

**Senate Standing Committee on Education Employment and Workplace
Relations**

**QUESTIONS ON NOTICE
Additional Estimates 2012-2013**

Outcome 4 - Workplace Relations and Economic Strategy

DEEWR Question No. EW0935_13

Senator Abetz asked on 13 February 2013, Hansard page 99

Question

Protection for Pregnant Workers- Move to a Safe Job and Right to Paid Leave

Senator ABETZ: Yes. I was just wanting to nail that down. You could in fact have a situation where, within a matter of a week or two of commencement of employment, somebody could go on possibly six months paid parental leave, after having worked for only possibly two or three weeks? Mr O'Sullivan: There are certain basic safeguards as well. Section 82 provides that an employee on paid, no-safe-job leave may be asked to provide further medical certificates. Senator ABETZ: We know all of that. That has not changed. What I am trying to ascertain is what these changes might mean in the real world. Senator Jacinta Collins: I think we are dealing with two issues here. One is what the changes might mean in the real world, and to some extent we know what they mean in terms of those employees who currently qualify for paid leave. Senator ABETZ: Yes. Senator Jacinta Collins: We are talking about two things here. One is a right to move to a safe job, the other is a right to paid leave if such job is not available. Both of those things exist in the act for employees who meet a 12-month qualifying period. What this article refers to is a scenario, which has not been put to government in the past that I am aware of, around employees who have less than 12 months eligibility being able to move to a safe job. As far as I am aware—and I have not seen the detail other than what has been reported broadly; this is why I would like to take it on notice—I am not sure yet whether that extends to the second right, which is the right to paid leave. I think that should be taken on notice.

Answer

The Fair Work Amendment Bill 2013 was introduced into Parliament on 21 March 2013.

Under the Bill, a pregnant employee who is not otherwise eligible to take unpaid parental leave is entitled to transfer to a safe job if it is inadvisable for her to continue in her usual position during a period due to illness or risks arising from the pregnancy, or hazards connected with the position and she complies with any evidence requirement.

If there is no appropriate safe job available, the employee who is not otherwise eligible to take unpaid parental leave will not be entitled to take 'paid no safe job leave' but will be entitled to take 'unpaid no safe job leave' for the risk period.