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Employment, Workplace Relations  
and Education Legislation Committee

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Workplace Relations Amendment  
(Paid Maternity Leave) Bill 2002

September 2002

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Senator Kim Carr *	ALP, Victoria	
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Senator Natasha Stott Despoja	AD, South Australia	

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Senator Trish Crossin*	for Senator Carr – Workplace Relations Amendment (Paid Maternity Leave) Bill 2002
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# Chapter One

## The Bill

### Referral

1.1 The Workplace Relations Amendment (Paid Maternity Leave) Bill 2002 ('the bill') was introduced into the Senate by Senator Stott Despoja as a Private Senator's Bill on 16 May 2002. On 19 June 2002 the Senate adopted the Selection of Bills Committee recommendation to refer the provisions of the bill to this Committee for report by 18 September 2002.

1.2 Thirty-four submissions were received, and they are listed at Appendix 1. The Committee conducted a public hearing in Melbourne on 9 August 2002, and in Canberra on 22 August 2002. A list of witnesses who appeared at these hearings is at Appendix 2.

### Reasons for referral

1.3 The Selection of Bills Committee Report contained the following reasons for referring the bill to the Committee:

To examine the provisions of the bill in relation to paid maternity leave, its length, level of payment, eligibility, coverage and exclusions, administrative arrangements, effect on women workers and their families, effect on employers and workplaces, effect on government (including financial impact), effect on government employees, relationship with international conventions and standards, and effects upon equal employment opportunity in the workplace.

### Background to the bill

1.4 This bill originates from the policy platform of the Australian Democrats for the 2001 Federal Election. Democrats policy at the election was for the introduction of a statutory scheme of universal paid maternity leave for women in full time, part time and casual work. The current bill contains such a scheme, amended to allow 14 weeks leave instead of 12.

1.5 In her second reading speech, Senator Stott Despoja outlined the purpose of the bill as follows:

The Bill amends the Workplace Relations Act 1996 to provide a system of paid maternity leave, building upon that Act's existing provisions for unpaid parental leave. The Bill sets out the purpose, entitlement, level and method for this system, and it creates a Government funded Maternity Payment which will ensure comprehensive provision of at least basic maternity pay for all eligible Australian working women.

The Bill provides paid maternity leave for 14 weeks at or around the birth or adoption of a child for most Australian working women who have a child, at the level of the minimum wage, or if they usually earn less than this, at their normal wage.

The Bill provides this Maternity Payment by means of Government funds (paid for by employers and employees through their normal taxes).<sup>1</sup>

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1 Senate *Hansard*, 16 May 2002, p.1696.

## Chapter Two

### Issues Arising from the Bill

2.1 The private bill introduced by the Australian Democrats addresses an issue which the committee has found to be complex in its policy ramifications. The committee majority notes the energy which the opposition is putting into this issue, but it considers that this energy is likely to be misplaced if it pre-empts the report of the Sex Discrimination Commissioner which is due in November 2002. The committee majority acknowledges that the issue of paid maternity leave is now on the agenda for public discussion, following the publication, by the Human Rights and Equal Opportunity Commission, of the discussion paper *Valuing Parenthood*. The committee majority declines to take a pre-emptive path, realising that the Sex Discrimination Commissioner's report is likely to stimulate further debate. However some comments on the Bill are warranted

2.2 At the core of the bill is the unresolved dilemma of whether paid maternity benefits should be embedded in social welfare policy or whether they are, as this bill proposes, a workplace relations issue. Upon this question turns the issue of how government benefits can be most equitably and effectively directed to the welfare of women as employees and as mothers. Evidence before the committee indicates the pitfalls of assuming that benefits can be standardised for those in paid work and for those women who stay at home. It is difficult to achieve this aim without creating perceptions of unequal treatment. Government Party Senators regard the Government's announced comprehensive review of all facets of family and maternity benefits as part of a normal cycle of policy review. The paid maternity leave debate is in part a catalyst for this review.

#### **Paid maternity leave as a work and family issue**

2.3 A number of witnesses and submissions considered the issue of whether paid maternity leave is more appropriately classified as a workplace relations issue or as a social welfare issue. The Australian Council of Trade Unions, for instance, stated that paid maternity leave 'is absolutely a work related entitlement. It is like annual leave, leave for Army Reserve, jury leave or sick leave. It is related to the fact that you necessarily take a period of time off work to have a child.'<sup>1</sup>

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<sup>1</sup> *Transcript of proceedings*, Ms Sharan Burrow, ACTU, 9 August 2002, p.20

2.4 The Women's Action Alliance, on the other hand, saw the issue as a social welfare issue, and on that basis suggested that policies to support mothers should have a broader focus than women in the paid workforce. They stated that they '...feel that the model in the bill discriminates on the basis of a woman's choice about her work role when her children are very young, and that makes it hard ... to support.'<sup>2</sup>

2.5 The committee majority agrees that a universal one size-fits-all workplace based paid maternity leave policy is flawed because its benefits are confined to women who were in the paid workforce prior to their child's birth. The committee majority considers that good public policy in this area should address the need for financial security and dignity for all mothers with new children. At present the Federal Government spends \$12 billion on family related payments<sup>3</sup>. In this regard the committee notes the evidence of the Australian Family Association, which stated:

The AFA believes that paid maternity leave should be paid to all mothers and not only mothers in the workforce who wish to return to the workforce. To discriminate against mothers who wish to care for their children at home is to diminish the role that those mothers play and the work which they do. Being a homemaker is work and should be recognised.<sup>4</sup>

2.6 The committee observed that while a case can be made that paid maternity leave is a social welfare issue, or a workplace relations issue, it does not fall clearly into either category. This bill requires the Parliament to view maternity leave as a special case: as a category of leave requiring regulation and payment under Commonwealth legislation. The main objection to the proposed legislation rests upon this point. Paid maternity leave as a workplace relations matter is addressed in the next section.

2.7 Paid maternity leave is, nevertheless, a work and family issue. The committee majority considers that paid maternity leave is one element of a policy discussion about the way in which employees can balance their roles as workers with family responsibilities. The committee majority notes that the Government has embarked upon a comprehensive policy review of work and family issues. The committee notes that while this review will include consideration of paid maternity leave, this will be one element within a much broader package of assistance intended to meet the varying needs of employees and those outside the paid workforce. The committee majority noted the Prime Minister's statement to that effect:

We are looking at a range of options to provide further choice to parents in balancing their work and family responsibilities. We've already done a great deal in that area, we've introduced family tax benefits, we've introduced the baby bonus, we've enhanced those benefits, particularly the family tax benefits and we're looking at some other options as well, including, but not

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<sup>2</sup> *Transcript of proceedings*, Mrs Pauline Smit, WAA, 9 August 2002, p.8

<sup>3</sup> Speech transcript, Senator the Hon. Amanda Vanstone, 4 September 2002.

<sup>4</sup> *Submission 5*, Australian Family Association (NSW), p.1

only, the issue of paid maternity leave. It's one of a number of things, you can't expect any early announcement on initiatives, further initiatives in this area but it is a very important priority of the Government over the longer term.<sup>5</sup>

## **Effective workplace relations policy**

2.8 While the committee has noted that paid maternity leave is best described as work and family policy, this bill has been presented as an amendment to the *Workplace Relations Act 1996*. The committee notes that since coming to office in 1996 the Government has undertaken significant reform of workplace relations in Australia, and that the general direction of these reforms has been to give Australian workers and employers the opportunity to resolve workplace relations issues in the workplace, through certified agreements and Australian workplace agreements. The committee majority considers that this bill runs counter to this reform process. It seeks to mandate, by statute, a matter which ought to be determined at the workplace level along with the overwhelming majority of other employment conditions.

2.9 The committee majority considers that, if paid maternity leave is a desirable feature of working conditions, it can be discussed as part of the usual process of negotiating certified agreements or Australian Workplace Agreements. Evidence to the inquiry suggests that this is a continuing process. The ACTU, for instance, stated that 'if there is not 100 per cent income replacement available through a government scheme ... we will continue to bargain in this area.'<sup>6</sup> The committee majority regards this process as consistent with the intentions of the Workplace Relations Act.

2.10 The committee noted evidence presented by government departments which demonstrates that workplace bargaining is delivering paid maternity leave for women in the workforce. About half (50.9 per cent) of all women in full time employment were entitled to paid maternity leave in the June quarter of 2000<sup>7</sup>. The committee further noted that 38 per cent of all women in work, full time or part time, were entitled to paid maternity leave at that time.<sup>8</sup>

2.11 During hearings on this matter, the committee heard a number of outstanding success stories where the current bargaining arrangements have resulted in paid maternity leave schemes tailored to the needs of both employees and companies. Esprit, for instance, gave evidence to the committee about their paid maternity leave and family friendly policies. Their evidence demonstrates how a flexible, negotiated policy can provide an excellent outcome for mothers:

Esprit offers up to 12 weeks paid maternity leave for all full-time colleagues of more than two years service. These colleagues must intend to return to

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<sup>5</sup> Transcript of media interview with Prime Minister the Hon. John Howard MP, 31 July 2002.

<sup>6</sup> *Transcript of proceedings*, Ms Sharan Burrow, ACTU, 9 August 2002, p.21

<sup>7</sup> *Submission 20*, OSW, FACS, DEWR, p.31

<sup>8</sup> *ibid*

the same or a similar position on their return to work. [...] Esprit also offer a flexible return to work policy for colleagues who wish to return to work within six months of maternity leave. Such a colleague would then have another 120 days owing of maternity leave to use. For example, a colleague might return to work for two days a week after five months, increasing this to three days a week after seven months and then to four days a week after 10 months from the start of leave. She would then be able to work four days a week for a further two years following the end of the initial 12-month maternity leave. This policy allows our colleagues the flexibility of working part time, thus finding a balance between family and work in their child's early years. It also allows the company to have their valuable colleagues back in the business sooner. Other aspects of our family friendly policy include flexible weekly working hours to fit in with family responsibilities, car lease payment assistance during maternity leave, utilising sick leave for family emergencies and the flexibility to be able to work from home when the need arises.

2.12 The committee notes that the benefits available to Esprit's staff go much further than the benefits mandated by the current bill. Furthermore, the committee notes that Esprit's program was specifically designed to attract and retain retail sales employees. This tends to rebut the suggestion that paid maternity leave is only provided in higher-paid, higher-skilled professions. The decision by Australian company Pacific Brands, during the course of the inquiry, to provide paid maternity leave for many of its factory-floor staff is further evidence that the businesses often place value on the maintenance of a stable workforce including employees in unskilled and semi-skilled positions.

2.13 The committee also noted the submission of the Shop Distributive and Allied Employees Association which indicated that the SDA has 'had some success'<sup>9</sup> in obtaining, through enterprise bargaining agreements, a range of work and family provisions for mothers with newborn children. However the SDA made it clear that paid maternity leave was only one among several options for flexible working arrangements. The SDA stated that these include:

- the availability of extended (up to 3 years) unpaid parental leave;
- an entitlement to return to work on a part time basis after a period of parental leave;
- a specific entitlement to paid pre-natal leave for both mother and father to attend medical appointments related to the pregnancy;
- a pro-rata amount of leave for those who have not worked for the ... required 12 months to be eligible for parental leave;
- an entitlement to consideration of family responsibilities when establishing rosters on return to work;

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<sup>9</sup> *Submission 11, SDA, p.5*

- family leave; and
- paid maternity leave<sup>10</sup>

2.14 The committee can see no compelling reason to impose a bill which would mandate an inappropriate ‘one size fits all’ policy when the workplace negotiation process has already delivered more flexible, tailored work and family options to a wide range of women, in a wide range of workplaces, with a wide range of skill levels.

2.15 The committee noted the increasing number of employers realising that there is a strong business case for the introduction of a competitive work and family scheme. The ACTU, for instance stated:

Those companies that have made the decision to introduce paid maternity leave have done so because they see the business case for being an employer of choice, attracting and retaining highly skilled women. They see the business case for retention, and they see that there are benefits in terms of reduced absenteeism and so on. So, if they are sensible employers, they will divert the funds into other initiatives which support the retention of women in the work force and have ongoing and obvious economic and societal benefits.<sup>11</sup>

2.16 The Australian Industry Group agreed:

[Employers need to] take into account the costs associated with losing a valued female employee—costs such as recruitment, selection and training. The loss of skills is the biggest issue. Not only are there those direct costs to the employer; there are also significant community costs—for example, the loss of the education that has been devoted by the community and so on.<sup>12</sup>

2.17 Under these circumstances, the committee notes that if there is a business case in favour of paid maternity leave, and an enterprise bargaining system available to negotiate and deliver work and family related conditions, it is clearly in the interests of both business and employees to pursue their mutual interests.

