

Submission to the

**Productivity Commission Inquiry
into Paid Maternity, Paternity
and Parental Leave**

on behalf of the

New South Wales Government

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Contents

Introduction	2
Current parental leave provisions	3
Unpaid parental leave entitlements	3
Paid parental leave entitlements	3
Why the NSW Government supports a national paid parental leave scheme	4
Addressing short and long term financial implications	5
Assisting families to meet the costs of a new baby	5
Limiting financial impact on the mother	5
Maintenance of superannuation	6
Addressing the unequal balance of responsibilities between partners	7
Attachment of mother to the workforce	8
Female participation trends in Australia	8
Factors influencing return to work after maternity leave	9
Health of mother and baby	10
Infant health	11
Maternal health	11
Breastfeeding	12
Benefits to business	14
Addressing skill shortages	14
Attachment of mother to her workplace	15
Advantages for small business employers	16
Development and acceptance of new community standards	16
International standards	16
How Australia compares	17
Fostering cultural change	20
Review of international schemes	22
Duration	22
Level of replacement	24
Eligibility	24
Flexibility	25
Source of funding	26
Administration of benefit	27
Review mechanism	28
Cost and funding considerations for an Australian model	30
Implications for government revenue	30
Family Tax Benefits	30
Parenting payment	31
Child Care Benefit	31
Child Care Tax Rebate	32
Conclusion	33
Appendix 1: Exemplar countries for paid maternity, paternity and parental leave	34
Appendix 2: References	42

Introduction

1. The NSW government supports a national paid parental leave scheme.
2. The NSW government recognises that developing a national scheme that strikes the right balance between the needs of infants and mothers, working families, employers and the macro-economic considerations is difficult. The NSW Government welcomes the federal government's decision to refer this Inquiry to the Productivity Commission, and the extensive research and consultations undertaken by the Productivity Commission, to examine options for an appropriate model for Australia.
3. To assist the Commission in its task, the NSW Government has prepared a review of existing international models, identifying the range of elements that must be considered in the development of any paid parental leave scheme.
4. The NSW Government believes that a model of paid parental leave for Australia must focus on the following important policy objectives:
 - a. Addressing short and long term financial implications
 - b. Improving female workforce participation
 - c. Safeguarding the health of mother and baby
 - d. Optimising the benefits to business
 - e. Fostering acceptance of improved community standards
5. The community as a whole benefits from raising new generations of children. Under existing arrangements, most of the financial burden of raising the next generation falls on parents who must forego earnings for that period when they have to leave paid work to care for their newborn child. Having children results in significant reductions in lifetime earnings for women in particular.
6. Failure to provide generally available paid parental leave is an unsustainable policy position for Australia. NSW welcomes the federal government's decision to consider the introduction of a national scheme.

Current parental leave provisions

Unpaid parental leave entitlements

7. The *Industrial Relations Act 1996* (NSW) provides a minimum entitlement to 52 weeks unpaid job protected parental leave for employees covered by the NSW industrial relations system. In 2000, the NSW Government was the first government to introduce parental leave for casuals who work on a regular and systematic basis in recognition of the growing number of long term casuals in the workforce.
8. The *Workplace Relations Act 1996 (Cth)* granted permanent employees with at least 12 months continuous service with their current employer an entitlement to 52 weeks unpaid parental leave for the birth or adoption of a child. In addition, casual employees may be eligible if they have been employed on a regular and systematic basis and with a reasonable expectation of ongoing employment are also eligible (ABS, 2007a). Women returning from parental leave are entitled to return to their previous position or an equivalent position.
9. Under the new National Employment Standards, all employees with 12 months service with their current employer would retain eligibility for 12 months unpaid parental leave with a maximum of three weeks concurrent leave and a right to request an additional 12 months per employee couple (DEEWR, 2008).

Paid parental leave entitlements

10. In addition to the legislated entitlement to unpaid leave, some women are entitled to maternity leave paid by employers as part of an industrial award, workplace agreement or company policy.
11. The availability of paid maternity and paternity leave varies significantly by sector, industry size of firm and occupation. In 2002, 59 per cent of public sector workplaces had paid maternity leave compared to only 23 per cent of private sector workplaces (FaCS and DEWR, 2002).
12. Similarly, paid paternity leave was available in 31 per cent of public sector workplaces but only 13 per cent of private sector workplaces. Eligibility for paid maternity leave was greater for employees working for large employers, and in occupations such as management and administration (65 per cent) or professional areas (54 per cent) (FaCS and DEWR, 2002). According to the ABS Forms of Employment Survey, in November 2007 45.4 per cent of female

employees reported that they were eligible for paid maternity leave and 39 per cent of males were entitled to paid paternity leave (ABS, 2008c).

13. The fact that the employment of women is concentrated in particular industries means that if employers were individually responsible for the provision of paid maternity leave the cost burden would fall disproportionately on employers in these industries. This burden may have detrimental consequences particularly for small employers and result in discrimination against women of child bearing age. For this reason it is not desirable that individual employers should be responsible for funding leave payments to their employees.
14. To date, the Commonwealth Government has also used the Social Security system to assist parents with additional costs associated with the birth of a child. Maternity Allowance was introduced in 1912 and continued until it was abolished by the Fraser Government in 1978. A Maternity Allowance was reintroduced in 1996, subsequently renamed the Baby Bonus. This will increase to \$5000 in July 2008. From January 2009 the Baby Bonus will be paid in instalments as income support over a period of 6 months and eligibility will be restricted to families with incomes not exceeding \$75,000 in the six months from the birth or adoption of a child, which equates to an annual family income of \$150,000 (Australian Government, 2008). This measure is expected to reduce the number of families receiving the Baby Bonus by 16,000. Expenditure of \$1425 million is projected for the Baby Bonus for 2008-09 (Australian Government (2008) *Budget 2008-09*).

Why the NSW Government supports a national paid parental leave scheme

15. The NSW Government supports a national paid parental leave scheme. The growing body of international and domestic literature provides evidence that paid parental leave schemes ease conflict between financial and work and family responsibilities; facilitate labour market participation by women; and enhance maternal and child health. There is also ample evidence that providing paid parental leave has a beneficial impact on business and the economy.
16. This part of the submission responds to the Terms of Reference concerned with the economic, productivity and social costs and benefits of providing paid maternity, paternity and parental leave. In particular, it considers the issues raised in the Terms of Reference concerned with the potential impact of a paid

parental leave scheme on: small and medium sized business; the employment of women; work and family preferences; and maternal and infant wellbeing.

17. The NSW Government believes a national paid parental leave scheme should have the following policy objectives:
 - a. Addressing the short and long term financial implications
 - b. Improving female workforce participation
 - c. Safeguarding the health of mother and baby
 - d. Optimising the benefits to business
 - e. Fostering acceptance of improved community standards

Addressing short and long term financial implications

Assisting families to meet the costs of a new baby

18. Many Australian families experience financial difficulties following the birth of a child. Contemporary household finances are predicated on two incomes and the financial viability of many households is threatened by the prospect of the loss of one income towards the family budget.
19. The health, wellbeing and welfare of the family can be improved by reducing financial stress and pressure, allowing families sufficient time to bond with their newborn child.

Limiting financial impact on the mother

20. It is recognised that parental leave is used by women far more than men due to the need to recover physically from birth, their initial connection to the nurturing role through breastfeeding and through societal and cultural norms which place women in the role of primary caregiver. As women usually earn less than men, they are more likely to elect to leave the workforce after the birth of their babies so as to diminish the financial impacts on households.
21. Failure to provide paid maternity leave means transferring the costs of community-wide benefits onto individual women. The costs falling to the individual include the forgone earnings across the life cycle.
22. Gray and Chapman reported that studies from 1997 show that having children markedly diminishes the income of Australian women over their lifetime, with the greatest earnings differences occurring when the child or children are very young. Earnings rise as the children grow older but never reach the earnings

level of women who have never had children. Women who have completed secondary education and have one child forgo an estimated \$160,000 of net lifetime earnings. Having additional children further decreases income by only a relatively smaller amount (Gray & Chapman, 2001).

