

**RESPONSE TO
THE PRODUCTIVITY COMMISSION
DRAFT INQUIRY REPORT:**

***PAID PARENTAL LEAVE:
SUPPORT FOR PARENTS WITH
NEWBORN CHILDREN***

BY

***SHOP, DISTRIBUTIVE & ALLIED EMPLOYEES'
ASSOCIATION***

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Ian J Blandthorn
National Assistant Secretary
National Office
6th Floor
53 Queen Street
Melbourne 3000

PH: (03) 8611 7000
FAX: (03) 8611 7099



**Response to the Productivity Commission Draft Inquiry Report:
*Paid Parental Leave: Support for Parents with Newborn Children***

From the Shop Distributive and Allied Employees' Association (SDA)

The SDA endorses the Productivity Commission's recognition of the need to introduce a Paid Parental leave scheme for Australian parents, and provides the following comments on its proposal.

1. The duration of the payment

The SDA strongly supports the proposal for 18 weeks paid leave for the primary carer and 2 weeks paid leave for the secondary carer.

2. Eligibility

2.1 The SDA has major concerns with the eligibility criteria proposed by the Commission. The Report proposes a model which, by its own admission, excludes at least 51.2% of new mothers and 20.8% of new fathers.

This aspect of the Commission's model is the one of most concern to the SDA, especially because many of those who will be excluded have low family incomes.

The Commission has started from the premise that this payment should only go to those in the paid workforce and, then in fact eliminates at least 20% of them because they would not meet the work test. The proposal is framed as a labour market program designed to increase the workforce participation of parents. In order to do this, it proposes a higher payment to those it includes, compared with the more than half of parents it excludes, who it recommends stay on the current Baby Bonus and Family Tax Benefit B, if applicable.

The SDA advocates that payments to all parents should be equitable and that it is not the business of governments to be involved in social engineering where one group of parents is favoured compared to another. Entry and exits and re-entry to the workforce around the delivery and care of children, should be at the discretion of parents taking all their family's needs into account. The role of government should be to provide equitable support for whatever choices the family makes.

This obviously extends to industrial provisions which enable work-life balance, as well as equitable and sufficient financial support.

There may be many reasons why both parents are not in paid employment, such as a family member's health, injury or disability, the availability of suitable child care, the availability of suitable work which will accommodate family responsibilities and possibly a partner's changing rosters, the availability of transport, and costs compared to earnings, or it may be that the family has chosen that one parent will be devoted to the care of the children during their pre-school years. This of course, does not mean that the parent is not working but just is not being paid for it. This decision is often based on strong beliefs regarding child welfare and development, and often involves considerable sacrifice, especially by the primary carer.

In any case, the Report acknowledges in chapter 3.3 that mothers with more than one child are much less likely to be in stable paid employment than first time mothers.

Chapter 4, section 4.2 of the Report cites research which states that "longer term maternal well being appears to be influenced by the fit between mothers' actual and preferred roles (whether employed or at home) and her satisfaction with the role." (McKim et al. 1999, Hock and DeMeis 1990, Klein et al. 1998) This appears to support our approach that women should be free to choose what is appropriate for them with no advantage or disadvantage either way, in terms of government support.

The Report also notes in chapter 3.3 women between the ages of 20-45 years account for around 96% of births.

2.2 Juniors, trainees and apprentices

The Commission's model also excludes full payment to those under 21 years old, as well as trainees, and apprentices and others with hourly wages below the adult minimum. Instead it recommends approximately 60% of the Federal Minimum Wage payment for 18 weeks, which equates to just under the level of the \$5,000 Baby bonus.

The SDA has approximately 37,000 women members under 21 years old and this proposal by the Commission effectively amounts to age discrimination against such women.

The cost of having a baby is the same for a 20 year old mother as it is for a 21 year old mother and there should be no difference in the tax payer funded component each receives.

2.3 The work test

The Commission's premise that recipients of paid parental leave must have a connectedness to work, has led it to arbitrarily create criteria to meet this requirement. The criteria it has created are that recipients must have 12 months continuous employment (albeit with one or more employers) and that they should have a minimum average of 10 hours of work per week.

Of SDA women members who are aged 21-45 years old:

- approximately 16,000 would have less than 12 months service; and
- approximately 6,500 would work less than 10 hours per week.

