76 Extending period of unpaid parental leave—extending for up to 12 months beyond available parental leave period

Employee may request further period of leave

(1) An employee who takes unpaid parental leave under section 71 or 72 for his or her available parental leave period may request his or her employer to agree to an extension of unpaid parental leave for the employee for a further period of up to 12 months immediately following the end of the available parental leave period.

Note: Extended periods of unpaid parental leave can include keeping in touch days on which an employee performs work (see section 79A).

Making the request

(2) The request must be in writing, and must be given to the employer at least 4 weeks before the end of the available parental leave period.

Agreeing to the requested extension

(3) The employer must give the employee a written response to the request stating whether the employer grants or refuses the request. The response must be given as soon as practicable, and not later than 21 days, after the request is made.

(4) The employer may refuse the request only on reasonable business grounds.

(5) If the employer refuses the request, the written response under subsection (3) must include details of the reasons for the refusal.

Discussion

(5A) The employer must not refuse the request unless the employer has given the employee a reasonable opportunity to discuss the request.

Special rules for employee couples

(6) The following paragraphs apply in relation to a member of an employee couple extending a period of unpaid parental leave in relation to a child under this section:

(a) the request must specify:

(i) any amount of unpaid parental leave that the other member of the employee couple has taken, or will have taken, in relation to the child before the extension starts; and

(ii) if the other member has given notice in accordance with subsection 74(3A) or (3B) of the taking of flexible unpaid parental leave—the number of flexible days for the other member that will not have been taken before the extension starts;

(b) the period of the extension cannot exceed 12 months, less any periods of the following kinds:

(i) any period of unpaid parental leave, other than flexible unpaid parental leave, that the other member of the employee couple has taken, or will have taken, in relation to the child before the extension starts;

	(ii) if subparagraph (a)(ii) applies—a period equal to the other member's notional flexible period; (c) the amount of unpaid parental leave to which the other member of the employee couple is entitled under section 70 in relation to the child is reduced by the period of the extension. *No extension beyond 24 months after birth or placement* (7) Despite any other provision of this Division, the employee is not entitled to extend the period of unpaid parental leave beyond 24 months after the date of birth or day of placement of the child.