

invigorating

Inquiry into Paid Maternity, Paternity and Parental Leave

NSW Business Chamber and ABI Response to the
Productivity Commission's Draft Report

November 2008



Invigorating Business Representation



About NSW Business Chamber

The NSW Business Chamber (NSW BC) has over 30,000 members and is affiliated with 129 NSW regional Chambers of Commerce, with an additional combined membership exceeding 12,000.

Through its alliance strategy and Australian Business Industrial the organisation has a strong partnership with a significant number of the NSW industry and employer associations.

Members of the NSW BC closely mirror the broader NSW business demographic. Approximately 62% are located outside the Greater Sydney Metropolitan region and of the total membership

- 55% have between 1 and 50 employees;
- 32% have between 50 and 100 employees; and
- 13% employ over 100.

This broad-based membership is supported through a network of regional offices located in Western Sydney, Sydney South, Wollongong (Illawarra Business Chamber), Newcastle (Hunter Business Chamber), Gosford, Coffs Harbour, Ballina, Canberra, Griffith and Albury.

The NSW Business Chamber champions the development, capability and prosperity of Australian businesses.

About Australian Business Industrial

Australian Business Industrial (ABI) is the registered industrial relations affiliate of NSW Business Chamber, and is responsible for NSW Business Chamber's workplace policy and industrial relations matters.

ABI is a Peak Council for employers in the NSW industrial system and a transitionally registered organisation under the *Workplace Relations Act 1996*, and regularly represents members in both the New South Wales and Australian Industrial Relations Commissions.

ABI in conjunction with NSW Business Chamber represents the interests of not only individual employer members, but also other Industry Associations, Federations and groups of employers who are members or affiliates.

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Introduction

The NSW Business Chamber (NSW BC) and ABI would like to thank the Productivity Commission (“the Commission”) for the opportunity to comment on its Draft Report, *Paid Parental Leave: Support for Parents with Newborn Children*.

NSW Business Chamber Council and ABI Council, which are both comprised of representatives elected from their memberships, have discussed the issues raised in the Draft Report. The NSW Business Chamber Council’s discussion was out of session because of timing. This submission is reflective of the opinions and recommendations endorsed by both Councils.

As outlined in our initial submission, our membership is supportive of the broad concept of a government-funded paid parental leave scheme. There are, however, a number of key attributes and features that the scheme must have if it is to meet its policy objectives and be workable for the businesses to which it applies. These attributes and features were outlined in our initial submission to the Productivity Commission and our key recommendations are re-stated in the attached Appendix I.

We note that the Commission has incorporated some of our recommendations into its proposed scheme. In particular, it proposes that the scheme is government funded and has accepted that a right to return to work guarantee should not be extended to non-employee workers.

There are, however, a number of features of the proposed scheme that our membership is concerned about. These concerns fall into four broad areas:

- (1) the proposal that business should be the paymaster and administrator for the scheme;
- (2) the cost to business of paying superannuation contributions for those on parental leave,
- (3) the workforce participation benefits of the scheme and
- (4) some specific technical implementation issues.

These concerns will be the focus of this submission.

In addition, we restate our view that a national paid parental leave scheme is not the ‘silver bullet’ solution for improving the workforce participation of parents or assisting Australian employees to manage their work and family responsibilities. As detailed in our initial submission, we believe that a national paid parental leave scheme is only a part of the solution. There needs to be a broader consideration of issues surrounding support to families during the first few years of a child’s life, including child care and the range of other family payments and tax relief available to families.

Summary of Recommendations

NSW Business Chamber and Australian Business Industrial recommend that:

1. The paid parental leave scheme be wholly administrated by the Federal Government.

The Federal Government should:

- Determine the eligibility of the employee, via a statutory declaration system
- Make the payment directly to the employee on paid parental leave, through the Family Assistance Office.

The only circumstances in which business would pay the employee is if a business that already had an existing paid parental leave scheme elected to 'opt in' as the paymaster, and then claim the parental leave payment back from the government.

