

Submission to the Senate Standing Committee on Community Affairs Inquiry into the Fairer Paid Parental Leave Amendment Bill 2015

INTRODUCTION

The National Foundation for Australian Women (NFAW) is a non-politically aligned feminist organisation committed to examining the potentially differential impacts of policies and their outcomes for men and for women, and whether the consequences of policies, intended or unintended, may adversely impact on women.

OPENING STATEMENT

NFAW recommends to the Committee that the Bill be rejected out of hand.

The long struggle by community and women's groups, together with the union movement, for a national statutory Paid Parental Leave Scheme (PPL) culminated in the *Paid Parental Leave Act 2010*.

This followed an inquiry by the Productivity Commission for which the NFAW in particular had been a strong proponent¹.

We commend to the Senate the Overview of that Report (XLV- or 45 pages) of valuable summary of health and medical arguments on breast feeding, maternal and paternal care during the first 26 weeks of an infant life, and arguments for and against a duration of 26 or 18 weeks for the proposed statutory scheme. In particular, we draw to attention the paragraphs summarising international medical evidence on the merits of breast feeding for the first 26 weeks (see pps XIX).

After further community debate, and political discussion, one outcome was the establishment by Government of a mixed employer and taxpayer funded system. This system was very extensively canvassed in the Report, and in the subsequent inquiry by a Senate Committee into the resultant Bill. In the light of the extraordinary suggestions by the current Government that this mixed funding model was not well understood publicly, we attach our submission to the Senate Committee inquiring into the Bill to establish the scheme, wherein these matters are discussed.²

We were shocked to see this mixed funding model described in the 2015-16 Budget Papers under the title 'Double Dipping', not least because of the 2010 agreement of the then Leader of the Opposition and the then Shadow Minister for Women not to oppose the Bill. We place on record for this Committee our strenuous disapproval of the use of such nomenclature. It is demeaning to Australian

¹ Australian Government Productivity Commission, 2009, *Paid Parental Leave: Support for Parents and Newborn Children*. Report Number 47. 28 February.

² See Appendix A: NFAW Submission to the 2010 Senate Committee inquiry into the Bill to establish a paid parental leave scheme

women and misrepresents the model developed. The use of such language in an official Budget Paper is improper and offensive. We note that the Bill under consideration no longer uses such language, but the premise persists, viz, that there should no longer be a system of complementary employer and taxpayer funded systems, with the objective of reaching 26 weeks of paid leave.

During the inquiry into the enabling Bill by the Senate, the NFAW along with other women's groups successfully pressed for the introduction into the Bill of a statement of the objectives of the scheme which was proposed to be introduced (*Appendix A refers*). The objectives finally established in the legislation which reflect our proposal are set out below.

Division 1A—Objects of this Act

3A Objects of this Act

(1A) This Act establishes a paid parental leave scheme with 2 payments—parental leave pay, and dad and partner pay.

(1B) The objects of the paid parental leave scheme are to:

(a) signal that taking time out of the paid workforce to care for a child is part of the usual course of life and work for both parents; and

(b) promote equality between men and women and balance between work and family life.

(1) The object of parental leave pay is to provide financial support to primary carers (mainly birth mothers) of newborn and newly adopted children, in order to:

(a) allow those carers to take time off work to care for the child after the child's birth or adoption; and

(b) enhance the health and development of birth mothers and children; and

(c) encourage women to continue to participate in the workforce.

(2) The object of dad and partner pay is to provide financial support to fathers and partners caring for newborn or newly adopted children, in order to:

(a) increase the time that fathers and partners take off work around the time of birth or adoption; and

(b) create further opportunities for fathers and partners to bond with the child; and

(c) allow fathers and partners to take a greater share of caring responsibilities and to support mothers and partners from the beginning.

(3) The financial support provided by this Act is intended to complement and supplement existing entitlements to paid or unpaid leave in connection with the birth or adoption of a child.

The scheme which has been operating for five years was demonstrably intended to benefit the children of working mothers by facilitating the extension of time for mothers and their infants to have together before the mother returned to work. It was also designed to assist mothers to remain attached to the workforce.

Women's groups accepted the new (minimal) national provisions on the understanding that following introduction, and evaluation, that there would be scope over time for additions and improvements, such as superannuation, access to paid leave prior to the birth, and an extension to the desired 26 weeks of paid leave at income replacement (*Appendix A refers*).