These are significant numbers who are potentially negatively affected by these criteria.

The Report says that the scheme is designed to provide net benefits to the community that would otherwise not be forthcoming. The major net benefit that it sees is the increased workforce participation of mothers before and after the birth. But enhanced maternal and child health is also a major benefit, and this is applicable to all parents, regardless of employment status.

The SDA recommends that paid parental leave should be paid to all families, by the government, at the rate of the federal minimum wage, regardless of the employment status of the parents and regardless of their age.

3. The rate of the payment and who pays?

3.1 The SDA supports the proposed base payment being at the rate of the Federal Minimum wage and being paid by the government.

3.2 “Top Up” payment by employers

However, serious consideration should be given to requiring employers to “top up” the government payment to full wage replacement, where the mother’s earnings are more than the federal minimum wage.

In instances where the woman’s income is above that of the federal minimum wage, full wage replacement is required to ensure a financially secure period out of the workforce. It is only then that families will have a genuine choice between the woman returning to work, or remaining at home for at least a satisfactory initial period.

The SDA advocates that employers should be responsible for a ‘top up’ payment to parents that would make up the difference between the federal minimum wage and their ordinary weekly wages.

Since employers are the beneficiaries of women returning to their workplace, then they should pay for the incentive for them to do so.

A range of employers now provide paid maternity leave to their employees and cite the strong business case for doing so. This is often part of a strategy aiming to be an “Employer of Choice” in terms of attracting and retaining staff. Staff turnover is a cost issue for all employers. Retail companies have estimated that the cost of replacing a base level casual employee after 3 months employment, as being in the vicinity of \$4,000.

Conversely, many employers don’t provide paid parental leave. The family’s financial well being should not be dependent on which employer the mother happens to work for.

3.3 Superannuation

3.3.1 Historically and legislatively in Australia superannuation has been linked to ordinary time earnings. The SDA supports the inclusion of superannuation payments as an appropriate measure to help address the often inadequate retirement savings of women.

The terminology used in the Report is a “cap” on superannuation contributions at 9%. This is extremely restrictive and does not provide for the possibility of the Superannuation Guarantee increasing in the future, and does not acknowledge that some workplaces may have industrially negotiated higher contributions,

The SDA recommends that superannuation should be paid at the rate of the Superannuation Guarantee or the industrial entitlement, whichever is the higher, for the period of the paid parental leave.

We note that some employers are objecting to the Commission’s model which would require them to pay the superannuation on the government payment, as the government payment is not ‘earnings’. It seems that these employers want the benefits of having valued employees return to work but are not prepared to make a contribution towards this.

3.3.2 Superannuation Guarantee minimum payment threshold

The Report notes that the *Superannuation Guarantee (Administration) Act 1992* includes a minimum payment threshold of \$450 per month earnings, below which the employer is not required to pay superannuation contributions.

It has been estimated that approximately 11% of employed women are thereby ineligible for superannuation payments. This is certainly a contributing factor to women’s low retirement savings and needs to be addressed.

The SDA recommends that the Productivity Commission take this opportunity to recommend to the government that the *Superannuation Guarantee (Administration) Act 1992* be amended to remove the current minimum earnings threshold.

3.3.3 The Commission’s model relieves employers of making superannuation contributions on paid parental leave payments to parents who are not also eligible for unpaid parental leave under the NES. Again employers are being let off lightly.

The SDA recommends that superannuation should be paid at the rate of the Superannuation Guarantee or the industrial entitlement, whichever is the higher, for the period of paid parental leave, for all employees.

The additional cost to employers is not onerous, given the short period of time and the tax deductibility of the contributions.

3.3.4 Under the Commission's model, 58% of all mothers would not be paid superannuation for the 18 week period.

As a matter of equity, **the SDA recommends that women not in paid employment, should receive a government provided superannuation payment on top of the paid maternity leave payment, equivalent to the Superannuation Guarantee Contribution.**

3.4 Accrued leave

Employers are being subsidised by the government paying the base rate of this leave. It should be considered as paid leave not unpaid leave, and therefore long service leave, annual leave, sick leave, and carer's leave should all accrue for the period of the paid parental leave payment.

This is not an onerous requirement for employers especially given the short duration of the leave.

The SDA recommends that annual leave, sick leave, long service leave, and carer's leave accrue for employees for the period of paid parental leave.