2. Employers are not required to make superannuation contributions for any employees on paid parental leave.
3. Part of the paid parental leave payment, or parental leave benefit, is delayed until after the employee has re-entered the labour market within a given period of time.
4. Any payroll tax liability arising from the statutory paid parental leave payment (non-superannuation) is paid by the Federal Government, as the funder of the scheme.
5. Any workers' compensation premium liability arising from the statutory paid parental leave payment (non-superannuation) is paid by the Federal Government, as the funder of the scheme.
6. Government-funded paid parental leave can be taken concurrently with any employer-funded paid parental leave scheme.
7. Government-funded paid parental leave must be taken as part of a single block of post-birth/adoption leave. But there is no time limit by which that it must have started.
8. Government-funded paid parental leave is treated in the same manner as other unpaid leave, and does not accrue other leave entitlements.
9. Draft Recommendation 2.7, relating to notice periods for extending leave, is adopted.
10. Draft Recommendation 2.7, relating to 'keep in touch' provisions, is adopted.

Issues and Recommendations

Business as the Administrator and Paymaster

Our members are concerned that the Commission's proposed scheme positions the business community as the scheme's administrator and paymaster for many employees seeking access to the proposed scheme.

The scheme put forward by the Commission has, in many cases, cast the business owner as the paymaster of the paid parental leave scheme (Draft Recommendation 2.3). In addition, the proposed scheme does not clearly state who will be responsible for verifying eligibility of employees – and in some situations the Draft Report implies that it will be the employer (eg. when not self-employed).

We recognise the Commission's motivations prompting its proposal making business the administrator and paymaster - it is intended to emphasise the 'normalcy' of parental leave. However, we believe there are more effective ways of promoting this cultural shift and that any 'normalcy' benefit, derived from having business as the administrator and paymaster, is outweighed by the significant administrative and cash-flow burdens this will cause. Indeed, making business the paymaster and administrator of the scheme is likely to alienate some business owners who were otherwise supportive of a government-funded paid parental leave scheme. Alienating employers will clearly not assist in the process of making parental leave a normal part of workforce participation.

These two features of the proposed scheme directly contradict two of the recommendations from our initial submission that:

- *Parental leave payments should be made to the employee directly by the Government, not through the employer, and should be paid to the mother except in circumstances where she is not the primary care giver.*
- *A national paid parental leave scheme should not impose financial or administrative obligations on employers, and the significant costs currently borne by employers in implementing unpaid parental leave entitlements must be recognised.*

Eligibility via Statutory Declaration for all Employees

The Commission's Draft Report outlines proposed eligibility for the scheme (Draft Recommendation 2.4). However, it does not clearly identify who would be responsible for applying for or verifying eligibility for statutory paid parental leave. These responsibilities need to be made clear so as to avoid confusion and clarify liability where someone who is eligible for the scheme does not receive the payment (or someone who is ineligible does). Our members are concerned that this lack of clarity about administration, coupled with their possible role as 'paymaster', obscures the fact that employers would be required to act as administrators.

Because of the diversity and complexity of employment relationships, we propose that, irrespective of the employment circumstances, it should be the responsibility of the employee to apply directly to the Government for access to the statutory paid parental leave scheme. There should be a single clear rule for everyone.

The simplest and most appropriate way to administer the scheme is to require a statutory declaration, signed by all of the child's parents (or other eligible partners) who wish to gain access to either the paid parental leave scheme or the 'baby bonus' replacement scheme. This would be a standard form issued by a Government agency, such as the Family Assistance Office. It would ask an applicant if he/she met the employment and primary carer eligibility requirements. Those declaring that they meet the requirements would have access to the paid parental scheme. Those declaring that they do not, would access the replaced 'baby bonus' system. The standard statutory declaration form would also allow the Government to collect all the relevant information related to when the government-funded paid parental leave is expected to be taken by each partner and how it will be shared between them.

The Draft Report discusses a statutory declaration approach for the self-employed (p. 2.16). But, as the examples below illustrate, this needs to be broadened to include all employees. This necessity arises because of the complexity of employment relationships and because the proposed scheme relates to workforce attachment and not workplace attachment.