## **Legislative anomalies and doubtful policy**

2.18 The committee majority recognises that a private bill which attempts to legislate for ambitious social policy measures is likely to produce anomalous provisions. Some anomalies were identified during public hearings on this bill. The first of these relates to the way existing paid maternity leave schemes would mesh with the model proposed in the bill.

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<sup>10</sup> *Submission 11*, SDA, pp.5-6

<sup>11</sup> *Transcript of proceedings*, Ms Sharan Burrow, ACTU, 9 August 2002, pp.21-22

<sup>12</sup> *Transcript of proceedings*, Ms Stephen Smith, AIGroup, 9 August 2002, p.3

2.19 The bill's practical effect will be that private employers, including large corporations which have made a business decision to introduce paid maternity leave, would receive what amounts to a considerable subsidy, as the Commonwealth assumes part of existing paid maternity leave payments. In other words, the bill will undo the substantial progress made under the government's reformed workplace relations processes, and will increase the outlay of public funds to provide a benefit which these particular employees already receive.

2.20 The committee majority noted evidence that the bill would not take away from the focus on workplace bargaining to achieve greater levels of payments that assists workers to meet family commitments. The committee, for instance, heard the following evidence from the ACTU:

. . . ., if the Commonwealth were to provide the \$431 per week, we would still be bargaining with those state governments to provide full income replacement to add the extra two weeks in those states and territories where it is 12 weeks paid leave and to increase the number of weeks in those other states and to broaden the scope. No, we do not want to let the state governments off the hook, but it would be inequitable for the Commonwealth to fund the private sector and leave out those state government employees. There are obviously mechanisms available to the Commonwealth in the states grants process if it felt that it was giving a windfall, in particular, to states that were already providing paid maternity leave.

In the same way, we would be encouraging private sector employers who receive a windfall through their employees becoming eligible for paid maternity leave to use that money to provide other family friendly policies or to increase the level of payment—in most cases, it is only two or six weeks anyway. In the same way, you would encourage the states to reach best practice rather than minima.<sup>13</sup>

2.21 The evidence from the ACTU also suggests the complex Commonwealth/state funding issues which would arise from the bill. The effect of the bill may be to force states and territories to increase the paid maternity leave benefits available to their employees, without offsetting gains in productivity, to enable those governments to fund the benefits. This, in turn, would be likely to result in increased calls for Commonwealth funds to support an additional outlay by the states and territories.

2.22 An unnecessarily complex payment process is now proposed. Under this bill, employers would receive payments from the Commonwealth, and would then be expected to make these payments to the employee when the employee takes paid maternity leave. This process creates unnecessary compliance issues for businesses, particularly small businesses, as noted in evidence from the Australian Industry Group:

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<sup>13</sup> *Transcript of proceedings*, Ms Cath Bowtell, ACTU, 9 August 2002, p.19

We believe that most employers would be concerned about an approach of having to provide the funding and then being reimbursed, even if that was handled quite early on in the piece<sup>14</sup>

## International Obligations

2.23 Some evidence and submissions before the committee asserted a relationship between international agreements such as the Convention for the Elimination of All Forms of Discrimination Against Women ('CEDAW'), and various ILO instruments, with the current bill. Senator Stott Despoja's second reading speech on the bill seems to support this suggestion, by asserting that the bill:

reflects the relevant ILO recommendations that national policies enable employees to exercise their right to work, 'to the extent possible, without conflict between their employment and family responsibilities' (ILO Recommendation (No, 165) Concerning Equal Opportunities and Equal Treatment for Men and Women Workers; Workers with Family Responsibilities).<sup>15</sup>

2.24 The committee notes the advice of the Office of the Status of Women, the Department of Employment and Workplace Relations, and the Department of Family and Community Services that 'Australia has no specific obligation in international law to provide paid maternity leave.'<sup>16</sup> The committee notes that the ILO conventions which support paid maternity leave were devised and driven by European nations with a long history of the provision of social insurance. These policies have limited application to Australia. The Government agrees with the basic objective of the ILO conventions – to support workers with family responsibilities. In achieving this objective, the legislative framework must reflect the continuing and evolving policy which we have seen in the Workplace Relations Act.

2.25 The committee majority has, noted its opposition to a 'one size fits all' policy and its strong preference for flexible policies enabling decisions to be made by employers and employees at the workplace. If a national 'one size fits all' policy cannot be accommodated, an international declaration or convention has little relevance.

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<sup>14</sup> *Transcript of proceedings*, Mr Stephen Smith, AIGroup, 9 August 2002, p.3

<sup>15</sup> *Senate Hansard*, 16 May 2002, p.1696

<sup>16</sup> *Submission 20*, OSW, DEWR, FACS, p.9

## **Conclusions**

2.26 The committee notes that this bill has been introduced prior to HREOC's final report on paid maternity leave; and that the Government has begun a process of considering work and family policy in Australia. The committee majority considers it would be premature to consider legislation until these processes have been completed.

2.27 The committee majority further notes that the bill proposes a system which would mandate an inflexible paid maternity leave scheme at a time when the Government's workplace relations policies are clearly delivering family-friendly flexible provisions to increasing numbers of parents.

## **Recommendation**

The committee recommends that the Senate should not support the bill.

**Senator John Tierney**  
**Chair**

# Labor Senators' Report

## Introduction

Paid maternity leave is a substantial workplace entitlement initiative which has yet to be legislated for. The path Australia has taken over nearly a century of developing social welfare and industrial policy has seen paid maternity leave fall into a gap that is now recognised as an impediment to the productive employment of women, and an obvious anomaly in the gender equity equation. This is an issue about rights, but it is also an issue about the productive use of labour resources and its economic consequences.

The Australian Labor Party is committed to the introduction of paid maternity leave for all Australian women in paid work. Paid maternity leave is one part of a co-ordinated set of policies Labor will introduce to help balance work and family responsibilities. This suite of policies will provide benefits to all mothers, not just those in paid employment. They will provide genuine options to Australian parents, unlike government policy which purports to provide options, but in fact overwhelmingly penalises mothers who return to work following their baby's birth and in the case of the Baby Bonus provides greater assistance to those with higher incomes. It will be clear, through this balanced presentation, that the views and conclusions presented in the government report are not supported by the evidence which the committee has obtained.

Labor senators on the committee support the concept of a statutory paid maternity leave scheme which will provide a safety net for Australian working mothers. As noted below, however, the current bill falls short of being the appropriate measure. Labor senators reject the view expressed by government senators that paid maternity leave can be delivered effectively by the current workplace bargaining process. The government senators themselves acknowledge that only 38 percent of women in paid employment have access to paid maternity leave<sup>1</sup>. While the government claims success for this policy, it leaves 62 percent of women in paid employment without any form of paid maternity leave. Workplace bargaining alone cannot deliver what they need.

Further, Labor senators noted evidence presented by Government departments that only 7 percent of certified agreements in 2000-01 contained paid maternity leave<sup>2</sup> (a *decrease* from the 10% of agreements which contained such provisions in 1998-99<sup>3</sup>). If 7 percent of agreements can result in 38 percent of women having access to the paid maternity leave, this indicates that the agreements which include paid maternity leave

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1 See Majority Report para 2.12

2 Statistic in this paragraph are derived from *Submission 20*, OSW, DEWR, FACS, Attachment B

3 DEWR and the Office of the Employment Advocate (2002) *Agreement Making under the Workplace Relations Act*, fig. 3.5.9, p.81

are those covering a relatively large number of women. This, in turn, suggests that women in smaller workplaces, without access to collective bargaining on a large scale, will continue to be deprived of paid maternity leave. Finally, the committee noted that even among the certified agreements which contain paid maternity leave, fewer than half contain provision for six weeks leave or more. Just four out of 917 provided the 14 weeks' leave proposed in the bill. In the face of this evidence it is facile to argue that 'workplace bargaining is delivering paid maternity leave for women in the workforce.'<sup>4</sup> Such arrangements as are in place probably represent the limit of what is available through collective bargaining.

In considering the Bill, Labor senators note Australia's moral and legal obligations under instruments such as the Convention for the Elimination of all Forms of Discrimination against Women (CEDAW), and ILO Convention 183 and Recommendation 191. While, as government senators note, Australia may not have a legal obligation to enact paid maternity leave in accordance with these conventions, they are a strong moral force suggesting that all women in paid employment are entitled to paid maternity leave. Further, Labor senators note that the only reason Australia is not required to implement paid maternity leave under CEDAW is because Australia has entered a reservation regarding the relevant provision of CEDAW. The Convention itself, with which Australia should aspire to comply, calls on governments to introduce paid maternity leave.

### **Is the current bill the correct instrument?**

The purpose of the committee's deliberation is to assess whether the current bill is likely to achieve its purposes, and to consider whether an amendment to the *Workplace Relations Act 1996* is the appropriate instrument to introduce a payments scheme for paid maternity leave. Labor senators note that the *Workplace Relations Act 1996* contains provisions for *unpaid* maternity leave, but has no appropriations clauses, nor any provisions for the payment of publicly funded workplace benefits. Labor senators do not believe that the *Workplace Relations Act 1996* is an appropriate legislative instrument for the provision of these payments.

This leaves the question of whether there is a more appropriate piece of legislation to carry provisions for paid maternity leave. The intent of this bill, for instance, could fit neatly within the *Equal Opportunity for Women in the Workplace Act 1999*, but this Act, like the *Workplace Relations Act 1996*, does not currently provide for appropriations. The *Family Assistance Act 1999* is another possibility. The *Maternity Leave (Commonwealth Employees) Act 1973* provides paid maternity leave for women working for the Commonwealth. The scope of this Act could be extended to become a more general Maternity Leave Act.

Another option may be to enshrine the right to paid maternity leave in the *Workplace Relations Act 1996*, and then to introduce a paid maternity leave bill containing the payment provisions. In the end, it may be that this vital issue warrants its own Act.

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4 Majority Report para 2.12

Just as compulsory superannuation, workers compensation and occupational health and safety have been addressed by separate legislation, Labor has proposed to address the protection of employee entitlements in this way. Labor senators consider that the appropriate legislative solution to paid maternity leave will emerge from the current policy development process.

While Labor senators conclude that the bill errs in seeking to enshrine a payment of this type in the *Workplace Relations Act 1996*, the opportunity to consider this bill has been welcomed. The introduction by the Australian Democrats of this bill and the committee process has facilitated parliamentary consideration of the more general issue of paid maternity leave. Government senators, in their report, suggest that this bill was designed to contribute momentum to the current debate.<sup>5</sup> Labor senators support the introduction of the bill on this basis, and encourage informed public debate on this issue.

Whereas the government senators have opposed the concept of statutory provision for paid maternity leave, Labor senators do not. The Labor senators' report will contribute to the current debate by setting out, in a more balanced and systematic fashion than the government senators' report, the evidence and submissions presented before the committee.

## **Who should be eligible for paid maternity leave?**

The most contentious issue before the Committee was the question of who should be eligible for paid maternity leave. This wider issue of eligibility contained four distinct concerns:

- what the qualifying period should be, and whether there should be a qualifying period at all;
- whether mothers outside the paid workforce should be included in the scheme;
- whether the bill fails to provide sufficient support for women employed in state governments; and
- whether the leave should be available only to mothers, or to either parent.

## **Qualifying Periods**

The bill links eligibility for paid maternity leave with eligibility for unpaid maternity leave under section 170KB of the *Workplace Relations Act 1996*, which includes a qualifying period of 12 months continuous service<sup>6</sup>. The explanatory memorandum to

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5 Majority Report para 2.1

6 *Workplace Relations Act 1996*, Schedule 14, Part 2, Clause 3(2)(h)

the bill states that “Given that gestation is 9 months, a 12 month service requirement is fair.”<sup>7</sup>

Virtually every submission received by the committee which supported paid maternity leave expressed concern about the 12 month service requirement<sup>8</sup> and a number of alternative models were suggested. The strongest concern related to the ‘casualisation’ of work, and in particular work undertaken by women. Evidence before the committee suggested that many women are likely to move rapidly, or at least regularly, from one employer to the next, or from one contract to the next. Under the current bill such women, despite their continuous employment, would be ineligible for paid maternity leave. The comments of the Australian Federation of Business and Professional Women (BPW Australia) describe the situation:

Being employed by the same employer for 12 months may exclude a large proportion of women. Women tend to be concentrated in sectors where lengthy periods of unbroken employment history are uncommon. They are more likely to be casual, part-time or agency based. A requirement for a long period of continuous employment will discriminate against those women working in hard labour areas. Many of these women may need to change employers to ensure the safety of their pregnancy due to the nature of their work. A minimum hourly rate will discriminate against women in part-time employment and those able to work only limited hours due to family commitments.<sup>9</sup>

Ms Lyn Collins gave the committee a personal example of how this qualifying period affects women in the workplace:

I have had three babies, the last, Ethan, only four weeks ago. I was working part-time for Coles when I became pregnant in October 2001. I was offered a graduate trainee position with the government in early January 2002 and I had to make a choice. I was fearful about not being employed because of the pregnancy so I didn’t disclose it initially, until I was offered the trainee job. My new employers wanted to know how long I intended having off the job when I had the baby. I said about 2 weeks. They said any more than that would jeopardise my chances of getting the contract, which I was really keen to begin. [...] So, when the birth came, I took 1 flex day and 9 annual leave days – 2 weeks leave in total. I worked up to the Friday before the caesarean operation on the following Monday. Because I had changed employer six months earlier, I wasn’t eligible for unpaid leave.<sup>10</sup>

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7 *Explanatory Memorandum*, p.9

8 The Australian Industry Group (*Submission 28*) was an exception.

9 *Submission 14*, BPW Australia, p.9. Other submissions expressing similar concerns were those from Associate Professor Wendy Weeks, the Finance Sector Union, Women’s Economic Think Tank, Slater and Gordon, the AMWU, the ACTU, Shop Distributive and Allied Employees’ Association, Liquor, Hospitality and Miscellaneous Workers Union, Ms Lyn Collins, the CPSU, the NTEU, Women’s Electoral Lobby, and the YWCA.