4. Other Matters

4.1 Protection of Existing Entitlements

It is of the utmost importance that existing employee entitlements achieved through workplace bargaining are not undermined by the new scheme. It would be a perverse outcome if the efforts of employees and employers to develop workplace entitlements to support working families, including paid maternity leave entitlements, were undermined by federal government reform to that end.

The SDA recommends that the Commission encourage employers to ensure that existing employer schemes for Paid parental leave should continue to be observed in addition to the proposed new paid parental leave scheme.

4.2 Timing of the leave

Chapter 2.1 of the Report says that an overarching principle of the model should be to avoid being overly prescriptive, allowing families to flexibly adapt the leave scheme to their specific needs. The SDA believes this should apply to the timing of the leave, both in respect of the 6 weeks before the birth and the cap of 6 months being proposed after the birth.

4.2.1 6 weeks before the birth

The current provisions for the taking of maternity leave involve the employee, at least 10 weeks before the expected date of the birth, officially notifying her employer by providing a medical certificate stating that she is pregnant and the expected date of the baby's birth. Then, at least 4 weeks before the proposed commencement of parental leave, the employee must provide written notification to the employer of the period of leave she wishes to take.

The employee may commence maternity leave at any time from 6 weeks before the expected date of the birth. Also, the employer may require the employee to start maternity leave within this six week period, if the employee is deemed by a medical practitioner to not be fit for work.

The commission recommends that the paid parental leave payment not be payable until after the birth, potentially leaving the family without that additional income for 6 weeks (or more if the baby arrives later than expected).

The SDA recommends that mothers, who comply with the relevant notice periods, be able to access paid maternity leave up to 6 weeks prior to the expected date of the birth of the baby.

4.2.2 Cap of 6 months after the birth

The proposed model requires statutory paid parental leave to be commenced after any period of privately negotiated paid parental leave available at the birth of the child, and before 6 months after the birth.

The SDA recommends that statutory paid parental leave should be paid before privately negotiated paid parental leave or other forms of paid leave, to all women, at the commencement of maternity leave, and subject to the recommendation above in point 4.2.1. Any additional time taken, would then become a matter between the employee and employer. This would also seem administratively simpler.

The SDA recommends that statutory paid parental leave should be paid before privately negotiated paid parental leave or other forms of paid leave, to all women.

4.3 “Keeping in Touch” Provision

Where parents are required to participate in training, planning days etc while on parental leave, they should be paid at the appropriate time rate (or penalty rate, if appropriate) not the federal minimum wage rate. Such days should be separate arrangements to paid parental leave payments, and should be fully paid by the employer.

The SDA recommends that work whilst on paid or unpaid parental leave should not be deducted from the parental leave entitlement, but should be treated as paid work time. It should be paid at the ordinary time rate, including applicable penalty rates.

Under the Commission’s model, parents may work up to 10 days during their parental leave by “mutual consent”. In certain circumstances, especially where there are negotiations around return to work arrangements, such as rosters matching child care availability for example, the parent may feel unable to refuse requests to work.

The SDA recommends that the provision for time spent attending work whilst on paid or unpaid leave must be strictly voluntary.

5. Going Forward

5.1 Staged extension of provisions

The SDA believes the introduction of paid parental leave in Australia is a long overdue. It is important to get the fundamental principles right so that it will be fair to all Australian parents, be affordable, and will provide a basis on which to build. We believe that a paid parental leave scheme according to our recommendations would do this.

In the event that not all of our recommendations are taken up in the first instance, we advocate that there be a staged extension of the provisions of paid parental leave within a scheduled time frame.

The SDA recommends that the Commission support a staged expansion of paid parental leave over time.

5.2 Global Financial Context

Since the Productivity Commission released its draft report the global financial situation has deteriorated. As a result, the government has dipped into its hefty surplus and provided several economic stimulatory measures. Paid Parental leave should be seen in a similar light. Parents of newborn babies are likely to spend whatever money they are provided with, and therefore government payments to parents are virtually a direct injection of funds into the economy.

The government is able to introduce a universal paid parental leave scheme, as advocated by the SDA, and still remain economically responsible, and so it should do so in the 2009 Budget.

The SDA recommends that the government makes the introduction of a universal paid parental leave scheme a priority in the 2009 federal Budget.