Example 1: Employee has multiple employers during 12 month period

An employee meets the workforce attachment test but has worked serially for two (or more) employers in the past 12 months. Under the proposed scheme, the Government would make the payment directly to this employee. However, the Draft Report does not identify who is responsible for establishing that the employee is eligible for the scheme. This lack of clarity has the potential to give rise to a situation where the employer advises the employee that they are not eligible for parental leave because they have been in their workplace for less than 12 months. Not a surprising outcome because the employee is ineligible for unpaid parental leave from the employer. The employee is unaware that they can access the payment from the Government. Does this create employer liability because of the inference that the employer has administrative responsibilities with respect to the paid parental leave scheme?

Example 2: Employee has multiple current employers

An employee works a day a week (8 hours a week) for three different employers who are not aware of her other employment. (It is, for example, typical for "temps" to receive placements from more than one agency.) She asks each employer if she is entitled to paid parental leave and they all say no, because she works less than 10 hours a week for them. However, she meets the proposed scheme's employment test. She subsequently finds out that she was eligible for the scheme. Are the employers liable?

These simple examples illustrate that it is in the interest of both employers and employees to have the statutory paid parental leave scheme administered wholly by the Federal Government, and we recommend this be done by a statutory declaration system. Such a system works for other parenting-related payments (baby-bonus, Family Tax) and could be easily applied in the case of paid parental leave.

Payment made directly by Federal Government

Draft Recommendation 2.3 discusses how many employers would be the paymaster for the scheme and then claim the money back from the Federal Government through the pay-as-you-go withholding payment system.

Our membership has a number of concerns about Draft Recommendation 2.3.

Firstly, pay now-recoup later could create a considerable cash-flow burden on some businesses, especially for businesses that are small-to-medium sized and have low capital intensity. In most cases, these businesses would already be paying the wage of a replacement employee, already potentially suffering costs because of the training needs of the replacement employee, and may not have sufficient cash flow also to pay the employee on parental leave and wait to be reimbursed.

Secondly, pay now-recoup later is likely to add to the administrative burden of the scheme, particularly for small businesses. As the discussion below about payroll tax and workers compensation illustrates, it is not clear how the employer-paid (but government refunded) payment should be treated for accounting purposes. Is it a wage? Can the superannuation payments be claimed as a deduction if they are paid on earnings that are not associated with active work? These accounting complications can be avoided if the system is kept between the employee and the Federal Government, rather than involving the employer in the process.

Thirdly, pay now-recoup later creates significant complications for labour hire employment situations, as illustrated in Example 2 related above. If the employee discussed in Example 2 worked 12 hours a week for the three employers and had done so for over 12 months, then under the proposed scheme each of them would be obliged to make the paid parental leave payment and associated superannuation payments. This is clearly not the intention of the scheme and highlights once again why the Federal Government should make the parental leave payment directly to all employees.

Finally, there was general confusion amongst our members about the circumstances in which the business would be the paymaster and those in which it would not. Undertaking training to learn about these differences and then implement them would add to the overall administrative burden of the scheme – particularly on business. In addition, this confusion raises the possibility of employees being paid leave twice (being paid by both the Government and the employer) or not being paid (employer is responsible but thinks the government is paying).

Administrative simplicity and reliability requires the Federal Government acting as paymaster for all employees.

In some circumstances a business may want to be the paymaster, in which case it could 'opt-in' and voluntarily undertake the administrative co-ordination with government. For example, where a business has an existing scheme of paid parental leave, which is compatible with the final form of

the national paid parental leave scheme, it may want to continue making the currently agreed to payment directly to the employee and then claiming the government-funded part of this back. The additional funding this would make available could then potentially be used to extend the businesses' own paid parental leave system or as a top-up above the minimum wage in later weeks of leave.

Recommendations:

The paid parental leave scheme be wholly administered by the Federal Government.