Maintenance of superannuation

23. Intermittent and broken periods of workforce attachment greatly impact not only on the immediate financial position of women but also on the accrual of income over their lifetime. Sporadic attachment to the workforce has also been shown to reduce a mother's ability to receive the occupational benefits normally associated with permanent, full-time employment.
24. Research has shown that women's accumulation of superannuation is inadequate to cover the cost of retirement. Julie Smith (2007) states that the inability of women to fund their own retirement is 'unlikely to change in the near future unless there is a major and immediate change in the pattern of women's labour force participation during the early years of child-rearing'.
25. Smith goes on to say that, 'women who reduce or leave employment to give birth to and care for infants in the first year of life face a growing fiscal penalty as they age from having allocated time to the unpaid care of infants and children'. Without an income to make regular contributions to private superannuation accumulation, women lose the opportunity to compound their superannuation balance and fall further behind financially over the course of their working life.
26. Recent figures compiled by the Australian Bureau of Statistics (ABS) for the Association of Superannuation Funds of Australia (ASFA) demonstrate the wide disparity of superannuation balances between men and women (Clare 2008). They found that average superannuation account balances achieved by 2006 were \$69,050 for men and \$35,520 for women. Also, in 2005-2006, average retirement payouts for men reached \$136,000 compared to \$63,000 for women. ASFA explain that withdrawal from the paid labour force for family and other reasons will impact on any increase to the average balance.
27. Evidently, a paid maternity leave entitlement which is linked to employment, and acts as a disincentive to withdraw completely from the workforce, will increase women's capacity to self-fund their retirement and work to redress the gender pay disparity.

Addressing the unequal balance of responsibilities between partners

28. Access to some level of paid paternity (or supporting partner) leave is important to maximise the choices available to families about how caring is shared.
29. The *Parental Leave in Australia Survey* (PLAS) of 3573 families conducted in 2005 provides evidence of unequal distribution of paid and unpaid labour between couples in Australian families.
30. Whitehouse et al in the PLAS¹ found that while mothers used unpaid parental leave either alone or in combination with paid maternity leave if available, fathers overwhelmingly did not. While 67 per cent of eligible female employees accessed unpaid parental leave, only 6 per cent of eligible males did. Another 12 per cent of mothers used other unpaid leave compared to just 4 per cent of fathers. There are also clear differences by gender in the length of unpaid leave taken. Mothers took an average of 35 weeks unpaid parental leave while fathers took an average of 14 days unpaid parental leave.
31. Paid paternity leave can be important in facilitating shared care of children by men and women, in part because men are less likely to avail themselves of leave that is not paid. For example, a 2006 survey of NSW public sector employees revealed that most men (73%) took only paid parental leave. By contrast, the data suggests that almost all women who had taken paid maternity leave combined that leave with unpaid maternity leave (NSW PSWO, 2008). Policy can make a difference. Evidence shows that in those countries with more generous and more gender-egalitarian policy packages to support parents to balance employment and care-giving responsibilities, mothers and fathers divide paid and unpaid work more evenly.
32. A parental leave model that allows some part of the paid leave to be taken by the child's father further increases options for caring arrangements and enables parents to more fairly distribute parenting responsibilities, workplace interruptions and paid and unpaid leave. It was found that men take parental leave where income replacement is high or when given the option of leave on a use-it-or-lose-it basis². Studies by Tanaka and Waldfogel (1994) found strong links between the workplace policies available to fathers and leave taking in Sweden. Their research also cites other studies suggesting that socio-economic status of

¹ <http://www.polsis.uq.edu.au/parental-leave/level1-report.pdf>. Tables 6 and 7

² Denmark, Norway, and Sweden have at least one month of mandated parental leave on a "use it or lose it" basis for fathers. The take up rates of parental leave are comparatively higher in these countries than those without the 'use it or lose it' options.

fathers relate to leave taking, with several studies finding that fathers took longer parental leave if the child was first-born, father was married, had a higher income, or was better educated. Hass, Allard and Hwang (2002) also examined Swedish data and found that men's use of leave was influenced by the organisational culture at their workplace.

33. International research has shown that there is evidence in some countries of a cultural change occurring in fathers' recognition of the importance of their role, with workplace culture and policies only just beginning to reflect this new recognition of the role of fathers.

Attachment of mother to the workforce

34. Workforce attachment refers to a worker's continued attachment to, or participation in, the workforce. For parents, especially women, it means maintenance of employment, skills and pay levels, reducing financial dependence and inequalities across the life cycle. For business, improving the workforce attachment of parents means a greater pool of potential employees from which to recruit. This is important in an environment of skill and labour shortages. Most importantly it provides business with certainty in their workforce and human resources planning.

Female participation trends in Australia

35. Increased female workforce participation is essential for a strong Australian economy and for the financial viability of individual households. Policies that encourage female workforce participation across the life cycle need to recognise and address the tensions that inevitably arise between work and family commitments.
36. Following a shift in the gender composition of the workforce in Australia between 1980 and 2005, women's workforce participation rates increased by 12.3 per cent to reach 57 per cent. After adjustments, the workforce participation of women of child bearing age (25 to 44 years), rose in rank from 23rd to 20th, continuing to lag behind many other comparable OECD countries including Canada, the United States and the United Kingdom (Abhayaratna and Lattimore, 2007).
37. Community standards for managing family responsibilities and employment continue to evolve. The following significant social shifts in combining mothering and paid work have been highlighted in the ABS 'Mothers Day 2008' report.

- a. More mothers with children aged less than 15 years are employed than in the past. Almost two-thirds (63 per cent) of mothers with children aged under 15 years were employed in March 2008, compared with 54 per cent ten years earlier.
- b. A total of 60 per cent of employed mothers with children aged less than 15 years worked part time.
- c. As employment among mothers has increased, the use of formal child care has also increased. The percentage of children under the age of 12 years attending formal care increased from 14 per cent in 1996 to 23 per cent in 2005.
- d. In 2006, mothers with children aged under 15 years spent, on average, between 16 hours per week (for those employed full time) to 28 hours per week (for those not employed) caring for children.
- e. In 2005, 83 per cent of employed mothers with very young children (aged under 2 years) used some form of working arrangement to help balance work and child care responsibilities.

Factors influencing return to work after maternity leave

- 38. To reinforce women's decisions to try to maintain attachment to the workforce, industrial relations policies aimed at helping the return to work transitions are of critical importance.
- 39. A paid parental leave scheme should achieve an increase in the return to work rate after a period of leave. While mothers' employment rates are higher when paid maternity leave policies are available, extremely long periods of leave can over time reduce female wages for individual women as well as for female average earnings (Ruhm, 1998).
- 40. In reporting on the return to work periods of Australian mothers, the PLAS found that nine per cent returned to work within three months of the birth, 25 per cent returned within six months, and close to 60 per cent had returned by 12 months. Within 15 months, 70 per cent were back in paid employment (Whitehouse et al, 2006).
- 41. Research from New Zealand and Australia on return to work decisions suggests a mismatch between desired leave and actual leave taken. These research findings report mothers returning from leave before they would have liked, a decision driven by financial pressures.

42. The New Zealand report by Callister found that mothers would like to take longer leave than they actually do. On average, most New Zealand mothers returned to work when their baby was six months old. They would like to have returned when their baby was 12 months old, but this was not a financial option for most parents (Callister & Galtry, 2006).
43. In analysis of the reasons for returning to work, Whitehouse et al (2008) identified financial need and limited access to paid maternity leave as the most common reasons for returning to work 'early'. For these parents longer unpaid leave was not a financial option. Overall, the analysis highlights the financial pressures underpinning women's decisions, and suggests that enhanced availability of paid leave is more likely to be welcomed than further extension of unpaid leave duration. ..

Health of mother and baby

44. A period of absence from work after childbirth is fundamental to the health and welfare of mother and infant. Further, it is essential to provide for a period of time for mothers to establish breast-feeding, if that is their preference.
45. The World Health Organisation (WHO) concluded in 2000 that 'women need at least 16 weeks of absence from work after delivery' to protect the health of both mother and child. There is also evidence to suggest that reduced infant infection and mortality rates and improved infant and maternal well-being are recorded at 26 weeks absence from work.
46. The evidence increasingly points to positive links between increased paid maternity leave and:
 - a. lower rates of infant mortality,
 - b. longer duration of breastfeeding,
 - c. lower rates of chronic illness in infants and children, such as diarrhoea,
 - d. better rates of immunisation,
 - e. fewer child behavioural problems,
 - f. lower incidence of maternal depression, and
 - g. improved father-child bonding and family involvement.

