

<b>Key Policy in discussion</b>	<b>Employment – Paid Parental Leave</b>
<b>Portfolio and or agency</b>	<b>Department of Social Services</b>
<b>Date Issued</b>	<b>20 May 2023</b>
<b>Key author</b>	<b>Sally Moyle, Vice President of NFAW</b>

---

### **Key Portfolio Issues**

NFAW welcomed the introduction of the *Paid Parental Leave Act 2010* amendments in 2023 as a significant step towards a good practice paid parental leave scheme. However, measures remain outstanding on this decade-long unfinished business.

As expected, this Budget has not taken any further steps forward and is silent on new paid parental leave initiatives. Key outstanding issues include payment of superannuation of parental leave pay, ensuring men are encouraged to share unpaid care work, better integration with the Fair Work Act, and commitment to the [International Labour Organization Maternity Protection Convention, 2000](#) (ILO 183).

NFAW will continue to call on the federal Government to pursue the important reforms towards a good practice scheme.

### **Budget Measures**

The Budget contains no new measures on paid parental leave following significant new commitments in the October 2022-23 Budget to fund the provisions of the the [Paid Parental Leave Amendment \(Improvements for Families and Gender Equality\) Act 2023](#), which will commence from 1 July 2023.

The Government’s commitments to increase the length of leave and to reserve leave on a ‘use it or lose it’ basis will need to be legislated and will affect the Budget within the forward estimates and in out years.

### **Background: current circumstances of women in this portfolio**

These amendments:

- combine Parental Leave Pay and Dad and Partner Pay into one 20-week payment that can be shared between parents, with single parents able to access the full 20 weeks under the scheme ([Budget Paper 1: Strategy and Outlook 2023-24](#) p.19)
- enable either parent to claim Paid Parental Leave first, which as the [Women’s Budget Statement 2023-24](#) notes “[makes] it easier for fathers and partners to take time off

work to be with their children, and the entitlement can be taken in multiple blocks, as small as one day, with periods of work in between” (p. 13)

- introduce a new combined family income limit of \$350,000 per annum, which [Budget Paper 1: Strategy and Outlook 2023-24](#) notes will see nearly 3,000 additional parents become eligible for Paid Parental Leave (p. 19).

The Government also committed to introduce legislation to expand the scheme by 2 weeks each year from July 2024 until reaching 26 weeks in July 2026. Currently each partner has two weeks’ reserved pay, on a ‘use it or lose it’ basis to encourage fathers to take more and earlier responsibility for caring for their babies (Prime Minister, Minister for Finance, Women and the Public Service, Minister for Social Services [Joint Media Release](#), 15 October 2022).

### **Gender implications of this budget measure**

NFAW appreciates that the Government recognises the importance of an effective paid parental leave scheme for women’s economic outcomes, for its potential to advance gender equality and the better sharing of unpaid care work between men and women, as well as for its productivity benefits.

One of the key failings of the scheme to date is men’s lack of take up of parental leave after the birth of their children. As the [Regulation Impact Statement](#) to the most recent amendments to the *Paid Parental Leave Act 2010* notes, “[i]n 2020-21, only 89,784 fathers and partners received [Dads and Partners Pay] (this accounts for only around 30% of births each year, and around 35% of all PPL claimants)” (p. 9).

Continuing to increase reserved periods for fathers as the payment period increases to 26 weeks will be important to encourage men to share unpaid care work more equally, and to take primary care for infants. This will be addressed in the next tranche of legislation, once the Women's Economic Equality Taskforce reports later in 2023 (see Minister Rishworth’s [Second Reading Speech on the recent amendments](#)).

NFAW remains concerned that the level of payment continues to reflect minimum wage. This is at the very lowest side of payments compared to other OECD nations, many of which now provide for full replacement wages and close to the benchmark established in ILO Maternity Protection Convention, 2000 (No. 183). There is a [strong argument to be made](#) that the level of payment should increase to Average Weekly Earnings, or the parent’s actual earnings, whichever is the less.

The 2009 [Productivity Commission proposal for paid parental leave](#) recommended that paid parental leave be subject to the superannuation guarantee levy (p. xl). This was not incorporated in the scheme as initially passed and remains a key omission from the scheme. **(See also Superannuation section.)**

There remains a mismatch in eligibility for unpaid leave under the National Employment Standard (NES) and eligibility for the paid leave scheme. Eligibility for unpaid parental leave

---

The National Foundation for Australian Women is a feminist organisation, independent of party politics and working in partnership with other women’s organisations. NFAW is dedicated to promoting and protecting the interests of Australian women, including intellectual, cultural, political, social, economic, legal, industrial and domestic spheres.

under the NES requires a minimum 12 months' employment; whereas eligibility for the leave payment depends on the primary carer having been employed for 10 out of the preceding 13 months. This means that some women who receive the payment have no right under the NES to return to work after their time off under the scheme.

We consider that Australia's scheme meets the requirements of ILO 183 (although the level of payment is still very low, as noted above) and Australia should sign onto that Convention.

Clearly, gender equality is a complex endeavour, and it is not something that can be set and forgotten. The paid parental leave scheme will require ongoing and effective monitoring and evaluation. The Government should commit to regular reviews of the scheme.

## **Recommendations**

As the overall length of paid parental leave periods increase to 2026, fathers and partners should be actively encouraged to access the scheme through effective and targeted campaigns, and in particular by increasing the 'use it or lose it' period.

As the scheme extends to 26 weeks by 2026, concurrent leave should be restricted to two weeks, while the reserved period should extend to six weeks for each parent.

The Government should increase the rate of pay either to wage replacement or the average weekly ordinary time earnings, whichever is the lesser.

Superannuation Guarantee payments should be included on parental leave payments. The *Superannuation Guarantee (Administration) Act 1992* should be amended to include Paid Parental Leave as ordinary time earnings.

The NES should be amended to provide that a person who has been employed for 10 out of the preceding 13 months has the right to return to work at the same or an equivalent position as the position they held before going on leave.

The Australian Government should formally ratify the ILO Maternity Protection Convention, 2000 (No. 183).

The Government should regularly review the legislation to assess progress towards the objects of the Act.