The Federal Government should:

- Determine the eligibility of the employee, via a statutory declaration system
- Make the payment directly to the employee on paid parental leave, through the Family Assistance Office.

The only case in which business ought to pay the employee is when a business already has an existing paid parental leave scheme and elects to 'opt in' as the paymaster, subsequently claiming the parental leave payment back from the Government.

Superannuation Payments

In the Productivity Commission's Draft Report, Draft Recommendation 2.1 states that part of the paid parental leave scheme would include:

- *Superannuation entitlements calculated on the going wage of the employee or at the relevant capped amount, whichever is the smaller, but*
 - *this would only be available for employees who (a) have met the Commission's eligibility criteria for paid parental leave under draft recommendation 2.4; (b) were entitled to employer superannuation contributions in their jobs before taking paid parental leave; and (c) were entitled to unpaid parental leave under the National Employment Standards*
 - *super contributions would be limited to the statutory 9 per cent rate*
 - *subject to its practical feasibility, including consideration of its compliance and administrative costs.*

This Draft Recommendation is in contrast to our initial recommendation that:

- *A national paid parental leave scheme should not impose financial or administrative obligations on employers, and the significant costs currently borne by employers in implementing unpaid parental leave entitlements must be recognised.*

Consequently, our members do not support this aspect of the proposed scheme. Our concerns around this recommendation are three-fold.

Firstly, requiring additional superannuation contributions would impose a direct cost on business. As discussed in our initial submission and noted by the Commission in its Draft Report, employers already face considerable costs around parental leave, even in the current statutory unpaid leave system. When employees take parental leave, employers bear the expense of securing substitute staff. Employers also bear the substantial 'on-costs' associated with engaging new staff, including induction and training, and the inevitable period during which the new employee has reduced productivity. Small businesses and businesses in regional areas are particularly disadvantaged. In most cases, they are not in the position to easily cover staff absence, particularly when skilled or professional staff is involved.

Secondly, requiring additional superannuation contributions imposes an administrative burden, especially for small businesses that are often reliant on off-the-shelf accounting software packages to do the day-to-day running of their business. These systems automatically calculate payments, such as superannuation, and use these to generate key reports such as payrolls, profit & loss and general ledgers. But under the proposed scheme some superannuation payments would need to be calculated manually and the accounting system overridden. Many small businesses would be left needing to consult with expensive accounting professionals in order to understand how the manual overrides should be accounted for and entered. This administrative burden will become even greater for casual employees who earn less than the Federal Minimum Wage, because of the difficulty in determining their "usual wage" that is needed to calculate the associated superannuation liability.

Even without the accounting software package issues, employers will have an administrative burden in terms assessing who is entitled to superannuation payments and who is not.

Finally, under current payroll tax rules, businesses will be liable for payroll tax on the superannuation component of the paid parental leave. This imposes a direct additional burden on employers, above and beyond the payment made to employees.

Consequently, we favour a simplified system that has no direct cost to business and so excludes superannuation payments for those on statutory paid parental leave.

Should the Commission feel that it is important for there to be superannuation contributions made on behalf of employees taking the proposed statutory paid leave, it may wish to consider a Government contribution to the employee's fund. The entitlement to the contribution could be made conditional on a return to the workforce test.

Recommendation:

Employers are not required to make superannuation payments for any employees on paid parental leave.

Workforce Participation Benefits under the Scheme

The Productivity Commission's Draft Report states that the strongest key objectives of the statutory paid parental leave scheme are:

- enhancing maternal and child health and development,
- facilitating workforce participation, and
- promoting gender equity and work/family balance.

These were all objectives proposed by the NSW Business Chamber and ABI in our initial submission (see Appendix I).

Our membership believes that objectives 1 and 3 are met by the proposed scheme. However, they believe that objective 2 (facilitating workforce participation) is not adequately met and could be further strengthened if the scheme adopted another of the recommendations made in our initial submission. We recommended that part of the payment be delayed until the employee has returned to work. A delayed entitlement could be in the form of 'return' conditions imposed on some of the proposed weekly payments and/or a Government superannuation contribution as proposed above.