Instead this Bill introduced by the Government effectively seeks to limit the time away from work available to working mothers and their infants post-partum.

We note that the Bill does not propose comparable 'savings' for Dad and Partner Pay, which is surprising but we would not, in any event, support such a proposal.

The Bill also proposes to transfer complete responsibility for making payments to the Commonwealth. This proposal runs contrary to the delivery option proposed by the Productivity Commission and favoured by a number of comparable overseas schemes on the grounds in addition to being the most efficient option, it would also:

- signal the payment as a normal work-related entitlement
- encourage greater employee loyalty, and
- improve workforce and workplace attachment.³

The Bill proposes to make this change without showing any analysis of the likely administrative challenges it would be likely to bring about, and despite the Commission's analysis, which showed that

the administrative burdens on firms delivering taxpayer-funded parental leave need to be weighed against the retention benefits that the proposed scheme will deliver to many, if not most, employers not currently offering paid parental leave voluntarily. More broadly, as the Commission said in the draft report, the kinds of arguments raised in opposition to the [employer] paymaster function ignore the role already played by employers in the provision

³ Ibid p. 331.

and/or administration of a range of employment related entitlements including annual, long service, sickness, voluntary paid and statutory unpaid parental leave. Indeed, it is arguable whether there would be any material addition to administrative costs, not only for large employers with access to sophisticated payroll and human resource management systems, but also for smaller firms because (as acknowledged by some participants) the probability of an employee actually being on parental leave at any point in time would be quite low (see chapter 7).⁴

The OECD⁵ has recently reported on trends in paid parental leave:

In almost all OECD countries, the length of paid leave available to mothers was longer in 2014 than it was in 1970 and, to a slightly lesser extent, 1990. In 1970, an average of 17 weeks of paid leave were available to mothers across OECD countries. By 1990 this had increased to 39 weeks, while by 2014 the OECD average stood at just over one year. The largest increases in paid leave can be found in Finland and in the Slovak Republic – where in both cases mothers can now receive over three years of paid leave, compared to 9 weeks and 26 weeks in 1970, respectively – but are considerable a number of other countries. Korea, for example, provided mothers with just 8.5 weeks of paid leave in 1990, but today offers 15 months. Similarly, Canada currently offers mothers 50 weeks of paid leave, compared to 15 weeks in 1990 and no weeks in 1970. Decreases in the availability of paid leave are rare. Indeed, in only four countries (the Czech Republic, Germany, Hungary, and Sweden) is the current length of paid leave available to mothers shorter than at either of the other two points in time. In Sweden this can again be explained by the introduction of ‘father-quotas’ on parental leaves. In the Czech Republic and Germany, meanwhile, the drop in the length of paid leave is due to the introduction of payment scheme options, which allow parents to receive a higher payment rate while on leave but for a shorter period of weeks. Broadly though, the trend across OECD countries is for increase and expansion in the length of paid leave available to mothers.

The Government proposal is purely and simply a savings exercise. It runs completely contrary to the advice of national and international bodies with expertise in child development and undermines the objectives of the Act (which the Bill does not propose to amend).

The Bill purports to be ‘fairer’ by negating the final objects clause set out above, viz. *The financial support provided by this Act is intended to complement and supplement existing entitlements to paid or unpaid leave in connection with the birth or adoption of a child.*

The consequence of the Bill is to reduce the amount of paid parental leave, in a context where most comparable nations are expanding the quantum. Australian women are being asked to go backwards.

⁴ Productivity Commission 2009, 333.

⁵ OECD Family database: www.oecd.org/social/family/database.htm

It is significant that the Productivity Commission in its Report⁶ said that it expected the implementation of the scheme it proposed would have a greater impact on time away from work for lower paid women than for women with substantial employer provided parental leave.

We will not traverse in detail the findings of the evaluation of the paid parental leave scheme as introduced that was prepared for the then responsible Government agency by a consortium of experts⁷, nor other recent international comparisons, since we are aware that other expert individuals and groups will so do. We simply state that the evaluation does not support the current proposal.

At *Appendix B* is a call to protect the current scheme, signed by a significant number of women's groups, health groups and individual professionals.

The National Foundation for Australian Women recommends to the Committee that the Bill be rejected out of hand.

BACKGROUND

The Australian system of industrial relations as well as long standing national policies on tax and transfers have resulted in a complex pattern of employee entitlements alongside a tightly targeted income security system.

