

Response by National Pay Equity Coalition to *Paid Parental Leave: Support for Parents with Newborn Children*, Productivity Commission Draft Inquiry Report, September 2008

The National Pay Equity Coalition welcomes the Draft Report of the Productivity Commission. We commend the Commission on its excellent effort to incorporate submissions from a vast range of interest groups to come up with its proposed scheme.

We particularly commend the Commission for its proposal of three broad grounds for a paid parental leave scheme, and for reflecting these goals in its proposed paid parental leave scheme:

- 1) the improved wellbeing of families
- 2) the encouragement of women of reproductive ages to maintain their lifetime attachment to the workforce
- 3) the expression of emerging community norms that employment and child bearing and caring can be combined.

While we strongly support the first ground, the second two grounds are particularly consistent with the goals of the National Pay Equity Coalition with regard to improving women's lifetime earnings and retirement savings.

We fully agree with the following features of the Commission's proposed paid parental leave (PPL) scheme:

- PPL to be treated as an employment-related entitlement rather than as a welfare payment
- PPL to be funded primarily by the government
- PPL to be available to all types of employees, including the self-employed, contractors and casuals
- PPL to be available to a broad range of family types, including conventional couples, same sex couples, single parents and adoptive parents
- Two weeks paid paternity leave to be available concurrent with maternity leave, and this to be available also to a same sex partner
- PPL to be available to either parent, or the non-birth parent in a same-sex couple
- The employer to be responsible for paying superannuation payments on behalf of an employee on PPL. This aligns PPL with other forms of leave and addresses the discriminatory effect of interrupted superannuation contributions on women's retirement incomes
- PPL to count as 'employment' for the purposes of eligibility for further periods of PPL
- A new maternity allowance to be available for women with insufficient attachment to the paid workforce to qualify for PPL

There are, however, a number of elements of the proposed scheme outlined in the Draft Report with which we do not agree, and which we would like the Commission to reconsider before presenting its final report.

1. Duration of paid leave

We are disappointed that the Commission has recommended a scheme of 18 weeks paid parental leave rather than the 26 weeks proposed in our submission and in those of many others. We note that the Commission has acknowledged the considerable health and child development benefits of having the child cared for one-to-one by a parent and breastfed for at least six months.

We cannot agree with the assumption that if parents are given 18 weeks paid leave, that they will be able to make up the remaining eight weeks to 26 weeks with their savings or other forms of paid leave.

Many women employees are casuals, who have no access to other forms of paid leave to supplement their parental leave. Many families need the entire incomes of both parents to meet the costs of living, and are in no position to save for a period of unpaid parental leave prior to the birth of a baby.

Limiting the statutory paid leave to 18 weeks does nothing to relieve the current situation of new fathers having to increase their hours of work to make up for the mother's lost income, with detrimental effects on family relationships.

Even if parents do have some other forms of leave accumulated at the time of the birth of their baby, it would be undesirable to require them to exhaust these banks of leave to cover a period of unpaid parental leave. Given that one rationale of PPL is to encourage women to return to the workforce after child bearing, it needs to be recognised that a parent returning to work will need all the leave credits possible to cater for the inevitable illnesses of a small child attending child care.

2. Rate of pay

NPEC ideally would like to see full income replacement in the PPL scheme, such as that which occurs now in voluntary paid parental leave schemes. This is consistent with treating parental leave like any other form of employment-related leave. However, in order to contain the costs of a statutory PPL scheme, NPEC proposed in our submission that PPL be paid at the rate of full income replacement, up to a cap of Average Weekly Earnings (Persons).

We are disappointed that the Commission has instead recommended payment at the level of the Adult Minimum Wage.

ILO Convention 183 provides for payment of the mother at the level of not less than two-thirds of her previous earnings, and at a level which allows maintenance

of proper conditions of health and a suitable standard of living for her and her child.

Taking ILO Convention 183 as a benchmark, we believe that a scheme allowing for income replacement up to a cap of Average Weekly Earnings comes much closer to providing the mother or primary carer with a level of income equivalent to at least two-thirds of their previous earnings. This, in turn, makes it more likely that the scheme will allow the mother/primary carer and child to maintain a healthy and suitable standard of living.