Infant health

47. Although there is some conflicting research on the impact of the mother's return to work on child and infant welfare, the majority of reports find that the health benefits increase the longer the period of leave.
48. The results of Christopher Ruhm's (2000) study suggest that parental leave entitlements substantially reduce mortality during early childhood. The right to a year of job-protected paid leave is associated with an approximately 20 per cent fall in post-neonatal deaths and a decrease in fatalities of 15 per cent experienced between the ages of one and five. He contends that paid parental leave may be a cost-effective means of improving child health.
49. Paul Gregg and Jane Waldfogel edited a special issue of the *Economic Journal* (2005) and derived the following three main findings from their survey of three studies by Tanaka, Berger et al and Gregg et al:
 - a. longer periods of maternity leave lead to improved child health,
 - b. the timing of leave and return to work within the first year of the child's life impacts on child health, cognitive development and social and emotional development,
 - c. there is a link between full-time maternal employment in the first year and poorer child cognitive development in the United Kingdom and the USA.

Maternal health

50. A sufficient period for a mother to completely recover after the birth of her baby is critical.
51. There is general agreement in the literature that recovery times are highly variable and influenced by demographic and social dynamics, as well as birth and non-birth related health issues. Some women may experience speedy recoveries following the birth of their babies, while others do not return to their former state of mental and physical health for months or even years (Gjerdingen et al,1990).
52. Traditionally, research has suggested six weeks as an appropriate estimation for post partum recovery (Pritchard et al, 1985) but current research indicates post birth health changes can span several months and may involve many systems such as cardiovascular, respiratory, musculoskeletal, urologic, gynaecologic, gastrointestinal, endocrine and nervous systems (Gjerdingen et al., 1986).

Studies have shown only 51 per cent of women have regained their pre natal level of energy at six months post birth (Tulman, L. & Fawcett, J.1988).

53. Several studies have also reported psychological symptoms and illnesses such as post partum depression. They have also noted the close relationship between physical illness and psychological symptoms as having an impact on recovery following birth (Gjerdingen et al. 1990).
54. Establishment of healthy function routines varies for all mothers. Research shows for some mothers, this can take more than six months. Functional status and routines are defined in research as 'achieving desired or required infant care responsibilities and the resumption of self care, household, social/community and occupational activities at pre-delivery level' (Tulman, L. et al, 1990).
55. In terms of maternal health prior to giving birth, it is noted that an additional period of pre-natal leave may be necessary for some mothers, especially those in occupations and jobs that are physically demanding.

Breastfeeding

56. The NSW Government recognises the considerable health and economic benefits to be gained from measures that increase the establishment and duration of breastfeeding.
57. A period of uninterrupted leave from work is critical in enabling the establishment of breastfeeding following the birth of a baby. A national paid maternity leave scheme would reduce the financial pressure to return to work, and thereby encourage and support new mothers to establish breastfeeding, and to extend the duration of breastfeeding. Research confirms that returning to paid work is one of the most common reasons for ending breastfeeding, with most women ceasing to breastfeed during the month they return to full-time paid work.
58. It is clear that breastfeeding and breast milk are protective against a large range of immediate and longer-term health outcomes that pose a significant burden to individuals, the health system and society as a whole.
59. Breast milk contains protective immunological components, growth hormones and other anti-infective properties which cannot be replicated. The immunological properties of breast milk are notable in relation to pre-term and very low birth weight infants, with evidence of breast milk offering protection against many infections.

60. Breastfeeding is associated with optimal health and immunity, physical growth and development, and cognitive development while protective against a large number of adverse health outcomes for infants and mothers (Dietz WH, 2001).
61. For mothers, breastfeeding leads to improved recovery from childbirth as well as protection against pre-menopausal breast cancer, and probably post-menopausal breast cancer and ovarian cancer.
62. The costs of not breastfeeding or short duration of exclusive breastfeeding in NSW are estimated at between \$20-\$40 million a year. These costs exclude savings from reduced maternal illness so are minimum estimates of the actual health care costs of early weaning. They also exclude numerous other chronic or common related illnesses and out-of-hospital health care costs (NSW Public Health Nutrition, 2004).
63. NSW Health endorses the National Health and Medical Research Council (NHMRC) *Dietary Guidelines for Children and Adolescents* incorporating the *Infant Feeding Guidelines for Health Workers* as the basis for practice and policy. NSW Health also supports WHO and UNICEF's *Global Strategy for Infant and Young Child Feeding*. In line with this, NSW Health recommends:
 - a. exclusive breastfeeding for approximately six months;
 - b. breastfeeding complemented with appropriate food from about six months; and
 - c. continued breastfeeding until 12 months or beyond with appropriate complementary foods (NSW Health Breastfeeding Policy, 2006).
64. This approach presents breastfeeding for the first six months as the most beneficial to mother and child. It is important to acknowledge that some women may choose not to, or are unable to, breastfeed. A pejorative position towards other forms of infant feeding has implications for working women who become mothers, for mothers who must return to work and sets up particular standards that are not appropriate or beneficial for all women. It also implicitly drives specific gender roles and demarcations between mothers and fathers in the first half year of a baby's life which may then become established as a norm.
65. Supportive workplace policies and programs have been shown to increase breastfeeding duration among working mothers. Supportive work environments require the provision of, and underlying policies for, physical facilities that enable mothers to breastfeed and/or to express and store breastmilk for later feeding

(such as private rooms and access to refrigeration). Flexible employment practices including parental leave, breaks from work, and circulars to staff about breastfeeding-friendly workplaces are essential. Such workplace policies help create norms about the acceptability of combining breastfeeding and working.

Benefits to business

66. There is accumulated evidence that a business case exists to support the introduction of a national paid parental leave scheme. The research suggests it improves productivity, staff morale, return to work rates after leave, is a successful and cost effective retention strategy, is a successful means of improving organisational efficiency through institutional memory, industry knowledge, networks and contracts and reduces recruitment and training costs.

Addressing skill shortages

67. Australian businesses regularly report that the capacity to find and retain skilled staff is one of their primary challenges³. It is the submission of the NSW Government that a paid parental leave scheme will make a direct contribution to addressing skill and labour shortages through improved female participation and improved international competitiveness in attracting skilled workers.
68. Based on the findings of various studies, introducing such a scheme in Australia will add to the pool of available labour (including skilled labour) by encouraging women who have already invested in education, training and skills development, not to leave the workforce when they have children. Australia lags behind most other OECD countries, ranked at 20th out of the 30 member countries in terms of female participation. (see paragraph 36).
69. The provision of paid parental leave can be directly linked to improved female participation. Jaumotte (2004) conducted a comparative analysis of labour market participation rates and work and family arrangements in various OECD countries and found the availability and length of paid parental leave to be a determinant of participation rates. Similarly, EOWA (2005) found that the retention rate of females after maternity leave was significantly higher in organisations that offered paid parental leave, with 67 per cent retention compared to 56 percent.

³ See, for example, Sensis Business Index (www.about.sensis.com.au) and NSW WIRS Report (www.industrialrelations.nsw.gov.au/resources/nswwirsreport.pdf)

70. Skill shortages in Australia are also increasingly being addressed through attracting workers from overseas. In total, 110 570 temporary skilled migration (subclass 457) visas were granted to temporary skilled workers and their dependents in 2007-08 compared to 87 310 in 2006-07, an increase of 27 per cent⁴. Nearly a quarter of the workers came from the United Kingdom, followed by India (14 per cent) and the Philippines (9 per cent).
71. These are all countries that already have in place some form of paid parental or maternity leave. The introduction of a paid parental leave scheme in Australia is essential if we want to be internationally competitive in attracting the best skilled workers to Australia. It would remove a disincentive for skilled workers (and particularly women) from other countries to come to Australia to contribute to our economy.

Attachment of mother to her workplace

72. The review of international studies provides evidence that paid leave encourages women's attachment to the labour market, most typically to their previous employer..
73. Workplace attachment focuses on the benefits to employers and employees of maintaining the employment relationship during periods of parental leave. It refers to a worker's attachment to a particular employer. For parents, it means financial security and continuity of employment and career. For business, the benefit lies in retaining valuable and experienced employees in whom they have invested, improving productivity and reducing transactional costs such as recruitment, induction and terminations over time.
74. Investment in human capital and training is more likely to be rewarded when the employee remains attached to their employer's workplace. It is also less likely that the employee will move to precarious patterns of employment that underutilise their skills and experience.
75. In a submission to the Senate inquiry into the *Workplace Relations Amendment (Paid Maternity Leave)* Bill 2002 the Finance Sector Union noted that following the introduction of paid maternity leave in the finance sector, return to work rates had increased significantly to reach 87 per cent at the ANZ Bank, 100 per cent at the National Australia Bank, 94.5 per cent at Westpac, 85 per cent at the

⁴ Senator Evans, Media Release 'Skilled foreign workers meeting shortage', 22 July 2008.