10 *Submission 15*, Ms Lyn Collins, p.3

Labor senators noted other evidence which suggested that the need to impose a qualifying period exists because it would be unreasonable to expect employers to accept the inconvenience and expense of supporting an employee on paid maternity leave if the employee had only been with them a very short time. Such an expectation might also have the effect of inviting unlawful discrimination by employers against pregnant job applicants. However in the case of the current bill, the government would be paying for the maternity leave. Some evidence before the committee suggested that under those circumstances, there may be no need for a qualifying period at all. The Australian Education Union, for instance, stated:

The concept of a service requirement *could* be argued as relevant to the *employer's* ability to budget for the contingency of paid maternity leave, but this Bill provides for a direct government subsidy to the employer to cover the costs involved. Therefore there can be no justification for *any* service requirement before eligibility.<sup>11</sup>

Sex Discrimination Commissioner, Pru Goward, presented similar evidence:

A lot of it depends on who pays. If the employer is paying, he or she wants a bang for his or her buck, so they want it very closely related to strong work force attachment—particularly to that employer, of course. If it is a government funded scheme—and I know that this bill outlines a 12-month waiting period so that it is consistent with other aspects of industrial legislation—I think it has some problems.<sup>12</sup>

Finally, during its research the committee noted a third option. Germany, which currently has no qualifying periods for paid maternity leave, previously had a system which enabled women to serve their qualifying periods *after* the birth of their baby. Such women would undertake a covenant with their employer to return to work, and work for that employer from the 4<sup>th</sup> until the 10<sup>th</sup> month following the baby's birth. This would enable women such as Ms Collins, who get a career opportunity during their pregnancy, to take up that opportunity.

### **Mothers outside the paid workforce**

Labor senators note that the issue of improved social welfare provisions for families has intruded into the issue of paid maternity leave and clouded the issue. Labor senators view paid maternity leave as a targeted policy to assist mothers in paid work. It is not targeted to address the needs of mothers who are outside the paid workforce. Despite this, some evidence and submissions before the inquiry suggested that women outside the paid workforce should also be entitled to paid maternity leave. The Australian Family Association, for instance, stated:

The AFA believes that paid maternity benefit should be paid to all mothers and not only mothers in the workforce who wish to return to the workforce.

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11 *Submission 19*, Australian Education Union, p.4

12 *Transcript of Evidence*, Ms Pru Goward, 22 August 2002, p.62

To discriminate against mothers who wish to care for their children at home is to diminish the role that mothers play and the work which they do. Being a homemaker is work and should be recognised.<sup>13</sup>

Other submissions and evidence suggested that while paid maternity leave might not be appropriate for mothers outside the paid workforce, other policies should be implemented in order to support mothers outside the workforce. The ACTU, for instance, proposed ‘a dual track system of paid maternity leave coupled with an improved maternity allowance.’<sup>14</sup> Further, Labor Senators noted that increasingly, women cannot be categorised strictly as ‘stay at home’ or working. Many will spend periods in and out of the workforce. This is why the issue of qualifying periods, discussed above, must be carefully considered.

Labor senators noted that virtually none of this evidence suggested that paid maternity leave should *not* be paid to mothers in the paid workforce.<sup>15</sup> Instead, the argument put by the AFA, the ACTU and others appears to suggest that the current government’s measures to support families, whatever their circumstances, are inadequate, and as a result women outside the paid workforce also need additional assistance. The deficiencies of current schemes such as the so-called Baby Bonus, Family Tax Benefit Part B and the Child Care Benefit (which will see many families lose their tax returns due to the poor design of the benefits), have been pointed out to the committee by a number of witnesses.

### **Mothers already receiving paid maternity leave**

The current bill includes provisions exempting Commonwealth, State and Territory government employees from access to this particular scheme of paid maternity leave.<sup>16</sup> The reasons for this are outlined in the Explanatory Memorandum:

This Bill will provide a payment to eligible women employees other than employees of Federal, State and Territory governments, on the expectation and belief that these governments should (and in many cases already do) provide at least equivalent paid maternity leave for their employees. It is administratively unwieldy and unnecessary to make a federally-funded payment to these employees, whose employment costs are already met by taxpayers.<sup>17</sup>

Evidence and submissions to the committee indicated that while it may be fair to say that State and Territory governments should pay paid maternity leave at equivalent

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13 *Submission 5*, Australian Family Association, p.1

14 *Submission 18*, ACTU, p.12

15 *Submission 10*, Salt Shakers, and *Submission 25*, Festival of Light did appear to oppose support for mothers in paid employment.

16 See Schedule 1, Part 2, Clause 4(2)(b)

17 Explanatory Memorandum, p.9

rates to the bill, few actually do so. The CPSU provided the committee with the following table:

Award/ EBA Provisions	C'wealth	Vic	Qld	WA	Tas	SA	NSW	ACT	NT
Paid Maternity Leave	12 wks	12 wks	6 wks	None	12 wks	2 wks	9 wks	12 wks	12 wks

This evidence suggests that the exclusion of State and Territory governments from the proposed system could result in some women employed by those governments being substantially worse off. Labor senators noted Senator Stott Despoja's statement during the hearings that while she did not wish to '[let] state governments off the hook'<sup>18</sup> she was 'not implacably committed to the provisions of the bill.'<sup>19</sup>

Similar concerns emerged in relation to employers who currently provide some form of paid maternity leave. The bill's intention is to provide statutory paid maternity leave in addition to any such leave which was previously in place. The explanatory memorandum states:

The Maternity Payment is additional to any existing legal, award or agreement rights to paid leave. The Government contribution should not be seen, or applied, in ways that replace or diminish the contribution that employers currently make to paid maternity leave. The Bill applies the principle of *additionality* to existing provisions.<sup>20</sup>

The Australian Industry Group, however, took the view that this principle of additionality simply penalises those employers who have already agreed to implement paid maternity leave and, consequently, rewards those who have not agreed to do so:

Why should employers be penalised because they have taken the initiative and introduced arrangements at the enterprise level? We think that in many cases—say the employer is providing a certain amount of benefit and then this scheme is introduced—employers would say, 'We will readjust what we are doing at the enterprise level.' If the scheme nationally provides a certain level of payment, it can be used to top up. If it provides a certain number of weeks, an employer might choose to extend that. But we do not think that you can force employers to do that or force them to have to maintain what

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18 *Transcript of Evidence*, Senator Stott Despoja, 9 August 2002, p.18

19 *Transcript of Evidence*, Senator Stott Despoja, 9 August 2002, p.18

20 Explanatory Memorandum, p.12

they are doing at the moment just because they proactively did something before others did.<sup>21</sup>

Labor senators noted several witnesses echoed the view suggested by the Australian Industry Group that, were the bill to be enacted, employers should be able to reallocate money previously used for paid maternity leave to other family friendly benefits. The ACTU noted:

Given the small number of companies paying at 100 per cent for 14 weeks, I think it is better if the government accepts that that may be a windfall for those companies. Certainly, from the unions' point of view, we would be saying that that money should not go back into consolidated revenue but should be used to improve other things so that that employer can continue to be an employer of choice. Those companies that have made the decision to introduce paid maternity leave have done so because they see the business case for being an employer of choice, attracting and retaining highly skilled women. They see the business case for retention, and they see that there are benefits in terms of reduced absenteeism and so on. So, if they are sensible employers, they will divert the funds into other initiatives which support the retention of women in the work force and have ongoing and obvious economic and societal benefits.<sup>22</sup>

Esprit Australia indicated that it would adopt this approach:

... if the government did introduce some sort of benefit for women in that way, we would use that to top up our existing policy rather than replace it and would extend on some of the family friendly practices that we have already implemented. [...] At Esprit we would still want to be an employer of choice, so we would probably want to still have something that would draw us apart from our competitors and make us more attractive to work for. I would hope that that would be something that we would look at doing.<sup>23</sup>

The Sex Discrimination Commissioner concurred:

for almost all the employers who do it, it is an employer of choice issue—it is a way in which they compete with other employers for scarce skill labour—they still want to retain that advantage over their competitors, so I imagine, as an economist, you would use that money in other family-friendly ways to retain your advantage.<sup>24</sup>

Labor senators consider that the interaction between publicly-funded paid maternity leave and existing public and private sector schemes is not adequately addressed in this bill and requires a broader response which addresses the concerns raised in evidence before the committee.

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21 *Transcript of Evidence*, Mr Stephen Smith, 9 August 2002, p.6

22 *Transcript of Evidence*, Ms Cath Bowtell, 9 August 2002, pp.21-22

23 *Transcript of Evidence*, Ms Libby Sanderson, 9 August 2002, p.25

24 *Transcript of Evidence*, Ms Pru Goward, 22 August 2002, p.63

## Maternity leave versus parental leave

Under the current bill, maternity leave would generally be available only to mothers; it can be extended to fathers, but only in exceptional circumstances. According to the explanatory memorandum:

The Bill is structured this way for two reasons. Firstly, and most significantly, carrying a baby in the later weeks of pregnancy, giving birth, recovering from birth and early mothering to establish breast feeding where possible, are physical acts that affect the body and being of the mother. This payment distinguishes this physical phase of maternity from general parenting, which will remain to be shared between parents, as they see fit, for the remaining 38 weeks of unpaid leave. Secondly, if men could claim the payment for maternity leave, given their on average higher earnings, it might make economic – if not practical - sense for the father to receive the payment and take at least some of the paid leave. In many cases, where women work part-time, male parents would receive a higher level of payment than their female spouses. Limiting the payment primarily to mothers means that any impulse to seek higher economic benefit by nominating fathers for it, rather than fund a work break for the biological mother, will be curtailed.<sup>25</sup>

Various views were expressed in evidence and submissions concerning the possible extension of paid maternity leave to include fathers, thus establishing a paid parental leave system. The National Pay Equity Coalition, for instance, argued:

There are strong arguments in favour of providing a period of paid parental leave for partners of women giving birth. Women now stay in hospital for quite brief periods after birth and do require care in the immediate post-birth period.<sup>26</sup>

BPW Australia took the view that providing paid parental leave would increase the choices available to parents:

A number of BPWA members have advocated flexibility whatever PML scheme is introduced, and stressed that this would need to allow for PML payments to be shared across both mum and dad at the discretion of the couple. It is the right of the parents, not the state, to choose what care arrangements suit their child and their family.<sup>27</sup>

However Labor senators noted that, on balance, the evidence before the committee tended to favour leave which directly addresses the needs and circumstances of the mother. The NTEU, for example, stated:

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25 Explanatory Memorandum, p.10

26 *Submission 31*, National Pay Equity Coalition , p.20

27 *Submission 14*, BPW Australia, p.8

Women in work face unique disadvantage, including employment discrimination, lack of access to career progression and low wages compared with their male counterparts. This disadvantage is often exacerbated greatly if a woman chooses to have a child. Paid maternity leave for working women is one way to combat this kind of overall disadvantage for women: the fact that provision for paid maternity leave for working women is reflected in International Labor Organisation and United Nations Conventions, and that almost all western nations provide for paid maternity leave for working women reflects international acceptance of this view.<sup>28</sup>

Finally, Labor senators noted the view of Associate Professor Wendy Weeks that 'Parental leave in itself is an important component in the support of families and one that we also wholly support. However we stress that it should be an additional scheme rather than a replacement for maternity leave.'<sup>29</sup>

### **Level of payments under a paid maternity leave scheme**

A wide range of views were expressed to the committee regarding the appropriate level of payment under a paid maternity leave scheme. The four most commonly supported levels are as follows:

- **Minimum Wage:** The bill provides for women to be paid at the minimum wage rate, currently \$431.40 per week. This suggestion represents a safety net approach, and is the most economical option.<sup>30</sup>
- **Average Wage:** According to the ABS<sup>31</sup>, full time adult ordinary earnings in May 2002 were \$868.50 per week. This is approximately double the cost of the minimum wage model.
- **Average Female Wage:** According to the ABS<sup>32</sup>, full time adult female ordinary earnings in May 2002 were \$778.30 per week. This is slightly less than the average wage model, but this model may penalise women because female average earnings are less than those of men.
- **Full Wage Replacement:** Depending on whether women taking paid maternity leave earn a similar average wage to that of all women, this option is likely to cost a similar amount to a scheme based on the average female wage. However, the distribution would be rather different, resulting in higher payments to women with higher base incomes, and lower payments to women with lower incomes.