3. Eligibility

We support the Commission's proposal that PPL only be available to a parent with a genuine attachment to the workforce. But we are concerned with the proposed eligibility criteria, which require that an employed parent has worked an average of ten hours a week in the 12 months preceding the expected date of birth or adoption *and* has been employed continuously for the last 12 months (though not necessarily with the same employer).

Of particular concern is the requirement for *continuous* employment for the 12 months prior to the birth of a child. Many self-employed workers, casuals, contractors and seasonal workers have blocks of work (full-time or part-time) separated by periods without work. For example, many employees in the female-dominated community sector have their employment determined by the duration of fixed-term government grants, with possible gaps in employment between grants or when changing from one employer to another on the cessation of grants. Although the Commission states that 'continuously' is to be defined so as to allow 'reasonable' breaks in employment for the employee, it is unclear just how reasonable breaks will be defined.

Another concern here is that a female employee will be required to work continuously for 12 months right up to the expected date of the birth of the child. Many women take a period off work in the lead up to the birth, for health reasons or to make practical preparations for the birth, and this could be taken as a disruption to the continuity of their employment for this purpose.

So as not to disadvantage employees with non-continuous service (for whatever reason), NPEC proposed in its submission that PPL should be available for employees who have worked for a total of 12 months out of the 24 months prior to the expected date of the birth of the child. There was no requirement for continuity of employment within this period.

We maintain that our proposal ensures genuine attachment to the workforce without disadvantaging those with non-continuous service.

We urge the Commission to dispense with the equation of continuous employment with a genuine attachment to the workforce. We note that the

Australian Bureau of Statistics Labour Force surveys cover people working or seeking work, and suggest this is a much better model for determining labour force attachment.

4. Superannuation contributions

The Draft Report proposes that the employer pay the parent's superannuation contributions while the parent is on PPL, up to a cap of 9%. Employees not entitled to unpaid parental leave would not be eligible for these payments.

Many employees are currently entitled to contributions of greater than 9% as part of their working conditions. Maintaining contributions at the employee's current levels would be consistent with treating parental leave like other forms of leave and would help address the negative effects of child bearing on women's retirement incomes.

Denying superannuation payments to those who do not qualify for unpaid parental leave compounds the discrimination against workers who do not meet the 12 months' continuous service with the one employer requirement for unpaid parental leave. As referred to above, many workers with a strong attachment to the workforce are nevertheless unable to meet this requirement.

NPEC recommends that superannuation payments be made by the employer at the rate the employee was entitled to prior to commencing PPL

NPEC recommends that superannuation contributions of at least 9% be made by the employer for any parent eligible for statutory PPL.

An associated issue is that employers are not obliged to make superannuation contributions for employees under a certain income threshold. Many women are disadvantaged in their retirement incomes because of this. However, this is a matter to be addressed by a change to the superannuation legislation, and is not within the scope of this Inquiry.

5. Accrual of other leave during the period of PPL

We commend the Commission's proposal that PPL count as 'employment' for the purposes of eligibility for further periods of PPL.

We consider that it is also important to have PPL count as service for the accrual of other forms of leave, including annual, sick and long service leave entitlements, and for incremental salary progression during the period of PPL.

This would promote greater gender pay equity by ensuring that women are not further disadvantaged by childbearing.

We acknowledge that this proposal would require legislative change (e.g. to long service leave legislation) and changes in industrial awards and agreements,

which are not directly in the scope of this Inquiry. However, we see value in having the Productivity Commission recommend this as an integral part of the new PPL scheme.

6. Primary carers other than parents

We commend the proposal that paid parental leave will be transferable from the mother to the father or same-sex partner. While acknowledging that the mother will usually be the one to take PPL, we consider it important to allow families to decide, in all the circumstances applying to that family, who is the best person to be the primary care-giver of a newborn child.

NPEC proposed in our submission that PPL also be transferable to another relative who becomes the primary care-giver of the child, such as a grandparent, when the mother returns to work early. This arrangement may work for families where the mother's usual income is needed to meet financial commitments, but where an aunt or grandparent may be able to afford to live on the minimum wage paid for PPL, while taking leave from work.

NPEC recommends that PPL be transferable not only to the father or same sex partner of the mother, but also to a relative of the child who becomes the primary care-giver.

NPEC again commends the Productivity Commission for the many positive features of its proposed PPL scheme, and looks forward to an even better proposal in its final report.