Commonwealth Bank, 90 per cent at AMP and 91 per cent at BankWest (Finance Sector Union, 2002).

Advantages for small business employers

76. Under existing arrangements, access to paid parental leave is more common in larger businesses. Economies of scale in transactional, recruitment and training costs generally result in a return on the business investment through staff retention as well as improved company image and perception as a preferred employer. Small businesses may face higher transactional costs when replacing a worker and may be less likely to see a return on their investment in the short term. The absence of a national paid parental leave scheme, therefore, places small businesses in a position of disadvantage which they cannot overcome on their own.
77. Yet the introduction of a national paid maternity leave scheme could in fact level the playing field for small business in their competition with larger businesses for staff. A legislated minimum would create a baseline for paid parental leave provisions eliminating this issue from individual companies' consideration. Small business as a major employer in Australia, and the group most likely to be employing women of child-bearing age, would enjoy increased savings from the resultant reduced recruitment and training costs and increased retention rates, previously only available to large corporations that could afford to offer paid maternity leave. As a by-product of this small business operators will be better equipped to redirect focus on the business end of operations rather than on human resources strategies.
78. Small businesses would be further advantaged by gaining access to a wider recruitment field since paid maternity leave provisions are a key reason why many women of child bearing age favour employment in large corporations. By levelling the recruitment playing field with big business and facilitating the employer of choice status for small business, a national paid maternity leave scheme would be a significant labour market reform in favour of small business.

Development and acceptance of new community standards

International standards

79. The introduction of a paid parental leave scheme in Australia would meet international conventions, while at the same time bringing Australia into line with other OECD countries as well as our major trading partners, China and India.

80. A number of international instruments recognise paid maternity leave as a work related entitlement for women. The two most widely acknowledged are the International Labour Organisation's Maternity Protection Convention (ILO 183) and the United Nations Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).
81. The ILO 183, which was adopted in 2000, specifically encourages countries to provide a minimum of 14 weeks paid maternity leave at the level of at least two-thirds of the woman's previous earnings. This convention has not been ratified by Australia.
82. CEDAW decrees that 'parties shall take all appropriate measures ... to introduce maternity leave with pay or with comparable social benefits without loss of former employment seniority or social allowances'. Australia is one of 185 countries that are party to CEDAW. When Australia ratified CEDAW in 1983, it expressly placed a reservation so that it would not be bound by article 11(2)(b), reserving the right to provide alternative assistance to families around the time of the birth of a child.
83. This alternative assistance to families currently consists of a suite of financial support from Australia's social security and taxation systems. These include the Family Tax Benefits Part A, Family Tax Benefit Part B, Child Care Benefit, Baby Bonus, Maternity Immunisation Allowance, Large Family Supplement, and the Multiple Birth Allowance.
84. These social security benefits and tax remedies provide assistance to families in recognition of the community-wide benefits of raising the next generation. They do not, however, achieve the same policy objectives as a paid parental leave scheme.

How Australia compares

85. A cautious estimate is that just one-third of employed mothers-to-be currently have access to paid maternity leave. At best, 45 per cent of female employees are entitled to paid maternity leave in Australia (Baird & Litwin, 2005). The average duration of this paid leave entitlement is well below international benchmarks, at somewhere between 6 and 11 weeks.
86. The PLAS show that among mothers who worked for an employer for at least some of the 12 months prior to the birth of their child, 37 per cent took some paid maternity leave. The average duration was 11 weeks.

87. The ABS conducted the *Pregnancy and Employment Transitions Survey* in 2005 and reported that paid maternity leave was used by 34 per cent of employed mothers. In 2007 the ABS released the data from the *Forms of Employment* survey and found that 45.5 per cent of female employees were entitled to paid maternity leave in November 2007, down from 46.9 per cent in November 2006. Of the population surveyed, 39.3 per cent were not entitled and 15.3 per cent did not know about their entitlement to paid maternity leave. (ABS, 2008).
88. EOWA reports on the number of medium to large organisations (> 100 employees) that provide for paid maternity leave.⁵ Of the 1,443 organisations who responded to the 2005 survey, 46 per cent provided paid maternity leave.⁶ For the period 2006-2007, the EOWA reports that 48.9 per cent of organisations provided paid maternity leave. The average duration of that leave was 8.9 weeks.
89. There is considerable variation in the provision of paid maternity leave in Australia across industries and sectors, with a clear distinction between public sector and private sector provision.
90. The NSW public sector, for example, is one of the largest employers in Australia and has provided paid maternity leave since 1957.
91. In 2006 it employed 10.7 per cent of the NSW labour force with 303,534 full-time equivalent employees, of whom 60.5 per cent were female (NSW PSWO, 2006). At June 2006 it employed 15 per cent of all women employed in NSW (NSW PSWO, 2006, unpublished data).
92. At least 89 per cent of the sector's employees are covered by awards or enterprise agreements which provide for paid parental leave, including maternity and adoption leave.⁷ Following 40 weeks' continuous service these instruments provide for:
- a. 14 weeks of paid maternity or adoption leave at full pay, 28 weeks at half pay, a combination of full and half pay, or as a lump sum; and

⁵ The EOWA requires private-sector companies, community organisations, non-government schools, trade unions and group training organisations with 100 or more employees to provide an annual report on the equal opportunity programs within their workplace. Higher education institutions are also required to report. Equal Opportunity for Women in the Workplace Agency (2006), "Equal Opportunity for Women in the Workplace Survey 2005: Paid Paternity Leave, Results of the 2005 Annual EOWA Survey of Reporting Organisations 12 May 2006" Australian Government available at http://www.eowa.gov.au/Developing_a_Workplace_Program/Employment_Matter_Resources/EM_5_Resources/_Paid_Parental_Leave/EOWA_2005_Paid_Paternity_Leave_Survey_Results.pdf

⁶ The comparable figures for 2004, 2003 and 2002 were 41%, 36% and 23% respectively.

⁷ Parental and other parent leave arrangements in the sector are available to male and female employees and do not discriminate against same sex couples.

- b. paid parental leave of one week at full pay or two weeks at half pay around the child's birth (which may also be taken as a lump sum or a combination of full and half pay)⁸.
93. The results of the 2006 survey for Workplace Profile⁹ show that 1.79 per cent of the total NSW public sector work force (3.43 per cent of the female workforce) took paid maternity or parental leave during the period. Women accounted for 88 per cent of people who took paid maternity or parental leave and 95 per cent of people who took unpaid maternity or parental leave.
94. At the sector level, the average duration of paid maternity leave taken at full pay by women employed on a full-time basis was 9 weeks; however the most frequently occurring period of leave taken was 14 weeks.
95. By contrast, most men took only one week of parental leave at full pay.
96. The data also indicates that women are drawing on flexible work provisions which allow employees to take combinations of paid and unpaid leave, combinations of full and half pay, and 'package' their maternity leave with recreation (annual) and extended (long service) leave to maximise the duration of paid leave and ensure income security around the time of giving birth.¹⁰
97. In the private sector, entitlements to paid parental leave are generally delivered through bargaining or at the employer's discretion. From a sample of 3,200 enterprise agreements¹¹ registered between 2002 and 2006 at federal and state levels, just 23 per cent make any reference to paid maternity leave with common durations ranging from six to 14 weeks.
98. The industries with the most common occurrences are finance and insurance (51 per cent), utilities (40 per cent) and education (34 per cent). The industries least likely to include paid maternity leave in agreements are wholesale (2.5 per cent), retail (2.5 per cent); mining (4 per cent) and accommodation, cafes, restaurants (4.5 per cent). Retail, accommodation, cafes and restaurants are industries most likely to employ a high proportion of women of relatively low skill and where the

⁸ CI 72 of the Crown Employees (Public Service Conditions Of Employment) Reviewed Award 2006 and Circular 2004-45 Public Sector Salaries Award Settlement of Claim with the Public Service Association covers the Public Service. These conditions are mirrored in industrial arrangements and policies applying to the Government Service which includes teaching, health, police, firefighters, and judicial staff.