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28 *Submission 23*, NTEU, Attachment 1, p.3

29 *Submission 2*, Associate Professor Wendy Weeks, p.5

30 The SDA supported this level. The Women's Action Alliance supported this level as a compromise, with average weekly females earnings as an ideal.

31 ABS cat 6302.0 May 2002

32 *ibid*

The NTEU and Australian Industry Group supported payment at the minimum wage. The CPSU, the National Pay Equity Coalition and the Women's Electoral Lobby supported payment at the average weekly wage.

A number of witnesses suggested that a minimum or average wage rate could be implemented as a safety net, with a view to negotiating higher rates through the workplace bargaining system. Associate Professor Wendy Weeks, BPW Australia, Esprit, and the YWCA supported this view.

The Womens Economic Think-Tank took the view that full wage replacement should not be supported if the scheme was paid for by government:

... it is more difficult to justify paying public money at differential rates for basically undertaking the same tasks. If the maximum is set at a high rate or as income replacement for all, it will be reproducing the inequalities of pay rates by matching prior wages. Other forms of leave usually replace the lost wages so there is justification for the differential rate but this is paid by the employer. If we are requesting that this payment be paid from public funds, it is harder to sustain such differentials. Therefore it would seem more equitable to pay a standard maximum rate but not more than prior earnings which would cover part time workers. So we would support the use of minimum wages as the basic payments<sup>33</sup>

Several unions (the AMWU, ACTU, AEU and LHMU) proposed a hybrid scheme where the government would pay for maternity leave at the minimum wage rate. In addition, employers would be levied a compulsory, across-the-board fee to be held in an industry-based fund scheme. Money from this scheme would then be used to bring paid maternity leave benefits up to the full wage replacement level.<sup>34</sup>

## **Funding and administration of a paid maternity leave scheme**

Two significant issues were raised in evidence and submissions in relation to the proposed scheme. The first issue was the question of who should pay for paid maternity leave, and the second issue related to the practicality of the indirect payment process contained in the bill.

### **Who should pay?**

There are four possible sources for paid maternity leave. They are:

- employers;
- employees;
- government; and

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33 *Submission 7*, Women's Economic Think-Tank, p.4

34 *Submission 8*, AMWU; *Submission 12*, LHMU; *Submission 18*, ACTU; *Submission 19*, AEU

- some mix of the three

The committee heard strong evidence suggesting that employers should not be wholly responsible for the payment of paid maternity leave schemes. The Australian Industry Group, for instance, stated that:

Ai Group is opposed to the introduction of any paid maternity leave scheme which is funded by employers. The significant costs of such a scheme would place an excessive burden on industry which would most likely lead to lower employment levels and reduced competitiveness for Australian businesses – large and small. It is also likely that any such a scheme would adversely impact upon employment opportunities for women.<sup>35</sup>

Sex Discrimination Commissioner Pru Goward described employer-funded paid maternity leave as a ‘third world option’:

The first myth is that paid maternity leave in Australia must be directly funded by employers. Apart from the fact that that is a Third World option, most of Australia’s international competitors fund PML—paid maternity leave—through either entirely government funding or social insurance schemes into which contributions come from all parties. The exception to this is Switzerland but, as you would know, the business tax rate in Switzerland is very low. Government funding in full or in part has certainly been the preferred option of those with whom we have consulted, and there was a general view that direct funding by employers could lead to discrimination against women, would unfairly share costs across employers and industries and would be unaffordable for some small businesses and businesses on narrow profit margins such as supermarkets.<sup>36</sup>

The committee did not receive any evidence suggesting that the full cost of paid maternity leave should be borne by employees. The current situation is that the vast majority of women, who do not have access to paid maternity leave, fund their own maternity leave. Another way to have employees fund paid maternity leave could be to introduce a social credit type of arrangement. However such a scheme was not proposed or supported in evidence before the committee.

Most of the evidence and submissions before the committee supported the payment of paid maternity leave benefits by government. This seems to be in accord with the wide body of opinion canvassed by the Human Rights and Equal Opportunity Commission for its current inquiry into paid maternity leave. Ms Goward stated, in relation to the various models offered for discussion by HREOC, that ‘there is very strong support for a government funded scheme for a minimum of 14 weeks.’<sup>37</sup>

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35 *Submission 28*, AI Group, p.4

36 *Transcript of Evidence*, Ms Pru Goward, 22 August 2002, p.57

37 *Transcript of Evidence*, Ms Pru Goward, 22 August 2002, p.63

However, as noted in paragraphs 1.36 and 1.38 above, a substantial number of submissions favoured a system where responsibility for the payment of paid maternity leave benefits is divided between the government and the employer. Under this view, the government would provide a safety net of funding up to a certain level (the minimum wage or average wage), and employers would 'top up' the funding to the level of wage replacement.

Labor senators noted two schools of thought as to how this should be achieved. Those witnesses listed in paragraph 1.36 suggested that employers top up paid maternity leave funding for employees on leave, at the time they are on leave. Such an arrangement would be negotiated through the workplace bargaining system. Those witnesses listed in paragraph 1.38, however, preferred a system where employers were compulsorily levied, regardless of whether they had employees on paid maternity leave or not. These levies would become the source of top up payments as necessary.

### **Direct payments versus indirect payments via employers**

The bill proposes that entitlements be paid, in the first instance, to the employer, who would then pay the money as wages in the normal manner. The bill's explanatory memorandum offers the following reason for this administrative process:

In effect, the employer is receiving from government the cost of the Maternity Payment. Regulations would assist employers to be paid in advance. This system has been adopted to minimally disrupt existing systems, to ensure that the period of paid leave is counted as continuous employment, and to ensure ongoing contributions to employee benefits like superannuation. This is highly desirable in light of women's lower average superannuation benefits.<sup>38</sup>

Labor senators noted that two major objections were raised in relation to this process. First, there was a concern that some employers may be unscrupulous and may not pass on the full amount of the benefit their employees are entitled to. The ACTU, for instance, offered general support for the payment of paid maternity leave benefits as normal wages, but qualified this support:

While payment as wages has merit, the ACTU also has concerns about payment by employers, if this might result in some women not accessing payment, for example where the employer is unaware of their obligations to pay, or where the employer is unscrupulous. The Bill should be supported by an information and education campaign, and information about rights should be included with other government information provided to mothers at the time of the birth of their child.<sup>39</sup>

The second concern, which Labor senators note was raised in the government report, relates to the costs associated with employers being required to administer the

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38 Explanatory Memorandum, p.13

39 *Submission 18*, ACTU, p.6

payment. Labor senators noted the submission of the Australian Hotels Association, which stated:

The AHA is unsure as to why the Bill would require that the maternity payment should be made to the employee by the employer and then the employer would be compensated by a government payment. This is potentially burdensome on employers and leads to double handling of the payment.<sup>40</sup>

## **Paid maternity leave and fertility rates**

Labor senators have noted that public discussions on paid maternity leave have become linked with discussions about Australia's current and projected fertility rate. However the fertility rate has not been presented as the main driver of the need for paid maternity leave. HREOC, for instance, in its discussion paper *Valuing Parenthood*, addressed the fertility rate, but this was the very last of its list of objectives of paid maternity leave. Others, such as 'achieving equity', 'supporting women and families', and 'benefit to employers' were all addressed first. Even when HREOC did address the fertility question, it did so in guarded terms:

Paid maternity leave is one possible mechanism for ensuring that economic considerations do not prevent families from choosing to have children and better enabling women to combine work and family as they choose.

[...] It is difficult to argue that a period of paid maternity leave alone will enable more women to choose to exercise their right to have children. A period of weeks compared with the long years of financial dependency is not necessarily significant. It is most likely to provide the necessary support to those women for whom remaining in paid work is essential. For those couples who save money in order to afford each child, a period of paid leave enables them to bring forward their decision to do so and may encourage some to have the additional child they had wanted. As part of a suite of family-enabling work provisions however, paid maternity leave would also play a useful role in enabling more women to effectively combine work and motherhood.<sup>41</sup>

In evidence before the committee, the Australian Industry Group stated:

We do not think that it will provide the total solution. I do not think anyone would think that the provision of 12 or 14 weeks of paid maternity leave would be the total answer to this worldwide problem of a falling fertility rate amongst developed nations. But we think it would make a very important contribution as part of a broader range of policy initiatives.<sup>42</sup>

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40 *Submission 26*, Australian Hotels Association, p.5

41 HREOC (2002) *Valuing Parenthood* p.63

42 *Transcript of Evidence*, AI Group, 9 August 2002, p.2

Similar views were expressed by other groups including the ACTU, the Women's Electoral Lobby, and BPW Australia. However the majority of submissions which favoured paid maternity leave did not mention fertility rates as a driver for such a scheme. Professor Wendy Weeks, for instance, providing a convincing list of reasons for paid maternity leave – none of which relied on the objective of increasing fertility rates. She stated that paid maternity leave:

- i. Has been acknowledged by international instruments such as CEDAW and the ILO Maternity Protection Convention as a human right.
- ii. Is a basic family and workplace policy in the great majority of developed nations, with the USA and Australia being the two exceptions.
- iii. Will go some way towards addressing systemic discrimination on the basis of gender.
- iv. Will provide some income security for women.
- v. Acknowledges the social and economic worth of parenting.
- vi. Is supportive of families in their choice to have children.
- vii. Is responsive to women's health needs pre- and post-partum, and during the establishment of breastfeeding.
- viii. Values the work that women do carrying, delivering and caring for their infants *as work*<sup>43</sup>

Labor senators consider that the arguments in favour of paid maternity leave – arguments such as those presented by Professor Weeks above – are unassailable, regardless of whether or not a link with fertility rates can be proven.

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43 *Submission 2*, Professor Wendy Weeks, pp. 2-3

## **Conclusions**

The Australian Labor Party has made its support for paid maternity leave clear. While Labor senators are unable to support the particular system of paid maternity leave proposed in this bill for the reasons outlined in this minority report, the bill's referral to the Employment, Workplace Relations and Education Committee has given Senators a valuable opportunity to consider these issues in some detail. The views placed before the committee in submissions and evidence represent a substantial contribution to the continuing debate on paid maternity leave.

**Senator George Campbell**

**Senator Trish Crossin**

## Report of the Australian Democrats

This Bill is the first of its kind to be presented in the Australian Parliament. If passed, it would establish a national, government-funded paid maternity leave scheme providing 14 weeks paid leave for most Australian women in paid work. This scheme is intended to underpin local ‘top ups’ at the workplace level. It will replace current arrangements whereby around a third of Australian women, mostly in larger companies and the public sector, enjoy paid leave while two-thirds of working women do not. The Bill aims to address this inequity by ensuring a more fair system of paid maternity leave for all working mothers on the birth of a child. Its rationale is considered in full in this report, along with a range of practical modifications that arise from the evidence presented to the Inquiry.

The Committee received 34 submissions on the Bill, and took additional evidence from witnesses over two days of public hearings. The contribution of individuals and organisations by means of submissions and verbal evidence is gratefully acknowledged. Many individuals and organisations put considerable effort into commentary on this important issue. Their efforts will result in a more robust and practical Bill and I thank them for their valuable contribution.

A practical, efficient, fair system of government-funded, paid maternity leave has clearly found widespread support amongst Australians. It is achievable and affordable now, within the current budget, provided that the Government follows the recommendation of the great majority of submissions to abolish the Baby Bonus. The introduction of such a system is long overdue and is our responsibility to Australian women, their babies, and our community.

