



PAID PARENTAL LEAVE

The National Farmers' Federation's submissions to the
Productivity Commission in relation to the draft Report on
Paid Parental Leave

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Introduction

The National Farmers' Federation ("NFF") represents agricultural employers in all States and Territories, and across all major agricultural and horticultural commodities. The NFF has a long and involved history in advocacy relating to industrial relations within the agricultural sector.

In addition to its key role in national minimum and award wage fixing, the NFF has been widely involved in a significant number of test cases before the Australian Industrial Relations Commission ("AIRC"), including most recently the Family Provisions Test case in 2002.

More recently, the NFF has focused a significant amount of its efforts on resolving critical labour and skills shortages within agriculture. The *2008 Labour Shortage Action Plan* outlines the nature and extent of these shortages, and lays down a roadmap for a comprehensive, multi-faceted solution to the issue nationally.

Improving employment participation within the farming workforce is, broadly speaking, a centrepiece of the strategy outlined in the *2008 Labour Shortage Action Plan*. The targeted project flowing from that strategy is the *Pastoral Partnerships Project*, recently announced by the NFF, to more effectively facilitate the contribution by women, among other groups who are underrepresented or like women, underacknowledged in terms of their contribution to agricultural workforces.

Social Assistance Entitlement or Workplace Entitlement

The NFF has previously and consistently supported the social and broader *underlying objectives* of the parental leave components of the Family Provisions test case. That is, the objective of stemming the drop in national fertility rates, and the social objectives surrounding the wellbeing of the mother and child. Its recent bid to bolster social inclusion and employment participation in agricultural jobs and careers is certainly no exception.

The NFF continues to support measures which will achieve a greater capacity among not only women, but both parents with newborn children, to return to work. In broader terms, that capacity is provided for through flexible workplace arrangements. The NFF continues to strongly advocate for flexible, non-prescriptive workplace conditions in the face of a rapidly and pervasively changing workforce, not only in the sector, but globally.

The Background to the draft report of the Productivity Commission reinforces that the economic and social objectives remain the driving force for the reforms it proposes. Indeed, its scope expands on previous considerations:

The Australian Government wants to consider how to improve support for parents with newborn children. The context for this is the need to ensure strong and sustainable economic growth, adjust to the imperatives of an ageing population, promote the early development of children and support families in balancing work and family responsibilities.

There is no doubt that women contribute greatly to Australian agriculture, but to a significant extent, that contribution is not formally recognised, or underestimated. Fathers, for their vital role with newborn children, are rightfully contemplated in successfully achieving the objectives. Overarching this, measures which facilitate family functioning in rural workforces, greatly assist in encouraging people to remain in regional and rural Australia – and in agricultural careers. For this reason, among others, the NFF continues to support these important economic and social objectives. The NFF is concerned, however, that paid parental leave continues to be perceived as a pillar to achieving those objectives.

Effectiveness of Current Entitlements

In reviewing the extent of parental leave entitlements in the past, the NFF has held the strong view that such review should contemplate whether existing entitlements allow those objectives to be achieved.

There are two key differentials between the status quo and the proposed arrangements; first, 18 weeks of leave would be a paid entitlement; second, the direct costs would be met by the Federal Government. Neither of these differentials resolve longstanding concerns that paid parental leave squarely establishes the entitlement as a workplace entitlement.

Given the significance of the economic and social objectives, the NFF strongly maintains that such leave should more appropriately be framed as a social assistance entitlement. Conversely, the NFF believes that paid parental leave should be available as a workplace-related entitlement where it is implemented at individual workplaces by agreement.

Broader Strategies for Social Equity and Economic Growth

The NFF has long supported the social objective, and consequent economic benefit, of population growth. However, rural populations continue to decline, alongside steady increases to the national population. The *2008 Labour Shortage Action Plan* highlighted that grossly inadequate infrastructure underpinned the depletion of those populations, which in turn was the leading cause of critical labour and skills shortages. This is the overwhelming cause of the issues sought to be addressed by the stated social objectives. Social fabric is depleted by the lack of important, basic resources, and the economic fabric of rural and regional Australia follows, as businesses' prosperity declines in correlation with population decline.

In short, paid parental leave does little, if anything, to address a lack of medical services, schools, suitable communications and other essential resources for new parents and their children. Further, the current proposal

includes those described as having a reasonable degree of attachment to the workforce, including the self-employed. A vast number of women in agriculture play vital roles in the operation of their family farm business – and the vast majority of farms operate small businesses. Yet they are unable to cease the vital work they do, paid or not. Further still, a significant number may not meet the test for proximity to paid employment where their contribution is not formal or consistent, but substantive nonetheless.

Such people would be ineligible for the paid entitlement however it would be framed, which is a leading reason for the NFF's view that the social objectives remain unmet as a result of erroneously placing paid parental leave at the centre of the strategy to achieve those objectives.

Eligibility and the Wellbeing of the Child are Social Issues, not Exclusively Workplace Issues

From another perspective, even those who may be more generally eligible, may ultimately not gain the benefit by virtue of the necessity to resume work within the period. These people would more frequently benefit from better and more effective investment by Government in the essential services widely associated with raising children, for example, in health and education. They otherwise stand to derive no benefit from the existing proposal. In net, aggregate terms as employers, they will meet a variety of the costs associated with delivering the entitlements to their employees, in addition to falling short of any benefit themselves.