⁹ Workforce Profile 2006, headcount, 2006 Maternity/ parental leave statistics for the total sector. The population for the table is 454,953.

¹⁰ 'Packaging' other forms of paid leave provides the employee with additional income support; it does not facilitate the extension of maternity, adoption or other parent leave beyond the period generally provided around the time of birth or adoption.

¹¹ Note, this is a preliminary analysis only of enterprise agreements in the Workplace Research Centre Data Base, University of Sydney, March 2008.

'business incentive' or labour market pressure to deliver on paid maternity leave is not great.

99. While the data shows a slight increase in incidence and duration between 2002 and 2006, enterprise bargaining has not provided general coverage, with lowest coverage in industries likely to employ low skilled women with little bargaining power.

Fostering cultural change

100. Business and community acceptance of the benefits of paid parental leave in Australia has grown over the last decade. Many businesses have recognised the usefulness of such a scheme through the introduction of paid parental leave policies in their organisations.
101. Over the preceding decade, industry or sectoral trends have emerged in Australia. These tend to be related to labour market skill shortages and to the tendency of companies to replicate the practices of competitors. Union bargaining can also be a mechanism for the diffusion of policies. Once introduced by management in one company, the claims are often included in the next round of bargaining with others. This occurred for example in the auto sector after Holden introduced 14 weeks paid maternity leave and in the tertiary education sector with the introduction of paid maternity leave by the Australian Catholic University.
102. The voluntary provision of paid parental leave through these mechanisms alone, however has produced an unequal and uneven distribution of this workplace condition. Some organisations who can establish a business case for the introduction of paid maternity leave have already done so. Sole reliance on this process, therefore has equity implications for policy decisions to enable this workplace condition to be available to all eligible employees.
103. Trends have also been identified in community attitudes towards the introduction of a national paid maternity leave scheme. A Newspoll survey commissioned by the National Foundation of Australian Women in 2007 polled 1202 respondents aged 18 years and over and reported strong community support for the proposition that all working women be paid for at least part of the time that they spent away from work after the birth of their baby, with 76 per cent of respondents in favour, with men as much in favour as women. Support was particularly strong among those in the age group most likely to have children, with significant support from groups who would be likely to contribute but unlikely

to benefit from a paid maternity leave scheme. Cost sharing between employers, workers and the Federal Government in a national scheme was favoured by 78 per cent of respondents.

104. Changes in community standards were recognised by the Australian Industrial Relations Commission in 2005 with the *Family Provisions Test Case 2005* decision and its flow-on through similar state decisions. This established a new set of award standards that confer upon eligible employees an entitlement to request from their employer an additional 12 month period of unpaid parental leave, simultaneous unpaid parental leave for both parents up to a maximum period of eight weeks, and return to work on a part-time basis until the child reaches school age.¹² The decision required an employer to seriously consider and not unreasonably refuse a flexible work request. In the event of a dispute, it is dealt with under the award's dispute settlement clause.
105. Work Choices reduced the continued availability of these expanded parental leave entitlements for employees of trading corporations who were removed from the NSW jurisdiction into the federal jurisdiction. For those employees, the parental leave entitlements derived from the Family Provisions Test Case decision will continue until December 2009 after which they will be subject to the entitlement offered in the National Employment Standard.
106. In November 2007 the federal Rudd Labor government was elected with a mandate to repeal the previous government's Work Choices legislation. The new government's Forward With Fairness policy will replace Work Choice's five legislated minimum conditions with the National Employment Standards. These standards cover ten minimum conditions of employment for all Australian employees from 1 January 2010, guaranteed in legislation to ensure entitlements cannot be excluded or modified in a way that undermines the safety net (Productivity Commission Discussion Paper).
107. The National Employment Standard provides employees with 52 weeks of unpaid leave for each parent after a qualifying period of 12 months continuous service. A parent who takes 12 months unpaid parental leave has the right to request up to 12 months additional leave from the employer in writing. The employer may only refuse the request on reasonable business grounds. The National Employment Standards do not, however, contain any review mechanism for

¹² Under s 29D of the Industrial Relations Act 1999 QLD the employer must give proper consideration to an application to return to work part-time and cannot unreasonably refuse the application

unreasonable refusals, such as was contained in the Family Provisions Test Case decision.

108. The NSW Government welcomes the federal government's commitment to enshrine these provisions in legislation for all workers. It is the view of the NSW Government that mandating new standards through legislation is the most effective mechanism to ensure comprehensive coverage, reinforce business and community acceptance, and the achievement of behavioural change still needed from some sectors in order to accomplish the policy objectives of a paid parental leave scheme.

Review of international schemes

109. Paid maternity, paternity and/or parental leave schemes operate successfully around the world. They provide a useful guide for an examination of the various combinations of the basic components of any scheme: the duration of leave, level of remuneration, criteria for eligibility, degree of flexibility, administration of the scheme and the sources of funding.
110. This part of the submission responds to the Terms of Reference seeking information on models of paid parental leave which could be applied to the Australian context.
111. Evidence from the international literature has informed the selection of the range of combinations which are described and costed in Part Three of this submission. Because most of the schemes operating around the world are derived from social welfare regimes which have developed along paths fundamentally different from Australia, it is apparent that no one scheme could be readily transplanted into the Australian context. For European nations in particular, parental leave schemes derive their funds from contribution based systems such as social insurance schemes or a combination of social insurance schemes and government funding.
112. Appendix 1 provides a comprehensive comparison of the maternity, paternity and parental leave models according to these criteria across a sample of countries.

Duration

113. International models vary widely in the duration of leave provided to parents after the birth of a child, comprising different periods for maternity leave, paternity leave, parental leave and sometimes childcare leave. Broadly, countries can be divided up into those where the total continuous post natal leave that is available,

including paid and unpaid maternity leave, parental leave and childcare leave, extends to around nine to 15 months, such as Australia, Canada, Denmark and the United Kingdom, and those where continuous leave can run for up to three years, including Finland and Norway.

114. Where a specific period of paid maternity leave is provided, the duration is generally between 14 and 24 weeks. The average paid maternity leave for EU and OECD countries is 16 weeks, typically including six weeks before birth. This goes beyond the ILO convention requirement of 14 weeks. Some countries (like Belgium) also pay an additional lump sum 'birth allowance' or in-kind childbirth 'package' consisting of clothing and pharmaceutical items (Kamerman & Gaetani, 2002).
115. Some countries have mandatory pre-and post-birth maternity components while others allow mothers the option to use the leave after childbirth. Such pre-birth periods can range from two to eight weeks.
116. Where there is a period of identified paid paternity leave, it usually varies from two days to around two weeks. Denmark, Norway and Sweden have mandated at least one month of parental leave as a 'use-it-or-lose-it' option for fathers¹³, and fathers' take up rates of parental leave are comparatively higher in these countries than those without this incentive (Kamerman & Gaetani, 2002).
117. Among the OECD countries the average overall parental leave available, including paid and unpaid maternity, paternity, and parental leaves, is almost one and a half years. The average duration of the paid leave component is 36 weeks and is sometimes supplemented by child-rearing leave (leave that parents use to care for children after their parental leave has been exhausted).
118. Research does not nominate a definitive position on the optimum duration for paid parental leave since optimum periods of leave and the timing of mothers' return to work vary depending on individual or group perspective. Generally mothers would prefer more time off work (especially if it is paid) whereas some employers find shorter periods more manageable.
119. Some employer organisations have noted that shorter periods of leave such as 14 weeks may be more disruptive than longer periods because finding replacement employees for longer periods, around nine months to one year, can be more manageable than short term replacements.

¹³ Note that in Austria, three years of extended leave is available but only if the father takes at least six months of the leave before the child turns three.

Level of replacement

120. In relation to the OECD countries studied by Moss and Wall (2007) paid parental leave replaces between 70 and 100 per cent of prior wages (or the maximum covered under social insurance) in 16 countries, and between 50 and 70 per cent of prior wages in another seven countries.
121. Where payments are low, they are usually a flat rate, means tested, payment for only part of the leave period, or a combination of these. Higher wage replacement is usually characterised by an earnings-related benefit calculated at more than half of prior earnings.
122. In contrast, paternity benefits tend to be between 70 and 100 per cent of prior wages, although in some countries the benefit is capped. By way of exception, the United Kingdom and Estonia provide a low, flat rate paternity leave benefit.