In our initial submission we recommended that:

- Any national paid parental leave scheme should have at its centre the objective of facilitating greater workforce participation by parents, via a minimum qualifying period and the **attachment of part or whole of the payment upon re-entering the labour market within a given period of time.**

In its current form, the proposed scheme has no requirement that employees return to the workforce. This weakens the workforce attachment and participation benefits of paid parental leave. Many employers already recognise the value of this 'post-leave' payment and include such a payment in their own paid parental leave schemes. In most cases, employees are not required to return to the same number of hours of work as their pre-leave level to access this return-to-work payment. A similar 'delayed payment' arrangement could be a feature of the statutory paid parental leave scheme.

Recommendation:

Part of the paid parental leave payment, or parental leave benefit, is delayed until after the employee has re-entered the labour market within a given period of time.

Technical Implementation Issues

Apart from the three principle-based concerns our members have about the proposed scheme, there are also a number of technical issues that need to be resolved if the scheme is to be workable.

Interaction with Payroll Tax and Workers Compensation Systems

The Draft Report has no discussion about how the system will interact with the workers' compensation and payroll tax systems. This has the potential to increase the cost of the scheme for employers.

As a further complication, the definition of 'wages' for the purposes of workers' compensation and payroll tax varies across jurisdictions, although recently there has been some progress towards interstate harmonisation, particularly between New South Wales, Victoria and Tasmania.

Using NSW as an example, it is clear that the interaction between these obligations and the current paid parental leave proposal is unclear, complicated and overly dependent on the particular circumstances of the employee.

(a) Payroll tax

Based on the Payroll Tax Act 2007 (NSW) ('PTA') (Section 17) and the proposed statutory paid parental leave scheme, employers would be liable for payroll tax on the superannuation contributions that they make to those employees on paid parental leave. This would impose a direct additional cost on business and is another reason why our members do not support the payment of superannuation to those on statutory paid parental leave.

As a further complication, it is not clear if Government parental leave payments would be wages or not. It is also not clear if employers would also be liable for payroll tax on the parental leave payments they make when acting as the Government's 'paymaster'.

On the one hand, Section 10 PTA defines taxable wages as wages payable for services performed by the employee. This suggests the government-funded parental leave payments may not be wages.

On the other hand, S 13 and 14 PTA define 'wages' as wages, remuneration, salary, commission, bonuses, allowances paid or payable to an employee (which is widely defined) including those paid in kind or by way of fringe benefit. In addition, S 46 provides that money paid by a third party, which would be wages if paid by the employer, are wages attracting payroll tax to be paid by a non-excluded employer. These sections suggest the government-funded parental leave payments may be wages.

Finally, S 53 PTA states that paid maternity and adoption leave to a maximum of 14 weeks are not 'wages'. Exemption must be supported by a statutory declaration completed by the employer seeking the exemption [s 54 PTA]. Paid paternity leave and paid maternity/adoption leave in excess of 14 weeks are 'wages' and attract payroll tax obligations for non-excluded employers.

This suggests that perhaps the first 14 weeks of the paid parental leave scheme will be exempt from payroll tax, but the last four will be liable.

Overall, it is not clear whether or not the proposed government-funded paid parental leave scheme would attract a payroll tax obligation for the non-excluded employer(s). In the event that there is a payroll tax liability on the non-superannuation part of the payment, this should be paid by the Federal Government, not employers.

(b) Workers' compensation premiums

Similar problems of definition arise when considering employers' obligations under the workers compensation scheme.

S 174 of the Workers' Compensation Act 1987 (NSW) ("WCA") defines 'wages' as salary, overtime, shift and other allowances, over-award payments, bonuses, commissions, paid leave and any other consideration given the 'worker' under a contract of service. That is, 'wages' are any payment arising because of the existence of the contract of employment. Consequently, under this Section of the Act, both the employer-funded superannuation contributions are, and the government-funded paid parental leave payments might be, considered 'wages', and this would create an additional liability.