### Support for a national paid maternity leave scheme

There is widespread support for a national system of paid maternity leave for Australia’s working mothers. Employers, unions, women’s organisations, individuals and community organisations see the need for greater support for women when they have a baby. Evidence before this Inquiry suggests that three-quarters of Australians support paid maternity leave<sup>1</sup>. It is widely recognised that Australia is lagging behind the international community with respect to support for women when they have a new child, particularly women in paid work.

At present, some Australian women return to their jobs well before they want to, because their families depend on their earnings. One mother told the Committee that she had returned to work two weeks after the caesarean birth of her child – not because she *wanted* to, but because she *had* to. She had no access even to unpaid leave, let alone any paid maternity leave. This is primitive. As she said:

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<sup>1</sup> BPW Australia, *Submission No. 14*, p.2

When the birth came, I took 1 flex day and 9 annual leave days – 2 weeks leave in total. I worked up to the Friday before the caesarean operation on the following Monday. Because I had changed employer six months earlier, I wasn't eligible for unpaid leave. Two weeks time off for a new baby wasn't enough time, but economic pressure mean that I really had no choice<sup>2</sup>.

No Australian mother should have to return to work so soon after birth, when her body has not recovered, her baby is too young for childcare, and there is little real opportunity to breast-feed. Many mothers want longer than 14 weeks with their new child – and this Bill is not intended to suggest that 14 weeks is ideal or enough – but, at present, many mothers are left with little effective choice to take even that short period, given their family's dependence on their earnings. Australian families and households have changed over recent decades. It is time that our policies caught up with the fact that 7 out of 10 women of childbearing age are in the labour market, and family friendly provisions like paid maternity leave will make a real difference to their quality of life, and that of their families.

As Business and Professional Women put it:

Australia should catch up with the rest of the world and offer paid maternity leave to Australian women...It is clear that this is an issue about which working women feel strongly<sup>3</sup>.

Very few submissions to this Inquiry opposed a national system of maternity support. One of these, the Victorian Automobile Chamber of Commerce, called for "further research"<sup>4</sup>. The Australian Catholic Commission for Employment Relations also called for "further economic modelling"<sup>5</sup>. Finally, the Festival of Light said that the Bill should be rejected "on principle" as it would "encourage more mothers to leave young babies in childcare to the detriment of these children and to the nation as a whole"<sup>6</sup>.

## **The rationale for paid maternity leave**

This Inquiry heard six main arguments for paid maternity leave:

### **1. Welfare of the mother and child**

There is widespread evidence that maternal health, bonding with the child, and the child's health are all improved through a period of leave from paid work for the mother with her new baby. The Inquiry received evidence of these effects. Several

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<sup>2</sup> Lyn Collins, *Submission No. 15*, p.3

<sup>3</sup> BPW Australia, *Submission No. 14*, p.1

<sup>4</sup> Victorian Automobile Chamber of Commerce, *Submission No. 30*, p.7

<sup>5</sup> The Australian Catholic Commission for Employment Relations, *Submission No. 32*, p.3

<sup>6</sup> Festival of Light, *Submission No. 25*, p.5

submissions also argued that family health and well-being are improved by paid leave<sup>7</sup>. As the Australian Industry Group (AIG) put it:

Community benefits include improved returns on public investment in education and training as well as improved health and welfare of mothers and newborn children due to reduced hardship in the period immediately following the birth of a child.<sup>8</sup>

Significant changes in the labour market over recent decades create a strong argument for paid maternity leave. In 1976, only 48 per cent of women in the peak childbearing age group of 25-34 years were in the labour market. This has now increased to almost 70 per cent<sup>9</sup>.

Sixty-five per cent of women in the overall childbearing age group of 15-44 years are now in paid work, and a further 5 per cent are looking for work. The fact is that most women are now in paid work at the time they become pregnant, and many will return to work after the birth of their child.

## **2. Discrimination against women in the workforce.**

It is women who bear children and take time out of their paid working lives to do so. As a result, their employment is affected negatively, relative to men's. Their earnings are lower, their careers and experience are truncated, and their retirement benefits are reduced. Without compensating arrangements like paid maternity leave, women suffer systematic, indirect discrimination associated with motherhood and caring. As one submission put it:

Paid maternity leave addresses workplace discrimination by providing income replacement for women at the time of the birth of a child. Paid maternity leave recognises that men can become parents without loss of earnings, women cannot.<sup>10</sup>

Paid maternity leave will go some way to address the physical reality that distinguishes women's workplace experiences from men's on the birth of a child. In this sense, paid maternity leave is a basic and essential workplace measure to prevent indirect discrimination against women, who forego between \$167,000 and \$239,000 as a result of the birth of their first child alone, depending upon their qualifications<sup>11</sup>. It is an important workplace anti-discrimination measure.

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<sup>7</sup> See, for example, Shop Distributive & Allied Employees' Association (SDA), *Submission No. 11*, and National Pay and Equity Coalition (NPEC), *Submission No. 31*.

<sup>8</sup> AIG, *Submission No. 28*, p.22

<sup>9</sup> NPEC, *Submission No. 31*, p.12

<sup>10</sup> Australian Council of Trade Unions (ACTU), *Submission No. 18*, p.2

<sup>11</sup> Chapman, B. Dunlop, Y, Gray, M. Liu, A. and Mitchell (1999) 'The foregone earnings from child rearing revised', Discussion paper No 47, Centre for Economic Policy research, ANU, Canberra.

### 3. Employer benefits

Many employers recognise that family friendly policies and practices deliver real benefits to their businesses, such as increasing staff retention and productivity, reducing the costs of rehiring and training, and improving staff morale<sup>12</sup>.

There is evidence that the introduction of paid maternity leave results in an increased rate of return to work by employees<sup>13</sup>. The National Australia Bank, for example, experienced an increase in the rate of return to work by women from 54 per cent in 1996 to 100 per cent in 1998, following the introduction of 6 weeks paid maternity leave. A similar increase occurred at Westpac. Analysis at Westpac demonstrates, as one senior manager has put it, “that the business cost of attrition and rehiring far outweigh the cost of maternity benefits”<sup>14</sup>. The Australian Hotels Association (AHA) and the Australian Industry Group (AIG) support the thrust of the Bill.

### 4. Equity among workplaces

Ironically, women who work in feminised industries, such as retail and hospitality, tend to have less access to paid maternity leave. This also the case for lower paid women, dispelling any assertion that paid maternity leave is a middle-class benefit. The National Pay Equity Coalition (NPEC) refer to ABS data showing that:

While 78 per cent of managers and 60 per cent of professionals have paid maternity leave entitlements already, only 16 per cent of elementary clerical sales and service workers and 31 per cent of labourers and relations workers have an entitlement.<sup>15</sup>

The Australian Liquor, Hospitality and Miscellaneous Workers (LHMU) contrasts the experience of low paid women workers in highly feminised sectors like hospitality, where paid maternity leave is virtually unknown, with that of women working in the public sector<sup>16</sup>. It argues that this inequity is no longer acceptable. Similarly, BPW Australia notes that:

The federal government has awarded its own staff 12 weeks of PML but made no provision for other working women. The government is discriminating by paying its women employees and overlooking the equal needs of those working in the private and not-for-profit sectors. This inappropriate and inequitable double standard is impossible to justify. Babies deserve the same level of care whether their mother works in the government or private sector.<sup>17</sup>

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<sup>12</sup> AIG, *Submission No. 28*, p.21; Women’s Electoral Lobby Australia Inc (WEL), *Submission No. 24*, p.8

<sup>13</sup> Finance Sector Union of Australia (FSU), *Submission No. 4*, section 3, p.1

<sup>14</sup> *The Age*, 8/3/02

<sup>15</sup> NPEC, *Submission No. 31*, p.21

<sup>16</sup> LHMU *Submission No. 12*, p.9

<sup>17</sup> BPW Australia, *Submission No. 14*, p.3

The AIG referred to the inequitable provision of paid maternity leave across different workplaces<sup>18</sup> and the Women's Electoral Lobby (WEL) commented at length on this inequity:

[I]t is clear that leaving paid maternity leave to motivated employers or the current set of bargaining arrangements is not going to deliver adequate outcomes. A government-sponsored system is necessary to deliver substantive equality to women participating in society through paid work. It creates equity between women in all employment sectors, as well as between full-time, part-time and casual women employees.<sup>19</sup>

## **5. International Standards**

A number of international agreements contain provisions concerning family friendly workplace practices and paid maternity leave. These include the 1979 United Nations Convention on the Elimination of Discrimination Against Women (CEDAW); the International Labour Organisation Convention 183 (C183), Maternity Protection 2000 (with associated Recommendations); and ILO Convention 156, Workers with Family Responsibilities, 1981, (C156) (and Recommendations).

Australia ratified C156 in 1990, CEDAW in 1983 with a reservation in relation to paid maternity leave, and has not ratified C183. These Conventions reflect the view that family friendly measures are essential to promote equal opportunity and treatment for women workers, and to achieve effective equality of opportunity and treatment between men and women with family responsibilities. The Australian Government has refused to sign the relevant provisions of CEDAW or to ratify C183. It should, however, remove its reservations and implement a scheme that meets these international standards, joining most of the rest of the developed world.

## **6. A positive impact on the declining birth rate?**

Several submissions to the Inquiry referred to the potential impact of paid maternity leave on the fertility rate. For example, the National Farmers Federation (NFF) identified increasing Australia's fertility rate as one of the key objectives of paid maternity leave<sup>20</sup>. In contrast, other submissions argued that debate concerning paid maternity leave should be independent of concerns regarding Australia's decreasing fertility rate<sup>21</sup>.

The Women's Action Alliance correctly noted that I do not rely on a fertility argument to advocate paid maternity leave anywhere in this Bill, its Explanatory Memorandum or in my Second Reading speech. It may be true, as some submissions suggest, that paid maternity leave will help to address the decrease in Australia's birth rate – now at 1.7 and well below the replacement rate of 2.1.

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<sup>18</sup> AIG, *Submission No. 28*, p.8

<sup>19</sup> WEL, *Submission No. 24*, p.11

<sup>20</sup> NFF, *Submission No. 3*, p.3

<sup>21</sup> YWCA of Australia, *Submission No. 27*, p.14

There are complex arguments concerning the appropriate population level for our country, and to what extent pro-natalist policies such as paid maternity leave will affect the birth rate. European demographers suggest that pro-natalist policies like paid maternity leave, public childcare and extensive parental leave may raise the birth rate by 0.2 to 0.5 of a percentage point<sup>22</sup>. Such an increase would enable Australia to achieve the replacement rate. Australian demographer Peter McDonald has similarly claimed that such policies could have a real effect in Australia<sup>23</sup>. Certainly the higher age of mothers on their first birth (now almost 30 years), and the consequent loss of opportunity to have a second or third child, is contributing to the declining birth rate, an argument made by Sex Discrimination Commissioner, Pru Goward. It may be that paid maternity leave will change the timing of births and marginally increase their incidence, contributing to a change in Australia's fertility rate.

But the case for paid maternity leave is not dependent on this fertility argument and I have never relied on it. The case for paid maternity leave is very strong on other grounds: the grounds of anti-discrimination, the welfare of mothers and babies, employer costs, and equity between mothers. Each of these grounds has firm roots in the history of Australian public policy. Australians want fairness for women, healthy mothers and babies, efficient workplace and equity between women regardless of where they work.

Submissions to this Inquiry, and the high level of support they provide for paid maternity leave, confirm that it is time to act.

Contrary to any argument that paid maternity leave constitutes a 'bribe to coerce women back into the paid workforce'<sup>24</sup> or that it will encourage more women to leave their children in childcare<sup>25</sup>, paid maternity leave will provide a guaranteed right to at least 3 months out of the paid workforce on the birth of a child, and will guard against the necessity for women to return prematurely to paid work against their wishes, in order to provide for their family. As the Australian Hotels Association (AHA) noted:

The AHA consider that a scheme should be implemented to ensure that women who wish to leave the workforce to have children are not penalised and that the employer is also not penalised through increased costs. That is why the maternity payment model proposed by the Leader of the Australian Democrats, Senator Stott Despoja, in her Workplace Relations Amendment (Paid Maternity Leave) Bill 2002 would be acceptable to the industry.<sup>26</sup>

Such a provision is long overdue. As the NPEC notes, Australian social support arrangements around maternity are now "unworkable, irrational and unfair"<sup>27</sup>.

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<sup>22</sup> *Insight*, SBS, 15/8/02

<sup>23</sup> McDonald, P (2002) Speaking on *Insight*, SBS, 15/8/02

<sup>24</sup> Australian Family, Association, *Submission No. 6*, p.1

<sup>25</sup> Festival of Light, *Submission No. 25*, p.5

<sup>26</sup> AHA, *Submission No. 26*, p.4

<sup>27</sup> NPEC, *Submission No. 31*, p.5

## **An important part of the story – but not the whole story**

The majority of submissions express the view that paid maternity leave is only one part of the action necessary to support working women and their families. Good quality accessible childcare, quality part-time work, flexible working hours and conditions, and support for fathers are other essential measures that a wide range of employers, organisations and unions support.