Eligibility

123. In most countries examined, eligibility is usually related to a qualifying period of employment before the birth of a child, or payment of a minimum statutory insurance contribution.
124. In relation to paid maternity leave, some countries exclude self-employed mothers (Canada, Germany and the Netherlands) while some expressly include self-employed mothers (Belgium¹⁴, Czech Republic, Estonia, France, Hungary and the United Kingdom). Only a small number of countries extend eligibility for paid paternity to self-employed fathers (see France and Portugal).
125. Not all models have eligibility linked to employment. In Iceland, eligibility for maternity, paternity and parental leave is based on whether the parent has been 'economically active' prior to the birth of the child. In Finland, eligibility is based on residency.
126. Parental leave is a family entitlement in eight countries, to be divided between parents as they choose; an individual entitlement in another nine countries; and mixed (part family, part individual entitlement) in three countries (Moss & Wall, 2007).

¹⁴ In Belgium the leave entitlement for self-employed mothers is somewhat less advantageous

Flexibility

127. A paid parental leave scheme for Australia must include flexibility to provide parents with choices about their return to work and allow businesses to be innovative in the arrangements they offer.
128. The international models examined include varying flexibility elements to assist families balance their work and family responsibilities. These flexibilities are usually built in to the duration component of a scheme and take four main forms:
- a. the possibility to use all or part of the leave when parents choose until their child reaches a certain age,
 - b. the possibility of taking leave in one continuous block or several shorter blocks with as little as one day a week over an extended period,¹⁵
 - c. the possibility to take leave on a full-time or part-time basis (so parents can combine part-time employment with part-time leave), and
 - d. additional leave in the case of multiple births or, in a few cases, other circumstances. (Moss & Wall, 2007)
129. Under the *Industrial Relations Act* 1996 (NSW) there is capacity for an employee and employer to agree to a break in the period of unpaid leave, allowing a return to work. This return to work does not extend the 52 week leave entitlement, but allows the parent to return to work without forfeiting the remainder of their unpaid leave entitlement. This gives employed parents the ability to access paid work and maintain an attachment to the workforce while preserving their entitlement to job protected leave, and allows the employer some flexibility in offering work to parents on leave.¹⁶
130. It is worth noting that as part of the current award modernisation process, the Australian Industrial Relations Commission (AIRC) has developed a model award flexibility clause which is to appear in all modern awards with the purpose of providing for arrangements to be entered into that meet the genuine operational needs of the employer and the employee.
131. The AIRC has decided that the clause is to be limited in scope, specifically listing the conditions that may be subject to award flexibility (arrangements for when work is performed, overtime rates, penalty rates, allowances and leave loading) and specifically excluding some award conditions (minimum wages, type of

¹⁵ For example, in Belgium paid parental leave can be taken for one day a week over 15 months

¹⁶ See also s 28 Industrial Relations Act 1999 QLD).

employment, superannuation, consultation, representation and dispute settlement). Any flexibility arrangement negotiated is to be subject to the *Workplace Relations Act's* no-disadvantage test, and will be able to be terminated unilaterally by either the employee or the employer with four weeks' notice.

132. This clause may provide employers and employees with family responsibilities with some scope to agree on arrangements that can assist the employee to resolve tensions between work and family responsibilities.

Source of funding

133. Some of the regulatory challenges in providing a paid parental leave scheme will be to equalise the costs and benefits for large and small businesses, ensure the entire cost of child-bearing does not fall to individual women, and to ensure equal access for all eligible employees.
134. It is important to distinguish between the various components of funding models, that is, the originating source of funds, the administration of the benefit, and the responsibility for payment to employee.
135. The diversity of paid parental leave schemes operating overseas is derived in large part from the diversity of funding sources. The essential features which distinguish between the various sources are based on whether the scheme is:
- a. fully employer funded, directly or through a levy administered by the government,
 - b. fully funded by payments from state revenue,
 - c. fully funded by contributions from employees,
 - d. jointly funded by employers, workers and the state through a social, health or unemployment insurance scheme, with employers, workers (employed or self-employed) and the state making contributions to the pooled fund, or
 - e. a combination of social insurance plus mandated employer supplements where the state funds to a ceiling and employers pay the difference from discrete funds.
136. The paid parental leave systems for most countries examined are funded via social insurance schemes run by the state where employed and self employed people pay contributions from their earnings into the fund and/or employers and

the state also contribute to this pooled fund. These contributions may also fund other social insurance related benefits, particularly sickness benefits.

137. Any direct comparisons of funding contributions should be made with caution. Cross-country comparisons are not strictly valid as the ultimate quantum of the parental leave benefit differs across countries. Furthermore, funding contributions should be considered in light of each country's tax regime and other social security measures.
138. The state does not contribute to social insurance based paid parental leave in all countries. In many countries, state contributions tend to meet either any scheme deficit (for example Hungary, Ireland and Norway) or the cost of any minimum daily allowance (for example, Finland).
139. Some examples of variations in the sources of funding include:
- a. Denmark, where the employer funds paid maternity leave for the first two weeks of leave taken by the mother and the state funds the remainder of paid leave,
 - b. Germany, where leave is funded by social insurance to a certain level and is supplemented by employers to a full income replacement level,
 - c. New Zealand, where leave is fully funded by the state, and
 - d. California, where employees fully fund the scheme via designated contributions to social insurance.

Administration of benefit

140. In most countries paid maternity, paternity and parental leave schemes are jointly administered by the Ministry or government department responsible for any or all of family, social affairs and employment. There are some exceptions, for example Denmark, where the local municipal governments administer the payment of benefits but under supervision of the Ministry of Social Welfare.
141. While the originating source of funding for the various paid parental leave schemes may be drawn from a range of sources, several ensure the payment is delivered through the employer to attach importance to the continuing nature of the employment relationship.
142. In the United Kingdom for example, the employer pays the leave payments directly to the employee, and is then reimbursed by the government. Small

businesses are reimbursed 104.5 per cent of payment in acknowledgement of additional administrative costs of replacement staff.

Review mechanism

143. The NSW Government also proposes that a review mechanism be developed to assess the impact of the implementation of a paid parental leave scheme and to provide an option, pending the outcome of the review, to extend, modify or qualify the duration, coverage and other elements of the scheme as required.
144. Good governance requires that 'regulation should be periodically reviewed, and if necessary reformed, to ensure its continued efficiency and effectiveness'.¹⁷
145. With the implementation of any new scheme it is essential to build in a review mechanism in order to fully assess the nature of the impact of the scheme after it has been in operation for some time. While policy impacts will be measured at different periods as various evidence or trends become apparent, a review at regular time intervals is indicated.
146. The United Kingdom provides a useful best-practice guide for the evaluation of the impact of its national parental leave schemes with its ongoing review process of the work and family changes implemented from 1997 through 2006.
147. The methodologies used in the reviews focused on producing evidence based policy decisions. The evaluations identified a dramatically changed parental leave landscape.
148. The consultation and analysis surveyed changes in work and life balance activities, preferences of employers and employees, the effect of paid parental leave, and their associated costs and benefits.
149. The data that was gathered measured employer provisions of work and life balance practices and the preferences, take up and awareness of these practices amongst employees.
150. This review process informed the findings of task force inquiries, regulatory impact statements and legislative reforms. On the basis of these ongoing evaluations paid maternity leave was extended from 14 weeks to 18 weeks in 1997, again in 2002 to 26 weeks, and to nine months in 2007, with the goal of further increasing paid maternity leave to 12 months by 2010.

¹⁷ NSW Government, Department of Premier and Cabinet, Better Regulation Office, *Guide to Better Regulation*, Principle 7, p. 53.

151. New Zealand also incorporated a review mechanism with the introduction of a paid parental leave scheme in 2002. The initial New Zealand paid parental leave scheme provided a period of 12 weeks paid leave, which was increased to 14 weeks in 2005 along with the introduction of a relaxed eligibility criterion. In July 2006, the entitlement to 14 weeks paid parental leave was extended to self-employed parents. A review was undertaken in 2005-2006 which included an examination of the experiences of parents ineligible for parental leave, as well as those of fathers and employers. The review was informed by the results of a three stage research program which was undertaken for a period of 18 months.
152. The review, *Parental Leave in New Zealand - 2005/2006 Evaluation*, found that paid parental leave enjoys considerable support from mothers, fathers and employers alike. The report will also form the basis of further work on the parental leave scheme in New Zealand.
153. On the other hand, Austria has recently reviewed its scheme and, on the basis of the findings, has reduced the leave entitlement from 24 to 18 months.
154. A review mechanism at regular intervals designed to consult with all stakeholders to gauge the varying effects of a paid parental leave scheme ensures a scheme which remains responsive to the policy objectives on which it is based.