However, the Act has a special exemption for payments made to building workers under the Building and Construction Industry Long Service payments Act 1986 (NSW), which are ruled as 'not wages' because the payment is ultimately not made by the employer.

As with the payroll tax example, however, employers would be liable for workers' compensation premium levies on the superannuation component of the paid parental leave scheme. Consequently, we again raise the issue of the cost to employers of the scheme and recommend that employers are not required to make superannuation contributions for those on statutory paid parental leave.

Requirement to take other leave first limits potential for positive interaction with existing employer schemes

One of the features of the Commission's proposed scheme is that the leave must be commenced *after* any period of other continuous leave available at the birth of the child. We are concerned that this prevents concurrent use of leave with an employer's existing paid parental scheme.

For example, an employer may currently offer 12 weeks' paid leave at full pay for their employees. If leave could be taken concurrently then the employer would be encouraged to now offer employees 18 weeks' leave at full pay and cover all (or part) of this additional cost by claiming back the government funded minimum-wage component of the 18 weeks' leave. This would benefit those employees – who would now have access to 18 weeks' leave on full pay – and the employer – who would be able to afford to offer a more generous parental leave scheme and thus gain all the 'employer of choice' benefits this brings. This would have a particular benefit in lower wage industries, such as retail, where paid parental leave schemes are currently in place.

Allowing concurrent leave increases the potential that these lower paid employees will be able to access longer periods of leave at, or near, their full pay and employers would be able to maintain their competitive advantage over their competitors that do not currently have schemes.

Permitting employees to take paid parental leave concurrently with other leave may also encourage the spread of employer funded leave in these sectors. Where paid leave is taken in conjunction with parental leave, concurrent operation would allow the employee to take the paid leave at a less than full time rate and therefore extend its application.

The other issue raised with not allowing concurrent leave, and insisting on the statutory leave to be started within six months, is that it limits the flexibility of the scheme's interaction with employer-based schemes. This effectively puts a cap on employer-based schemes at 6 months. Employers, and their employees, will be penalised if the employer offers to extend business-paid leave beyond 6 months, as for example, by using reduced pay arrangements extended over a longer period. A better system would be to have the leave taken as one post-birth/adoption period (that is a combination of paid/unpaid leave), but with no time limit attached to when it must start.

Paid leave and accruing other leave entitlements

NSW Business Chamber and ABI members are concerned about the Commission's proposal to count statutory paid parental leave as service, for the purposes of accruing other leave entitlements. We believe this acts in direct conflict with the Commission's stated aim of 'normalising' parental leave amongst the workforce.

Currently, under the Australian Fair Pay and Conditions Standard parental leave does not accrue service. As currently drafted, the forthcoming National Employment Standards ('NES') would not appear to give rise to accrued service for government paid leave but they make no explicit provision that excludes parental leave from the accrual of service.

The proposal to consider accrual when on the proposed national paid parental leave scheme overlooks/does not appreciate/misunderstands the fact that the employee will be on unpaid leave from their employer, given that the Federal Government is the payer in the scheme. As the NES are currently drafted, no other type of unpaid leave (except community service) allows employees to keep accruing other leave entitlements while on leave.

By proposing a scheme where other leave entitlements are accrued while on unpaid leave, the Commission appears to be acting inconsistently with its stated aim of 'normalising' paid parental leave.

Recommendation:

Any payroll tax liability arising from the statutory paid parental leave payment (non-superannuation) is paid by the Federal Government, as the funder of the scheme.

Any workers compensation premium liability arising from the statutory paid parental leave payment (non-superannuation) is paid by the Federal Government, as the funder of the scheme.

The Government-funded paid parental leave can be taken concurrently with any employer-funded paid parental leave scheme.

The Government-funded paid parental leave must be taken as part of a single block of post-birth/adoption leave. But there is no time limit by which it must have started.

Government-funded paid parental leave is treated in the same manner as other unpaid leave, and does not accrue other leave entitlements.