However, paid maternity leave is widely seen as an overdue and essential measure, given the rising participation rate of women of childbearing age in the Australian workforce, and an important part of a comprehensive national approach to building more family friendly workplaces and communities.

## **For women in paid work or all women?**

There has been much debate as to whether paid maternity leave should be established for women in paid work so that equitable access is provided for all in paid work, or whether a maternity payment should be made to all women, including women at home outside the paid labour force.

There are meritorious arguments on both sides of the debate.

To summarise the arguments in favour of a scheme for women in paid work only:

- Around 2/3 of women in paid work have no income support when they have a child. Many return to work too quickly, putting their own and their child's welfare at risk;
- The opportunity cost for women in paid work who forego earnings on the birth of a child is higher than the opportunity cost of women not in paid work;
- It is estimated that between 30 and 40% of family income is now provided by women's earnings, so that many families are dependent upon women's earnings. The loss of women's earnings on the birth of a child materially disadvantages their families;
- At present, a third of women already have paid leave – a national scheme for women in paid work addresses an inequity between women in paid jobs;
- The Commonwealth currently spends over \$18 billion annually on family supports. A sizeable portion of this flows to families with a single earner, frequently with the mother at home, so that women outside the paid workforce already receive considerable benefits that are less available to dual income households;
- A payment to all women would increase the costs of a scheme considerably.

The arguments in favour of a scheme for all women, regardless of their labour force participation are:

- All mothers deserve support and recognition on the birth of a child;
- It is inequitable to make a payment only to mothers in paid work;
- The birth of a child brings new expenses which all families must meet.

These arguments are often value laden. Frequently, underpinning them are views about the ‘proper’ role of mothers and their place in the labour market and home. It is important to note, however, that those who support a payment for all mothers, do not oppose paid maternity leave – they argue instead for its broad application. The Australian Catholic Commission for Employment Relations, the ACTU, the Women’s Action Alliance, the Shop Distributive & Allied Employees’ Association (SDA) and the Australian Family Association (NSW) all express support for a paid maternity benefit – but one which is available to all mothers, not just mothers in paid work<sup>28</sup>. BPW Australia strongly supports paid leave for women in paid work, but suggests that “other schemes should be made available for women who are not in the paid workforce”<sup>29</sup>. Like others, however, BPW Australia sees some urgency in relation to paid maternity leave for women in paid work:

(In the first instance BPWA would prefer to see an effective and accessible PML scheme made available to all working women and then further consideration to be given to allowances already provided to women not in the aid workforce.<sup>30</sup>

Eva Cox, on behalf of the Women’s Economic Think Tank, notes that “there have been very few recent funded policies which assist women who try to combine child rearing and paid work”<sup>31</sup>. She details a range of initiatives that assist single income families “which put two income families at a disadvantage”<sup>32</sup>. The SDA calculate the benefit that is available to a woman when she has a baby and is married to someone earning the base shop assistant rate of \$496/week:

- the maximum Family Tax Benefit B payment: \$2,836.05
- Maternity Allowance: \$798.72
- Maternity Immunisation Allowance: \$208

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<sup>28</sup> ACCER, *Submission No. 32*, pp.2-3; ACTU, *Submission No. 18*, p.11; Women’s Action Alliance, *Submission No. 9*, p.2; SDA, *Submission No. 11*, p.6; Australian Family Association (NSW), *Submission No. 5*, p.1

<sup>29</sup> BPW Australia, *Submission No. 14*, p.8

<sup>30</sup> BPW Australia, *Submission No. 14*, p.9

<sup>31</sup> Women’s Economic Think Tank (WETTANK), *Submission No. 7*, p.2

<sup>32</sup> WETTANK, *Submission No. 7*, p.2

- Minimum Baby Bonus: \$500
- **TOTAL: \$ 4342.77**

Women who return to work will receive the last three of these, though their level of Baby Bonus will vary depending on their pre-baby earnings, and their pattern of working hours relative to their pre-birth pattern of working hours.

The Australian Democrats reject any argument that mothers belong at home. Labour force participation is a decision for individual women. It is their right to decide on their level of work and home participation. Such decisions should be free of the effects of systemic discrimination. Clearly, these decisions are influenced by those of their partners, and particularly by men's participation in household and childcare arrangements.

There is, however, merit in the idea of support for women on the birth of a child, regardless of their labour market status. All mothers are working mothers.

Nonetheless, paid maternity leave has a well established history in Australian law as a workplace and industrial issue, and it is treated as such internationally. Regardless of the merits of support for all mothers, there is a pressing need in Australia for *remedial* action to ensure that women do not have to return to paid work within 3 months of birth because there is simply no other means of support for them or their families. This is happening today. It places mothers and children at risk and it only affects women in paid jobs.

For these reasons, together with the practical difficulty of finding a much larger source of public funds for a general maternity payment, I make the following recommendations:

#### **Recommendation 1:**

**That the Government immediately adopt a paid maternity leave scheme as set out in the Bill (with a range of modifications as set out below).**

#### **Recommendation 2:**

**That the Government initiate a review of all benefits available to families and, as part of such a review, ensure that women outside paid work receive an appropriate basic maternity allowance on the birth of a new baby, equivalent to, say, the after tax value of the basic payment of 14 weeks at the minimum wage.**

### **Eligibility**

A number of difficulties with current eligibility requirements for unpaid and paid maternity leave were raised during this Inquiry. Many submissions argued that a government-funded scheme should have broad eligibility, given that the broader community, rather than any specific employer, reaps the benefits of women's workforce contribution and return to work. The Finance Sector Union of Australia

(FSU), for example, recommended the abolition of the 12 month qualifying period for maternity leave in agreements and in any statutory standard<sup>33</sup>. Other organisations expressed concern regarding the 12 month qualifying period, and advocated less stringent eligibility requirements<sup>34</sup>.

Given the high proportion of Australian employees, particularly women, who are employed casually or for short periods of time, it is clearly arguable that eligibility for paid maternity leave should be broad enough to include women with short periods of prior employment, interrupted periods of employment, or periods served with a variety of employers. This argument is persuasive.

A growing number of women are self-employed in small business. BPW Australia and NPEC each argued that self-employed women should have access to paid maternity leave alongside employees. This is an innovation that is not practiced in relation to other workplace-based benefits (like annual leave) and presents unique issues. Self-employed women may be eligible for a basic maternity payment as recommended through the review of current family based payments. In light of these considerations, I make the following recommendation:

### **Recommendation 3:**

**That the Government investigate the costs of providing paid maternity leave to self-employed women and consider extending eligibility for paid maternity leave to this group of women.**

In order to address some of the concerns which have been raised regarding eligibility, it is proposed to amend the Bill to render eligible all women with up to 12 months employment, accumulated with one or more employers, *before or after* the period of paid leave, over a 2 year period. In other words, a woman with only six months employment in the year prior to taking leave, which may have been served with more than one employer, who undertakes paid work for another 6 months within a year of the end of her maternity leave, will be eligible for the payment.

Women who do not meet these requirements (including those having children in quick succession, those on long term sick leave or workers compensation, contractors, outworkers and self-employed women) will be eligible for the basic maternity payment recommended above.

This approach adopts six principles which I am persuaded have merit and will be incorporated in the amended bill:

- eligible employment periods can be accumulated across multiple employers;
- the 12 months employment can be accumulated over a two year period;

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<sup>33</sup> FSU, *Submission No. 4*, p.4

<sup>34</sup> YWCA, *Submission No. 27*, p.15; NPEC, *Submission No. 31*, p.4

- the two–year accumulation period can occur either side of the period of leave;
- no distinction is made between casual and permanent employment (ie any eligible casual employees should have access to the government funded payment);
- no distinction is made between part-time or full-time employment and there is no minimum hours requirement (although these factors may affect the level of payment); and
- a comprehensive system that delivers either paid maternity leave or a basic maternity payment for all women on the birth of a child, with women to nominate which payment they will receive.

## Public Sector Employees

The Bill treats public and private sector workers differently, requiring State and Federal governments to meet the paid maternity needs of their employees to a standard at least equivalent to that which applies to the non-government sector under this Bill.

A number of submissions to the Inquiry argued for the inclusion of all employees in a national paid maternity leave scheme, regardless of the sector in which they are employed<sup>35</sup>. The Community and Public Sector Union (CPSU) (SPSF Group) points out that South Australian Government employees have a meagre entitlement of only 2 weeks, and they estimate that 58 per cent of all public servants across Australia have less than 12 weeks entitlement<sup>36</sup>.

My concern with including public sector employees in the proposed scheme is that this would effectively shift the burden of providing paid maternity leave to State Government employees from State Governments to the Commonwealth, and that laggard states – most notably Western Australia and South Australia – will then avoid any responsibility for the issue.

It may be possible for the Commonwealth Government to include State Government employees in the scheme, provided that the States agree – for example, through the States Grants negotiations – to recompense to the Commonwealth for the amount paid to their employees. This approach was discussed with the Sex Discrimination Commissioner when she appeared before the Committee. If this can be agreed between the Commonwealth and State Governments, then the Bill could be amended to apply to all employees regardless of the sector in which they are employed.

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<sup>35</sup> Australian Education Union (AEU), *Submission No. 19*, p.3; Community and Public Sector Union (CPSU) (PSU Group), *Submission No. 29*, p.4

<sup>36</sup> CPSU (SPSF Group), *Submission No. 17*, p.6

In the absence of such agreement, however, it is inappropriate for the Commonwealth to pay a public sector employment entitlement that is currently met by some State Governments, or to step into the gap where State Governments have been derelict.

In either case, the Commonwealth and all State Governments should increase the payment to their employees to ensure that it is at least equivalent to the 14 weeks recommended in the Bill.

## **Access to unpaid maternity leave**

It is evident from a personal submission to this Inquiry that the absence of any *unpaid* maternity leave for certain classes of women imposes significant hardship upon them and their children. All women in paid work deserve a break from their jobs when they have a baby. Accordingly, I make the following recommendation:

### **Recommendation 4:**

**That the Workplace Relations Act be amended to ensure a minimum of 3 months unpaid leave for all women in paid work in Australia, regardless of their prior employment record, casual or part-time status or any other employment criteria.**

Without universal provision of this kind, some women are forced to return to work very soon after the birth of their child – indeed only two weeks after a caesarean birth, in the previously mentioned case before this Inquiry. Few Australians would think this appropriate.

## **What level of payment?**

Most women who currently receive paid maternity leave are paid at their normal pay rate.

The minimum wage rate for the level of paid maternity leave in the Bill will deliver replacement earnings for between 35 and 48 per cent of all women<sup>37</sup>. A number of submissions to the Inquiry argue for a payment rate that is higher than the minimum wage. For example, the WEL, the ACTU, the AMWU, and the CPSU-SPSF all argued for a rate of average weekly earnings. This would deliver replacement earnings for 87 per cent of all women in paid work.

With the exception of the Women's Action Alliance, which suggested 'at least' the Newstart level, no submissions argued for a rate of benefit lower than the minimum wage. As the SDA put it:

It is not uncommon for women to be the only breadwinner in the household or for her partner's income to be low and/or intermittent. In these situations

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<sup>37</sup>NPEC, *Submission No. 31*, p.22

and in many others, the family is reliant on her income to meet their commitments and will experience severe financial difficulty without it<sup>38</sup>.

The SDA points out that the minimum wage is the “bare minimum income for working people at which they can have a chance to make ends meet. As such, it is the lowest acceptable rate for a paid maternity leave scheme”<sup>39</sup>.

The ACTU recommend that the gap between the Federal minimum wage and women’s usual incomes should be met by means of separate legislation imposing a levy on employers to meet this gap. This was opposed by the AIG. The ACTU argued that such a levy would need to apply to all employers regardless of the number female employees, in order to avoid a disproportionate impact on feminised workplaces.

NPEC advocated income replacement up to average weekly earnings, pointing out that this would provide “at least two-thirds of previous income (in keeping with ILO 183 article 6) for around 95 per cent of women and would provide income replacement for around 75 per cent”<sup>40</sup>. It takes the view that paid maternity leave is more akin to workers compensation payments than to social security, “since it is a provision for a temporary absence required for the worker to be able to return to paid workforce participation and economic self-sufficiency”<sup>41</sup>.

I support increasing the rate of paid maternity leave to approach the level of women’s usual earnings. At present, I recommend that this occur through locally offered or negotiated employer ‘top ups’ which may increase the rate of pay, or extend the period of paid leave. The Bill envisages that current paid maternity leave provisions continue to supplement the new government payment. It is not the intention of this Bill that employers replace their current contributions with government funds. Neither is it the intention of this Bill that employees should receive a double payment (one from the Government, and one from their employer) for any period of leave.