Cost and funding considerations for an Australian model

155. Unlike many OECD countries Australia does not have a social insurance system that could be used to finance paid maternity, paternity and parental leave. An Australian model therefore would need to rely on funding from other sources such as government, employer and employee funding.
156. Estimating the cost of the models of maternity, paternity and parental leave also presents a number of challenges due to a lack of comprehensive information about the target group and the likely behavioural responses to changed policy settings.

Implications for government revenue

157. The introduction of paid parental leave would have immediate and long-term financial impacts on government revenues and expenditure. The increase in paid leave will increase income tax receipts and reduce government outlays on a variety of income support payments including Parenting Payment and Family Tax Benefit. In addition, to the extent that parents delay their return to work there will be savings on Child Care Benefit and the Child Care Tax Rebate.
158. The taxation implications of paid maternity leave are complex. To the extent that parental leave is paid at full wages, there are no implications for tax receipts compared to the situation where these people would otherwise be working or on paid leave. If paid parental leave replaces unpaid leave, however, there will be substantial cost offsets in the form of taxation. The amount of taxation collected will vary according to the proportion of the financial year worked prior to commencing leave. The government would also realise additional tax revenue from the tax on superannuation contributions.
159. In addition to revenue for the additional income tax on paid maternity leave and the 15 per cent contributions tax on superannuation, the government would reap savings from the introduction of paid parental leave through reduced eligibility for other payments such as Family Tax Benefits and Parenting Payment. To the extent that paid maternity leave facilitates a choice of longer periods of leave there will be substantial savings in Child Care Benefit and the Child care Tax Rebate.

Family Tax Benefits

160. There are two components of FTB. FTB A is paid in respect of each dependent child and is subject to an income test of family income while FTB B is a payment to primary care givers with very low incomes and is income tested on their earnings

alone.¹⁸ The maximum annual FTB A payment is \$4460.30 per child for children under 13 years which reduces after family income of \$41318 per annum and ceases when family income reaches \$97,845 for families with one child or \$107,797 for families with two children.

Parenting payment

161. Many women who take unpaid maternity leave or leave the labour force following the birth of a child currently qualify for Parenting Payment Partnered (PPP). Parenting Payment Partnered is payable to primary care givers of children under six years, subject to a family income test. The maximum payment of \$394.30 per fortnight is reduced when the person's income exceeds \$62 per fortnight or their partner's income exceeds \$751 per fortnight.¹⁹
162. Sole parents with children under the age of eight qualify for the Parenting Payment Single (PPS) at a maximum rate of \$546.80 per fortnight. Payments are gradually reduced when income exceeds \$156.60 per fortnight and cease when income reaches \$1538.10 per fortnight. Paid maternity or parental leave for women earning AWE or higher would mean that these women no longer qualify for PPS. Women with lower earnings would continue to qualify for part payment of PPS. Increased income may also affect eligibility for other transfer payments such as Family Tax Benefit (FTB) and rent assistance (RA).

Child Care Benefit

163. Child Care Benefit (CCB) is payable for children in approved or registered child care for up to 24 hours per week for all families and up to 50 hours per week for parents undertaking work related activities for at least 15 hours per week. Approved child care includes long day care, family day care, before and after school care, vacation care, some in-home care and occasional care.
164. Registered child care includes services such as nannies registered with the Families Assistance Office. CCB for approved care is \$3.37 per hour or up to \$168.50 per week and registered care is subsidised at a rate of \$0.564 per hour or a maximum of \$28.20 per week. The maximum rate of CCB is payable when

¹⁸ The earnings of the primary income earner have not been considered in the past but the 2008 Budget restricted eligibility to families where the income of the primary income earner is less than \$150,000 per annum.

¹⁹ The free area for social security benefit was set at \$30 per week or \$60 per fortnight in 1986 and increased to \$62 per fortnight in 2000 when the GST was introduced. For income between \$62 and \$250 per fortnight the payment is reduced by 50 cents in the dollar, while income exceeding \$250 per fortnight reduces the payment by 60 cents in the dollar. Partner's income over \$751 per fortnight reduces the payment by 60 cents in the dollar.

family income is less than \$35,478 and a minimum rate is available for families with one child with income in excess of \$108,434.²⁰

165. The 2008 Budget announced changes to CCB. The minimum rate will be abolished and a family with one child in approved care will receive the maximum amount of CCB until family income reaches \$111,000. Reduced payments will then apply until CCB ceases when family income reaches \$126,000 for families with one child in approved care.

Child Care Tax Rebate

166. The Child Care Tax Rebate reimburses families 30 per cent of out of pocket expenses to a maximum amount that is indexed annually. The Child Care Tax Rebate will increase to 50 per cent of out of pocket expenses in 2008-09. The maximum was \$4211 for 2006-07 but will increase to \$7,500 per child from 2008-09.
167. Baxter et al (2007) used data from the Longitudinal Survey of Australian Children (LSAC) to investigate the use of various types of child care by families with infant children. The main reason for using child care was due to parent's work or study commitments according to 92.9 per cent of single parents and 91.2 per cent of couple parents. They found that as employment increased so did all types of non-parental child care. For single parents formal child care increased from 6.2 per cent to 22.7 per cent when the parent was employed and a combination of informal and formal care increased from 2 per cent to 20.5 per cent. For couple families formal care increased from 4.4 per cent when one parent was employed to 21.5 per cent when both parents were employed. In addition, combined formal and informal care increased from 0.9 per cent to 8.4 per cent.
168. Thus if we assume that the introduction of paid maternity leave would delay the return to work of women by the period of the maternity leave there will be substantial savings from both the Child Care Benefit and the Child Care Tax Rebate.

²⁰ The minimum rate is available for families with two children if income is below \$115,900.

Conclusion

169. The NSW Government supports the introduction of a national paid parental leave scheme in Australia that aims to:
- a. Address short and long term financial implications
 - b. Improve female workforce participation
 - c. Safeguard the health of mother and baby
 - d. Optimise the benefits to business
 - e. Foster acceptance of improved community standards
170. With paid maternity, paternity and/or parental schemes operating in every OECD country except Australia and the United States, there is now sufficient evidence to support a more equal distribution of the costs as well as the benefits across Australian society.
171. The NSW Government has provided for the Commission's information a review of the international evidence about the elements that should be considered in the successful development of a paid parental leave scheme.
172. A paid parental leave scheme that offers not only job protection, but also some level of income replacement is an essential component of the suite of conditions Australian families need in order to meet their competing work and family commitments.

Appendix 1: Exemplar countries for paid maternity, paternity and parental leave

Basis for selection as exemplar	Country	Leave type	Eligibility	Payment	Duration	Funding ²¹
Full replacement earnings	Denmark	PML	Employees: 120 hours work in 13 weeks preceding leave	100% of earnings up to a ceiling of 3425 DKK (approx € 460)	18 weeks	Employer for first 2 weeks then State
		PPL	Employees: 120 hours work in 13 weeks preceding leave[100% of earnings up to a ceiling of 3425 DKK (approx € 460)	2 weeks	Employer
		PPaL	Employees: 120 hours work in 13 weeks preceding leave	100% of earnings up to a ceiling of 3425 DKK (approx € 460)	32 weeks per family until child is 48 months at full benefit; OR 40 weeks (for all) or 46 weeks (for employees only) at reduced benefit rate payable until total payments equal full benefit pay at 32 weeks, subject to agreement with E/r; OR Can return to work part-time with benefit paid at lower rate for longer period.	Employer for first 2 weeks then State

²¹ For countries whose funding is based on social insurance related schemes, this table shows *maternity leave contribution* rates for employees, employers and where applicable, self-employed persons according to data from the US Office of Policy data website available at <http://www.ssa.gov/policy/data.html>. The corresponding contribution rates for paternity leave and parental leave is not always shown as this data is not always clearly distinguishable.