Recommendations in Draft Report that have NSW BC/ABI Support

As well as the key recommendations from our initial submission (Appendix 1), NSW Business Chamber and ABI also support a number of specific key features of the proposed Scheme.

Changes to Notice of Leave Adjustments

The NSW Business Chamber and ABI support Recommendation 2.7 of Draft Report, that requires employees that wish to make changes to their leave arrangements to give six weeks' notice.

In its discussion of reducing the burden on business, the Commission draws attention to the forthcoming NES in assessing the relationship between its proposed national paid leave scheme and 'current' statutory entitlements. The Commission makes the point that the length of notice associated with accessing leave, extending or ending it may be as decisive in determining employer costs as the fact of the leave itself.

Based on our member experience, this finding is correct. Consequently, our membership supports the principle that there be a minimum of six weeks' notice by an employee that (s)he wants to extend his or her leave. This should apply to the 'right' to extend [s 21(3)] as well as the capacity to request an extension [ss 21(5) and 22(2)]. Employers are always able to agree to accept a shorter period of notice. There is no requirement to include such a capacity in the provision.

'Keep in Touch' provisions

The Draft Report also discusses English legislation providing for an employee on his or her statutory maternity or adoption leave period to 'work' for the employer for up to 10 days (or more accurately, for up to 10 starts) without terminating or extending the period of leave. The idea behind the regulation appears to be that the employer and employee can keep in touch so that when (s)he returns (s)he is better prepared to pick up from where (s)he left.

The provisions do not have the effect of requiring an employee to 'work' nor an employer to request the employee to do so.

The statutory context of the English regulation is different from what applies in Australia and what would apply under the proposed national paid leave scheme, but the concept is supported in principle. We note that the current draft of the NES provides that an employer must take reasonable steps to discuss changes to the workplace that would have a significant effect on the job of an employee on unpaid parental leave. We do not understand the proposal for 'keep in touch' work to modify that standard. Rather, we understand that 'keep in touch' provisions would allow an employer and employee to agree to the employee to undertake work during the period under the paid leave scheme so as to keep up with developments.

Our support for the proposal is based on that understanding and the following criteria for such a provision

- 'keep in touch' provisions are voluntary on both sides

- 'keep in touch' provisions would not, where applied or exercised, extend or reduce the paid leave under the scheme and would not require separate or additional payment of wages by the employer

Recommendation:

Draft Recommendation 2.7, relating to notice periods for extending leave, is adopted.

Draft Recommendation 2.7, relating to 'keep in touch' provisions, is adopted.

Appendix I

Summary of Recommendations from Initial NSWBC ABI Submission

- The primary objectives of any national paid parental leave scheme introduced by the Government should be:
 - improved health/development outcomes for the mother and child immediately post-birth;
 - assisting parents to achieve better work-life balance; and
 - the increased workforce participation and labour force attachment of parents, particularly mothers.
- NSWBC and ABI support the introduction of a Federal Government funded paid parental leave scheme for 14 weeks at the rate of Federal Minimum Wage.
- Parental leave payments should be made to the employee directly by the Government, not through the employer, and should be paid to the mother except in circumstances where she is not the primary care giver.
- A national paid parental leave scheme should not impose financial or administrative obligations on employers, and the significant costs currently borne by employers in implementing unpaid parental leave entitlements must be recognised.
- Any national paid parental leave scheme should not make reference to existing employer schemes, or place obligations or restrictions on employers' capacity to alter those schemes.
- Any national paid parental leave scheme should have at its centre the objective of facilitating greater workforce participation by parents, via a minimum qualifying period and the attachment of part or whole of the payment upon re-entering the labour market within a given period of time.
- Any examination into a national paid parental leave scheme intended to assist families to balance work and family responsibilities and boost the workforce participation and attachment of women must also consider the importance of accessible, affordable, quality child care and the implications of interaction with the suite of tax transfer assistance currently available to families.
- A right to return to work guarantee should not be extended to non-employee workers. Any parental payment to contractors and other self-employed workers should be publicly funded.

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