reasons:

(g) absence from work during maternity leave or other parental leave;

### **773 Application for the FWC to deal with a dispute**

If:

- (a) an employer has terminated an employee's employment; and
- (b) the employee, or an industrial association that is entitled to represent the industrial interests of the employee, alleges that the employee's employment was terminated in contravention of subsection 772(1);

the employee, or the industrial association, may apply to the FWC for the FWC to deal with the dispute.

### **774 Time for application**

- (1) An application under section 773 must be made:
  - (a) within 21 days after the employment was terminated; or
  - (b) within such further period as the FWC allows under subsection (2).
- (2) The FWC may allow a further period if the FWC is satisfied that there are exceptional circumstances, taking into account:
  - (a) the reason for the delay; and
  - (b) any action taken by the employee to dispute the termination; and
  - (c) prejudice to the employer (including prejudice caused by the delay); and
  - (d) the merits of the application; and
  - (e) fairness as between the person and other persons in a like position.