Basis for selection as exemplar	Country	Leave type	Eligibility	Payment	Duration	Funding ²¹
Incentives for sharing leave and generous duration	Sweden	PML	No statutory entitlement to paid maternity leave per se. <i>Embedded in paid parental leave entitlement. Pregnancy benefit</i> available for women who are in jobs considered injurious or involving risk to foetus	Pregnancy benefit: 80% of earnings up to a ceiling of SEK 403000 (approx € 44100)	Pregnancy benefit: 50 days	SI E/ee: none; Self employed: 9.6% of earnings plus 2.2% for parental leave E/er 8.64% of payroll plus 2.2% for parental leave State meets deficit
		PPL	For maximum pyt father must be employed for at least 240 days prior to birth. Otherwise father gets "low guarantee" level pyt	80% of earnings up to a ceiling of SEK 403000 p.a (approx €44100) "low guarantee" level is SEK180 day	10 days + 60 days from father's quota of parental leave	SI -State meets deficit
		PParL	All parents entitled to paid parental leave	If parent's income >SEK180 for 240 days prior to expected date of delivery: 390 days at 80% of earnings up to a ceiling of SEK 403000 (approx €44100). Remaining 90 days at a flat rate of SEK180/day (€20). Otherwise, 480 days at SEK 180/day (€20)	480 days divided between parents as follows: 60 days for the mother (mother months); 60 days for the father (father months); 180 days for each parent (transferable to one another)	SI -State meets deficit

Basis for selection as exemplar	Country	Leave type	Eligibility	Payment	Duration	Funding ²¹
Anglo- liberal background Recent and ongoing reforms (getting close to Swedish model)	UK	PML	Statutory Maternity Pay: Female employees with 26 weeks continuous service with the E/r, into the 15th week before baby due and who meet a minimum earnings test. Maternity Allowance: self employed and employed persons who have worked for 26 weeks in the 66 weeks prior to expected date of birth, whose average weekly earnings are £30/week and who are otherwise ineligible for SMP	Statutory maternity pay: 6 weeks at 90% av. earnings (no ceiling) + 33 weeks at lesser of £117.18 (€165) or av. earnings + 13 weeks unpaid Maternity Allowance: 39 weeks at lesser of £117.18 (€165) or av. earnings	Statutory maternity pay: 39 weeks. Can start from 11th week before baby due Maternity Allowance: 39 weeks. Can start from 11th week before baby due	SI E/ee: 11% of earnings; E/er:12.8% of each e/ee who earns above a ceiling (£97 as at April 2007) Employer pays initially (refunded from social security fund for at least 92%. If National Insurance Pyts < £45000 p.a., refunded at 104.5%)
		PPL	Male employees who: § are the biological father or mother's partner; § expect to have responsibility for the child's upbringing; § worked for E/r continuously for 26 weeks, into the 15th week before baby due	Flat rate of £117.18 (approx €165)/week	2 weeks to be taken in 1st 8 weeks following birth	SI E/ee: 11% of earnings; E/er:12.8% of each e/ee who earns above a ceiling (£97 as at April 2007) Employer pays initially (refunded from social security fund for at least 92%. If National Insurance Pyts < £45000 p.a., refunded at 104.5%)

Basis for selection as exemplar	Country	Leave type	Eligibility	Payment	Duration	Funding ²¹
		PPaRL	All employees who have completed one years' continuous employment with E/r and who have or expect to have parental responsibility for the child	None	13 weeks per parent until child is 5. Leave may be taken in blocks or in multiples if 1 week up to 4 weeks per year.	Not applicable
<i>Closest to model mooted in Australia today</i>	New Zealand	PML	14 weeks unpaid. (However 14 weeks paid leave embedded in PaidPaRL -see below)-worked continuously with the same employer (or self-employed) for an average of at least 10 hours a week (including at least one hour in every week or 40 hours in every month) in the six or 12 months immediately before the baby's expected due date. Single mothers payment where mother more than 18 years and had been a resident for more than 24 months	None. However 14 weeks paid leave embedded in PaidPaRL -see below - which must be taken concurrently with unpaid leave).	14 weeks.	Not applicable
		PPL	1 week unpaid PL for 6 months service, 2 weeks unpaid PL for 12 months service	None	1-2 weeks depending on eligibility to be taken between 21 days before the baby's due date and 21 days after the birth.	Not applicable

Basis for selection as exemplar	Country	Leave type	Eligibility	Payment	Duration	Funding ²¹
		PParL	Worked for the same employer for an average of at least 10 hours/ week, and at least one hour in every week or 40 hours in every month, in the six or 12 months immediately before the baby's expected due date	Gross weekly rate of pay up to a ceiling of NZ\$391.28	14 weeks. (Mothers must take this leave at the same time as unpaid maternity leave. She may choose to transfer paid parental leave to her partner) plus 52 continuous weeks of unpaid leave (less any maternity leave taken)	State
Illustrates implications of low income replacement levels	Canada	PML	Varies between jurisdictions. For most jurisdictions, employees must have worked continuously for same employer for a minimum period (12-13 months). Self employed women are not eligible as they do not have "insurable employment"	55% of averaged insured earnings over the 6 months preceding the claim with a ceiling of C\$413 (€271)/week (C\$39000 p.a in 2008). Note 2 week waiting period with zero benefits lowers the effective replacement rate, subject to regional variations (Quebec) .	15 – 18 weeks depending on jurisdiction. May start up 11-17 weeks before baby due	SI E/ee: 1.8% earnings; E/er:2.52% payroll (except Quebec which is funded 0.416% of earnings and 0.583% payroll respectively plus self employed -0.737% of tax income)
		PPL	One years' continuous employment. Self-employed not eligible	None	4 days (1 day before birth and 3 days after)	Not applicable

Basis for selection as exemplar	Country	Leave type	Eligibility	Payment	Duration	Funding ²¹
		PParL	Varies between jurisdictions. For most jurisdictions, employees must have worked continuously for same employer for a minimum period (12-13 months).	Up to 35 weeks per family at 55% of averaged insured earnings with a ceiling of C\$413 (€271)/week. Low income families (less than C\$25921 (€17020) p.a) eligible for a family supplement to raise pyt	For most jurisdictions: Family entitlement: 37 weeks for one parent or shared between 2 parents but not exceeding a combined maximum of 35 weeks. Leave can be simultaneous but must be consecutive with maternity leave. Maximum total leave (maternity + parental) = 52 weeks	SI
Innovative and true gender equality	Iceland	PML	All women who have been "economically active" prior to giving birth. Payment scaled according to length of time worked in preceding 24 months	80% of earnings up to a ceiling of approx €6000 per month for women who have worked in the preceding 24 months. Mothers working 49% or more of full-time hours: minimum pyt of €830/month Mothers working less than 25% of full-time hours: flat rate pyt. Mothers working 25-49% of full-time hours: minimum pyt of €630/month	3 months: 1 month to be taken before birth; 2 weeks must be taken after birth. Remainder can be used until child is 18 months	SI E/ee: 4% of wages; Self employed: 5.79% of "presumptive income" + 10% earnings E/er: 11.79% of total remuneration paid

Basis for selection as exemplar	Country	Leave type	Eligibility	Payment	Duration	Funding ²¹
		PPL	All men who have been "economically active" prior to the birth	80% of earnings up to a ceiling of approx €6000 per month for men who have worked in the preceding 24 months. Fathers working 49% or more of full-time hours: minimum pyt of €830/month. Fathers working less than 25% of full-time hours: flat rate pyt. Fathers working 25-49% of full-time hours: minimum pyt of €630/month	3 months. Can be used until child is 18 months	SI
		PPL	Male or female employees who are the partner of the mother or who acknowledge the child	100% of earnings (no ceiling)		
		P ParL	All employees who have completed one year's continuous employment with current E/r	Unpaid.		
					6 weeks 16 weeks: 6 weeks before birth and 10 weeks after birth	SI Funded totally by E/ee contribution (up to \$US65 p.a) ²²

Basis for selection as exemplar	Country	Leave type	Eligibility	Payment	Duration	Funding ²¹
						SI E/ee: Depends on industry – average is 5.8 % of earnings; E/er:3.45% of payroll

SOURCE: Unless otherwise noted, “Eligibility”, “payment”, “duration” and “who administers” data from applicable “Country notes on leave policies and research” in Moss and Wall (2007) “International Review of Leave Policies and Related Research 2007” except for New Zealand, whose data was sourced from Kell, S., (2006), “*Parental Leave and Carers’ Leave: International provision and research. Report for the Department of Labour, Wellington*” available at <http://www.dol.govt.nz>. Unless otherwise noted, “Source of Funds” data from US Social Security Administration Office of Policy “Social Security Programs throughout the World: Europe 2006” available at <http://www.ssa.gov/policy/data.html>

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