My view on the level of payment is that it should, in the first instance, be set at the level of the minimum wage, supplemented by employer top ups. However, I make the following recommendation:

### **Recommendation 5:**

**That a review of the scheme be undertaken in three years and that this review incorporate:**

**(a) an analysis of the scope and impact of enterprise ‘top ups’; and**

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<sup>38</sup> SDA, *Submission No. 11*, p.6

<sup>39</sup> SDA, *Submission No. 11*, p.11

<sup>40</sup> NPEC, *Submission No. 31*, p.25

<sup>41</sup> NPEC, *Submission No. 31*, p.25

- (b) depending on the results of that analysis, consideration as to the demand for, and merits of, an employer levy, such as that proposed by the ACTU.**

I support amendments to the current Bill to ensure this review.

Given my support for a review of current family benefits with a view to providing an equivalent basic maternity payment for women outside paid work, there is a strong argument for a general basic payment level for all women, including those who work for less than the minimum wage (ie through part-time work). I therefore make the following recommendation:

**Recommendation 6:**

**That separate legislation be enacted to introduce a basic maternity payment for all mothers and that women be given the opportunity to nominate whether they wish to receive this basic maternity payment through the welfare system, or paid maternity leave pursuant to the Workplace Relations Act, topped up by their employer in some cases.**

It is likely that working women whose earnings are lower than the basic maternity payment will opt to receive that payment rather than paid maternity leave.

As a first step, the rate of payment for paid maternity leave should be set at the minimum wage level, or at an employee's normal rate of pay if that is lower. As suggested by the AEU<sup>42</sup>, an employee's normal rate of pay should be calculated by applying the employee's current rate of pay to the average number of hours worked per week in the 12 months preceding the commencement of paid maternity leave, excluding from the calculation any period of approved leave during those 12 months.

Just over 8 per cent of women in paid work hold multiple jobs. With this in mind, it is appropriate that the paid maternity leave entitlement of such women be calculated in accordance with their combined income from all their jobs, where this is less than the minimum wage.

Some submissions to the Inquiry recommended that employers be required to maintain normal superannuation payments throughout periods of paid maternity leave<sup>43</sup>, while others opposed this<sup>44</sup>. With respect to superannuation entitlements, I make the following recommendation:

**Recommendation 7:**

**That employers continue to pay superannuation contributions to employees during the period of their paid maternity leave.**

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<sup>42</sup> AEU, *Submission No. 19*, p.8

<sup>43</sup> CPSU (SPSF Group), *Submission No. 17*, p.11

<sup>44</sup> AIG, *Submission No. 28*, p.31

I will amend the Bill to provide for this.

Among the submissions to the Inquiry, there was widespread support for the scheme to provide women with the opportunity to take the payment either on a full rate basis for 14 weeks, or at half the rate over a period of 28 weeks<sup>45</sup>. I view this as a valuable means by which to provide working mothers with a greater degree of flexibility around the birth of a child and I propose to amend the Bill accordingly.

## **Payment mechanism**

Some submissions pointed to the administrative costs of making paid maternity leave payable to the employee through their employer. NPEC for example, suggested an alternative system, by which payments would be made through the workers compensation system, which already functions efficiently at a State level<sup>46</sup>. The NPEC rejects a “HECS-style” payment, which it argues would add to the already heavy burden of HECS debts borne by many women.

The AIG, amongst others, recommended a dual track payment system which would allow employers and employees to nominate whether the payment is made to the employer or to the employee. This approach has merit because of the degree of flexibility which it facilitates. It would enable larger employers to receive paid maternity leave payments from the Government whilst maintaining regular wage payments to employees on paid maternity leave. It would also accommodate smaller employers who may prefer the payment to be made directly to the employee in order to minimise administration costs, and would facilitate the efficient payment of women with short prior periods of employment, where there is no established long-term employer through whom the payment can be easily made.

## **For mothers or fathers? For adoptive parents?**

Submissions to the inquiry strongly supported a payment specifically for mothers, for the reasons set out in the Bill’s Explanatory Memorandum. An exception is provided by the Catholic Women’s League Australia, who wanted to see paid maternity leave converted to parental leave<sup>47</sup>.

There was some support for the simultaneous provision of a short period of paid paternity leave (say 2 weeks) for fathers. This was advocated by the YWCA and the NPEC. The New Zealand Government has adopted this approach, and given the strong arguments in favour of men’s early involvement in parenting, I am persuaded that this would be a positive suggestion to adopt in the longer term, once the physical needs of mothers are met as a first priority.

As the Women’s Studies Research Unit at the University of Melbourne put it:

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<sup>45</sup> See, for example, The Australian Liquor, Hospitality and Miscellaneous Workers Union (LHMU), *Submission No. 12*, p.4

<sup>46</sup> NPEC, *Submission No. 31*, p.28

<sup>47</sup> Catholic Women’s League Australia, *Submission No. 16*, p.1

(T)he need for leave is inextricably linked with maternal health (recovery from childbirth, sleep deprivation and child health (establishment of bonding and breastfeeding where possible)<sup>48</sup>.

There was also support for general parental leave, available to both fathers and mothers, after the initial post-partum period when the mother has recovered, but this was seen as supplementary to the provision of basic paid maternity leave.

Only the Australian Catholic Commission for Employment Relations specifically opposed the provision of paid maternity leave for same-sex couples.

There was no opposition to the eligibility of adoptive parents to the scheme.

## **Funding and costings**

There was widespread concern about the potential for an employer-funded scheme to result in discrimination against women in the workforce<sup>49</sup>. None of the submissions supported an employer payment alone.

There was, however, widespread support for a minimal payment out of Commonwealth revenue. This was advocated by employers, such as the AIG and AHA, as well as some unions.

Many submissions saw merit in local top-ups which would extend the period of the payment, or increase the rate of pay. For example, the Women's Studies Research Unit at the University of Melbourne argued that:

6 months is a better period of time to take leave after the birth of a baby before returning to paid employment, based on information about mother's and infants health. This also facilitates parent-child bonding and establishment of breastfeeding as recommended by the World Health Organisation.<sup>50</sup>

With the exception of the NPEC submission, none of the submissions specifically commented on the on the costs of paid maternity leave. The NPEC estimated that a system of paid maternity leave at replacement income up to average weekly earnings, net of tax and the maternity allowance, would boost the scheme's costs to around \$480 million<sup>51</sup>. Recent Government estimates foreshadow a cost of \$415 million for 14 weeks paid maternity leave capped at the Federal Minimum Wage and limited to employees with one employer for 12 months or more. The cost of the scheme would increase to \$475 million if eligibility is extended to employees with one or more

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<sup>48</sup> Wendy Weeks, Women's Studies Research Unit, School of Social Work, University of Melbourne, *Submission No. 2*, pp.4-5

<sup>49</sup> See, for example, Council of Small Business Organisations of Australia, *Submission No. 13*

<sup>50</sup> Wendy Weeks, Women's Studies Research Unit, School of Social Work, University of Melbourne, *Submission No. 2*, p.6

<sup>51</sup> NPEC, *Submission No. 31*, p.24

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employers for 12 months or more<sup>52</sup>. Determining the final cost of the scheme will obviously require more work, taking into account amendments to the Bill and any arrangements that may be negotiated between the Commonwealth and the States.

### **‘Top ups’, and a supplementary levy?**

Many employers currently offer some paid maternity leave. It varies widely in length and application. Larger employers tend to offer more than smaller employers. For example, the major banks pay around 6 weeks paid maternity leave, with the exception of the Commonwealth Bank which pays 12 weeks.

Submissions to the Inquiry indicated widespread support for employer ‘top ups’ of the basic government payment. This may enable women to receive their usual pay rate, or close to it, and/or be paid by their employer for additional weeks of leave.

The ACTU and various unions advocate the introduction of a levy, payable by employers with more than 20 employees (regardless of their sex), out of which maternity leave would be topped up to average weekly earnings or pre-leave earnings. The Australian Manufacturing Workers Union specifically proposed a trust scheme for this purpose. Most women who currently receive paid maternity leave do so at their normal rate of pay. We can certainly anticipate that the rate of pay for paid maternity leave will increasingly become an important focus of bargaining over coming years, despite employer association hopes for it to remain outside the industrial sphere. This horse has already bolted, as the AIG note. It is the Parliament’s responsibility to ensure an orderly, equitable and efficient pattern to the provision and level of this leave.

I am persuaded that in the longer run, the level of pay for paid maternity leave should increase to approach normal earnings. As a first step, this should occur through top-ups bargained or offered at the enterprise level. This will not, however, reach the great number of women in small businesses and many parts of the private sector. So, in accordance with Recommendation 5 above, I propose to amend the Bill to establish a review of the scheme in 3 years, which will specifically examine the extent and equity of enterprise based ‘top ups’, and consider the introduction of a levy or alternative scheme, to encourage the systematic supplementation of the rate of paid maternity leave, at least amongst larger businesses employing 20 employees or more.

### **Can enterprise bargaining deliver paid leave?**

The pace of the spread of paid maternity leave through enterprise bargaining can only be described as glacial in most industry sectors. Only 7 per cent of all enterprise agreements include paid maternity leave provisions, with an average provision of between 2 and 6 weeks. This is a substandard provision, and even this is not available under the great majority of agreements. The fact that some of these agreements cover large numbers of employees, particularly in the public sector, means that they affect

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<sup>52</sup> Media Release, Senator Nick Minchin, Minister for Finance and Administration, 12 September 2002.

more than 7 per cent of employees. However, it is clear that enterprise bargaining will not deliver paid maternity leave for most working women at any time in the near future. The fact that enterprise bargaining tends to deliver greater benefits for those in larger workplaces with higher unionisation and some bargaining power, means that this route will particularly disadvantage lower paid women.

The AIG – an experienced bargainer on the employer side – does not advocate enterprise bargaining as the means by which to increase access to paid maternity leave. The extensive barriers to progress through bargaining in the manufacturing industry were canvassed in evidence before the Inquiry.

Against this, the National Farmers Federation opposes all models of paid maternity leave, with the exception of enterprise bargaining. We can only speculate as to how long it would take for paid maternity leave to become available to the 350,000 employees in the farming sector, 98 per cent of which are small businesses<sup>53</sup>. It seems a fair guess that this would take a very long time.

In the finance sector, the FSU notes that progress “has occurred at a varying pace. The anomalies that remain, even where 6 weeks is agreed, suggest that future achievements in paid maternity leave through bargaining, will be incremental”<sup>54</sup>.

The LHMU note the slow progress of bargaining in their sector, which includes large numbers of low paid workers. The first paid maternity leave advance in the hospitality industry, at Star City Casino in Sydney, was only negotiated recently.

## **The Baby Bonus**

There is strong and widespread support for the immediate reallocation of the Baby Bonus to paid maternity leave. This recommendation was made by the AIG, the NPEC, the Women’s Action Alliance, BPWA, the Catholic Women’s League Australia Inc, unions and individuals.

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<sup>53</sup> NFF, *Submission No. 3*, p.4

<sup>54</sup> FSU, *Submission No. 4*, p.3

## **Conclusion**

There is widespread support for greater action to provide women with paid maternity leave and reduce the current inequity which provides many permanent, higher paid women in larger companies with paid maternity leave, while leaving two-thirds of Australia's working mothers with no such support. The general approach in the Workplace Relations Amendment (Paid Maternity Leave) Bill has received wide support. The Bill represents a practical means of taking action now. The submissions received, and the subsequent consultations, have provided a range of very useful suggestions that can improve the Bill. This report sets out a range of amendments which I will make to the Bill.

Clearly, it is time to make progress on this issue – in the interests of the welfare of mothers, babies and families; equal opportunity at work; employer interests; equity between women; and in order to meet international standards that widely apply to employment conditions around the world.

**Senator Natasha Stott Despoja**



## Australian Greens Report

The Australian Greens support paid parental leave – for women and men – but do not support the Australian Democrats’ bill because it fails to address several critical issues on this topic.

Most industrialised nations with which Australia generally compares itself provide paid leave for women on the birth or adoption of a child. Various international agreements also include provisions for paid leave in such circumstances.

The International Labour Organisation (ILO) considers paid maternity leave an essential element in establishing a process to overcome the unequal treatment women experience in their employment because of childbearing. ILO Convention 183 *Maternity Protection* 2000 provides for 14 weeks paid maternity leave without an eligibility period, with payment to be at the rate equal to two-thirds of the woman’s previous earnings. ILO Recommendation 191 *Maternity Protection* 2000 sets the period of paid leave at 18 weeks and the rate of payment equal to the full amount of previous earnings.