An early example of Commonwealth entry into social welfare was the Age Pension, which replaced a range of different state pension systems. In relatively recent years the Commonwealth has also introduced a national system of compulsory contributions to personal superannuation. The resultant mixed pattern of provision for retirement incomes also involving taxation benefits, is once again undergoing review by the Senate.

From the 1950s following on major problems of viability of State public hospitals, the Commonwealth progressively involved itself in private health insurance, promoting, supplementing and regulating a wide range of essentially private systems. Radical changes in the 1970s brought in a national, tax payer funded system of medical and hospital fee rebates, complemented by private health insurance.

Governments of both major persuasions have maintained a commitment to mixed systems of provision involving both private provision and complementary taxpayer provision.

In the policy area of what was initially known as 'Paid Maternity Leave' the leaders in employer provision were the Commonwealth and various State public service systems. Even here each

⁶ Productivity Commission 2009, pp235ff.

Available at <https://www.dss.gov.au/our-responsibilities/families-and-children/benefits-payments/paid-parental-leave-scheme/review-of-the-paid-parental-leave-scheme/paid-parental-leave-phase-2-report>

jurisdiction now has many differing schemes for its employees under different Enterprise Bargaining and contractual arrangements - the Commonwealth alone has more than thirty different schemes of EBA based paid parental leave entitlements. The larger private employers also had begun by the early years of the current century to introduce paid parental leave as part of employer of choice strategies. These tended to be for higher income women, and restricted to those with permanent positions, excluding casuals and part-time workers.

During its inquiry into Paid Parental leave for the Rudd Government the Productivity Commission noted the existence of such statutory schemes, and of private employer schemes, and explicitly rejected the proposition of trying to mandate one single employer based but Commonwealth financed scheme comparable to a putative national compensation scheme for industrial accidents.

A national Commonwealth funded scheme to absorb all private and governmental schemes was proposed by The Hon. Tony Mr Abbott in his book *Battle Lines*, a scheme taken to two elections but later dropped by the current Government.

Rather, recognising the existence and likely growth of private employer schemes, which in many cases came about as a result of legitimate industrial bargaining whereby employees sacrificed one possible benefit of increase in wages in exchange for improved parental leave, the Productivity Commission recommended the existing system of a basic national scheme which would complement whatever was obtained through enterprise bargaining.

The Commission recognised the strength of medical evidence on the value of 26 weeks leave for the mother and child, noted the existence of evidence for the merit of a longer period. In terms of the length of the recommended statutory scheme the Commission suggested that many women would be able to access some employer provided benefits, inclusive of recreation and sick leave, to extend their time away towards the goal of 26 weeks.

As it transpired, the national system, set at National Minimum Wage for 18 weeks, was introduced so that there would be a basic protection for those employees without access to an employer scheme, while for those who did have some employer provision, there was the potential for increasing the weeks of paid leave toward the desired goal of 26 weeks paid leave.

NFAW POSITION

We endorsed the national statutory scheme underpinning a mixed funding model as a starting position, not something from which we would retreat.

NFAW has a strong policy of support for women to make their own life choices: to choose to be a homemaker; to choose work-force participation; to choose to work part-time if that is a real choice. Responsibility for bearing and rearing children, rightly or wrongly, falls most on women. We support strategies to encourage fairer sharing of home duties and child rearing responsibility.

For the woman with children who chooses work force participation we advocate essential policy positions from Government and employers: access to good quality and affordable child care (including for the school aged child); access to an adequate period of paid parental leave at income replacement (as the gold standard goal); and the guarantee of family-friendly working conditions with wage equity.

We call on the Government to recognise that its goal for expanded female work force participation espoused at the G20 cannot be achieved by requiring women to trade off paid parental leave for expanded child care and as a rationale suggesting Australian working mothers are engaged in less than honourable practices.

21st Century Australia is a complex society, where the contributions of women both as productive workers and in their reproductive nurturing roles are critical to Australia's future and demand policies which respect them.

We call on the Senate to reject the current Bill.

We would be pleased to attend and give evidence to the Senate Committee.

This submission has been authorised by the NFAW Board of Directors.

Marie Coleman AO PSM
Chair, Social Policy Committee
National Foundation for Australian Women

July 2015

Appendix A: NFAW Submission to the 2010 Senate Committee Inquiry to establish a paid parental leave scheme

Appendix B: Call to protect Maternal Access to 26 weeks part-Government-Funded Paid Parental Leave