The current arrangement ensure that new parents have the right to take up to 52 weeks of unpaid leave. This meets the requirements of International Labour Organisation Convention C183, which states that any cash benefit should be paid with reference to benefits payable under the laws of the relevant nation. Where no such provision is made, payment is to be provided for out of social assistance schemes.

Costs and Benefits – and Equitable and Economic Snapshot

The Productivity Commission has indicated that paid parental leave will be funded, in part, with benefits previously payable to parents who had returned to the workforce, for example, the baby bonus. The NFF does not support the greater limitations the draft model will introduce in respect of parents who must return to work, particularly in circumstances where social equity for those raising children is skewed by other issues much more drastically. From many of the more remote agricultural areas' perspectives, it is peculiar that parents' and childrens' health are cited as key objectives of this reform, concurrent to the neglect of regional and rural health, which is exponential to the neglect of health services nationally.

The draft report and proposed policy recognises a few groups of people as reasonably proximate to the status of employee – in the case of many running small farm businesses, this is true in a variety of ways. Hit by drought, labour shortages, remoteness and increasingly inadequate infrastructure, they often experience discrimination and inequality as against their employees, or employees generally. The NFF is aware of a number of cases where employers have been unable to secure childcare within their families or from the Australian workforce, in the absence of critical infrastructure to provide this. Having identified suitable staff to do this work from abroad, those staff have then been refused visas, effectively because the job they would be doing is not skilled. Many mothers would not agree with this finding, particularly those seeking to engage these foreign staff, whom they trust with the complicated and challenging role of caring for their children.

This is a particularly important consideration when considering the Federal Governments cost-sharing proposal for paid parental leave. On the one hand, many farmers would be ineligible, and would thus experience discrimination as a consequence. In addition, they would need to meet the costs of this scheme. Those costs go well beyond the \$75 million the draft report specifies. With around 3% of the Australian workforce, this cost would be a little over \$2 million for agriculture. However, it is only a fraction of the actual cost which

will attach to employers, and in a way which is indiscriminate as to the capacity for employers of different size, nature and prosperity to do so.

The NFF is concerned by the requirement that employers initially pay the leave – notwithstanding the prompt reimbursement from Government, many farmers, particularly small business owners, face difficulties paying a variety of their essential operational costs, and in some cases, their own costs, in the short term.

The lost productivity impacts negatively and exponentially on smaller businesses – many have one or two staff (the average staff per farm is less than two employees). Increasing incentives for employees, to the exclusion of similarly situated employer parents, is inequitable – but more so where the employer parent is funding or at least initially meeting the costs of the situation. If equity rests at the core of the reforms' objectives, it should not create incentives which benefit one group at the direct cost of another.

The NFF strongly condemns discriminatory practices within agricultural workplaces – they are inconsistent with the organisations extensive bid to include more people in this vital industry, and the work of our member and other fellow organisations in the same regard. However, the reality in the broader sense is that this will create additional pressure on already strained businesses to avoid the potential liabilities and obligations which particularly attach to female employees, running directly against the NFF's efforts to encourage greater participation by women and other key groups.

Achieving Social Objectives for Working Parents

The proposal encourages employees and deemed employees to have children, which in itself is a positive measure. However, it does so on the basis of many assumptions with which the NFF cannot agree. An employer's obligation to ensure their staff can spend important early days with their newborn children should be reciprocated in respect of their own decision to have children.

One possible remedy would be to grant automatic entitlement to those receiving Exceptional Circumstance benefits or other social or business

assistance relevant to agriculture – this would remove the particular inequity of small businesses, often in a more vulnerable position and with less choice in terms of their family planning, to access the benefit also.

However, the NFF's leading view is that strong rural communities are achieved by cooperative efforts between members of those communities. Employees with newborn children, allowing for the initial period after their birth, could contribute to a lack of infrastructure such as childcare by offering home day care for those who do not have the ability to take any leave, let alone paid leave. Investing more effectively, as well as at greater levels, in health services, communications, transport and schools in rural Australia is likely to deliver a far greater growth in equity for all new parents. It is utter fallacy that the early involvement of parents is of greater importance to those who are employees or deemed employees.

The necessity for farm parents to return to work (because of the season, workload and so on) is only one example of a large number of reasons for the early return to work cited by the draft report – many return for career reasons, because they want to, or because it is their essential work ethic, rather than for fiscal or purely fiscal reasons. The NFF has worked extensively to achieve flexible farm workplaces, whilst concurrently encouraging employers to be generous, flexible and good human resource managers. One of the many ways in which they could achieve this was to take an important social issue and privately establish this with their staff's needs and wishes, as well as those of their individual businesses – in any industry, this scope to bargain gives such employers of choice a competitive advantage in a tight labour market where shortages are pervasive, and serves the wellbeing of their employees. It does not however rectify the difficult position of those employers who would not be eligible as a result of incorrectly perceiving such leave as a workplace entitlement.

The NFF strongly believes in the social and economic objectives outlined in the draft report – one of the founding and ongoing policy pillars of the NFF is to ensure social and economic equity for rural Australia. The NFF is concerned that this model with yield inequity, that it ignores the vast majority of the real needs of new parents, regardless of whether they own businesses, are employed, or unemployed. The costs of initially paying for the entitlement, despite reimbursement, will be significant for many farmers. Meeting superannuation payments for the period will likewise be a significant problem

– but the real concern is that this obligation falls on people, many who as parents similarly situated, gain no benefits. The policy does not encourage new parents, regardless of employment status, to work together cooperatively to achieve the needs of their collective families.