The World Health Organisation recommends women breastfeed an infant for four to six months, and studies have shown that returning to work is a reason that women cut short feeding.

The International Covenant on Economic, Social and Cultural Rights states that mothers should be given paid leave or leave with adequate social benefits for a time before and after childbirth.

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) provides that parties should introduce maternity leave with pay or comparable social benefits.

While technically Australia may not be legally bound by some of these obligations, by virtue of the fact that it has not signed or ratified instruments or in the case of CEDAW has entered a reservation on the relevant article, it is clear that, when combined with the practice of comparable nations, paid parental leave has acquired the status of a basic entitlement.

### **The Bill**

This bill is a minimalist option and while it is certainly better than the status quo, The Australian Greens believe it contains serious shortcomings. If Australia is to introduce a paid parental leave scheme it ought to be the best scheme possible.

The Australian Greens do not support full replacement of previous earnings for a publicly funded scheme because this could lead to public funds being used to compensate high wage earners. The payment level should accord with the principles of the international instruments, that is, to provide an adequate income for the period

of leave. Evidence to the committee indicates that a scheme capped at average weekly earnings would provide at least two-thirds of previous income for around 95 per cent of women, and income replacement for around 75 per cent of women.

The period of paid leave proposed in this bill, 14 weeks, is inadequate. It fails to meet the latest ILO guidelines and will not assist women to breastfeed for at least four months, as the World Health Organisation recommends. It is also out of step with comparable nations. Sex Discrimination Commissioner Pru Goward confirmed this view in evidence to the committee, on the basis of her community consultations and advice she has taken from medical and child welfare experts for her own inquiry into paid maternity leave. She noted that European nations now offered at least six months paid leave. Britain is shifting from 18 weeks to 26 weeks from next year.

The bill excludes Commonwealth, State and Territory Government employees on the presumption that they already have similar benefits or ought to. Yet the Department of Employment and Workplace Relations provided evidence that showed Commonwealth public sector employees are paid 12 weeks, while entitlements of state and territory public sector employees range from nil in Western Australia (with a capacity to bargain for up to six weeks) to 12 weeks in Tasmania and Victoria. This exclusion is unacceptable because it creates two classes of entitlement without justification.

A number of witnesses were asked their views about how to ensure that introduction of a Commonwealth scheme did not enable state and territory governments to evade their responsibility for paid leave. The Australian Greens recognise that states and territories are involved in providing paid parental leave to public sector employees. This should not be presented as a barrier to establishing a national scheme. We believe it is possible to develop a formula for states and territories to continue their contribution as part of a national scheme.

In the interests of equity, The Australian Greens support paid parental leave being available to women and men. While recognising that two of the factors in support of paid parental leave are to provide time for a woman to recover from childbirth and to assist with breastfeeding, couples should be able to choose how to share the paid leave period. This bill does not address this issue. We note that the principle of sharing leave is recognised in the right of a woman and her partner to share the 52 weeks of unpaid leave provided for in federal awards.

This bill stipulates a 12-month qualifying period. ILO Convention 183 states that there should be no eligibility period for paid parental leave. A scheme that includes a 12-month qualifying period not only conflicts with the ILO Convention, it fails to address the circumstances of women and men who have been with their employer for less than this period. Neither does the bill cover self-employed people, who account for 20 per cent of employed people. This means a substantial proportion of working people would be ineligible under the scheme this bill proposes to introduce.

The Australian Greens recognise that some employers may be unwilling to guarantee a right to return to work for an employee taking a maximum of 12 months paid and

unpaid leave where that employee has been working for the employer for fewer than 12 months. It is also the case that a number of existing certified agreements and awards include a 12-month qualifying period for paid parental leave. As well, it may be difficult to guarantee a return to work for casual employees who have been with an employer for fewer than 12 months.

However, it is possible to devise a scheme that provides paid leave to employees with fewer than 12 months service with a current employer and self-employed workers. This has been done in Britain where all female employees are entitled to 18 weeks of paid leave if they have worked for their employer for 26 weeks and their income meets a minimum level. Women who are employed but do not meet this qualifying period, or have been recently employed or are self-employed also qualify for 18 weeks paid leave provided they have been employed or self-employed in at least 26 weeks in the previous 66 week period.

The National Pay Equity Coalition proposed a different formula, which would extend paid leave to self-employed women and workers with a strong workforce attachment but without continuous employment with a single employer. Under this model, self-employed women in business for 52 of the last 104 weeks before taking leave and employees in employment in 52 of the last 104 weeks before taking leave would be eligible for paid leave.

Many OECD countries provide for longer than 52 weeks of leave for a parent to care for a young child. In Australia, most workers who have been with their current employer for 12 months are entitled to 12 months of unpaid leave. However, evidence to the committee and to the HREOC inquiry indicates strong interest in extending the period of unpaid leave. This bill does not touch on this issue but The Australian Greens see merit in examining the extension of the basic unpaid leave period, with a right of return to work. However, this needs to be done alongside the introduction of paid leave because many women and men now ineligible for paid leave may find it financially impossible to make use of a longer period of unpaid leave without a reasonable period of paid leave.

One of most important issues for parents returning from parental leave is how to accommodate family responsibilities and paid work. Many women, in particular, return to paid work on a part-time basis in the early years of childrearing. Any paid parental leave scheme which provides an entitlement to return to work must also provide an entitlement to return to part-time work if that is what the person chooses. The onus should be on an employer to show that the enterprise cannot accommodate part-time work. This bill does not address this issue.

## **Committee majority report**

The committee majority notes that paid parental leave straddles industrial relations and social policy, but this is not a dilemma, as the committee majority states. Paid parental leave marks a point at which private and public spheres intersect. Bearing and raising children is a personal decision but it is not entirely a private matter, as some within Government would like us to believe and as the debate about falling fertility

levels attests. While it is a private choice whether and when to start a family, this personal decision has social impacts. Conversely, and contrary to Government assertions, public policy impacts on this decision. Policies such as deregulating the labour market, compelling citizens to pay a higher direct cost for their health and education costs and towards their retirement income, and policies that promote rising accommodation costs through taxation and other means all influence family formation.

Paid parental leave is a work entitlement that enables women and men who have or adopt a baby to take a break from employment to undertake the tasks involved with early childcare and for women to recover from childbirth and to breastfeed. Paid parental leave enables women and men in these circumstances to maintain their attachment to the workplace so that they may resume paid work at some later time. This provides benefits for the individual – who maintains skills and income-earning potential; for the family – which has a waged income; and for society - the individual resumes an economically productive role and reduces the need to rely on income support.

Paid parental leave is an important social justice issue and any policy needs to be developed in the context of a review to improve current social security entitlements. All women and men are entitled to a guaranteed adequate income that supports their choices about how they make their contribution to society, including the unpaid caring roles, and assistance with the cost of raising a family. Those groups and individuals who argued that women not in paid work should also be granted paid parental leave fail to understand the purpose of the paid leave entitlement. Those who are not in the workforce cannot be paid for time out of the workforce to give birth and to care for a baby. Their needs must be addressed through a progressive social security system.

The fact is that many families either need to, or wish to have two income earners. For many single parent households, earned income can mean the difference between poverty and making ends meet. Data from the year 2000 show that almost half of women aged 15 to 44 years had dependent children and almost two-thirds of these women were in the labour force. Almost three-quarters of employed women who took a break from work on the birth of a child were on leave for fewer than 12 months.

The committee majority states that a government-funded paid parental leave scheme would run counter to the direction of the Howard Government's industrial relations policy. It is clear this argument is accurate but it misses the point. Devolving the negotiation of working conditions to the workplace level has not delivered paid parental leave to most employees. HREOC has found that there are paid maternity leave provisions in only 3.4 per cent of currently operating certified agreements. Only seven per cent of all current federal certified agreements contain paid maternity leave provisions. The average duration of leave across all current agreements is just seven weeks. Around four out of ten employed women (38 per cent) have access to paid parental leave.

As the deregulatory approach to industrial relations tends to favour those with market power at the expense of those without market power it is inevitable that, in the

absence of state intervention, improved working conditions and benefits, such as paid parental leave, will be more likely to be secured by highly-paid executives striking individual arrangements and highly unionised workplaces. The widespread access of public employees to paid maternity leave, and in some cases paid leave for fathers, and the paucity of such an entitlement beyond this group bear out this theory.

Some employers have recognised the social and economic benefits of providing paid parental leave but they are currently in the minority. It is clear that to leave this matter to the workplace in a time of increasingly insecure work means that with the exception of motivated employers, there will be little, if any, progress in expanding access to paid leave. It will also mean that those unable to secure this work entitlement will continue to struggle to have a family while maintaining their attachment to the workplace, with all the long-term benefits that such attachment provides to the individual, their family, and Australian society.

It follows then that Government will need to play a major role in funding a paid parental leave scheme. Public funding also ensures that every member of the community contributes to the cost, in recognition of the social benefits of supporting the care of children and the shared responsibility for this task. It will also ensure that no parent is denied access to this payment by virtue of being employed by a business that may be unable to fully fund the entitlement.

A scheme funded substantially by Government does not preclude employers and employees reaching agreement about particular arrangements that suit their circumstances. A national paid parental leave scheme, however, must not erode existing entitlements, for example where employees are entitled to a higher payment than any minimum rate a national scheme might set.

There is merit in examining in more detail a range of funding options, from a fully publicly funded scheme to the proposal in several union submissions for employers to contribute towards the cost of a national scheme through a levy.

The Australian Greens disagree with the committee majority that a public scheme would be difficult to mesh with existing state and territory government-funded entitlements. Paid parental leave has the potential to deliver productivity savings to offset the additional costs to state and territory governments. By enabling an employee to take leave and to return to work, employers can save the costs of rehiring, retraining and the loss of skills and knowledge.

### **Financial Cost**

As with the spending of all public monies, the scheme must be financially responsible but this is not the same as saying 'it will cost a lot; therefore we cannot afford it'. Commonwealth Budget decisions are as much political as economic ones. Governments choose their spending priorities.

The Baby Bonus is an example. It will provide financial assistance to women who choose to take up to five years' leave from work to care for a child. The benefit rises the longer the period of absence from the workforce and the higher the income. This is

a non-means-tested benefit for which the Government has budgeted \$510 million a year by the time it is fully implemented in 2005-06. This benefit is configured to encourage time out of workforce and provides a greater benefit to high-income earners than to those on low and moderate incomes. It will not assist those most in need – low-income earners who currently have little or no access to paid parental leave, and it does nothing to assist people to maintain their attachment to the workforce.

The bill's Explanatory Memorandum estimates the cost of the proposed paid leave scheme at around \$354 million a year, with payment at the level of the minimum wage or less for those earning under this amount. Ms Goward told the committee that a model with 14 weeks of leave capped at average weekly earnings would cost less than \$700 million a year.

This compares with the Commonwealth Government's current financial support for families, which HREOC has estimated totals \$18 billion a year, including substantial non-means-tested components. Even the most expensive of the Federal Government's recently costed paid maternity leave options is equal to around one-third of the amount of public money being spent to subsidise private health insurance premiums, and the Government has just approved an automatic annual premium increase which means this sum will continue to rise.

Government costings of various options appear to have failed to take into account the economic and social benefits of paid parental leave, so they do not represent an accurate picture of cost of introducing this entitlement. Nor do Government costings appear to take into account the social and economic costs of not introducing such a scheme.

## **Conclusion**

The Australian Greens support paid parental leave but cannot support this bill because it falls short of the kind of scheme that Australia should introduce to support women and men who choose to have a family, and to acknowledge the value of this role and the benefits it delivers to the entire community.

**Senator Kerry Nettle**

# Appendix 1

## List of submissions

No.	Submission from
1	Australian Institute of Company Directors (AICD)
2	Associate Professor Wendy Weeks (School of Social Studies, University of Melbourne)
3	National Farmers' Federation (NFF)
4	Finance Sector Union of Australia
5	NSW Australian Family Association
6	Australian Family Association
7	Women's Economic Think Tank (WETTANK)
8	AMWU - National Women's Committee (NEST Attachment)
9	Women's Action Alliance (Australia) Inc
10	SALT SHAKERS
11	Shop Distributive and Allied Employees' Association (SDA)
12	Australian Liquor, Hospitality and Miscellaneous Workers Union
13	Council of Small Business Organisations of Australia Ltd (COSBOA)
14	BPW Australia
15	Ms Lyn Collins, SA
16	Catholic Women's League Australia
17	Community & Public Sector Union - State Public Services Federation Group
18	Australian Council of Trade Union (ACTU)
19	Australian Education Union (AEU)
20	Joint - Department of Employment & Workplace Relations, Department of the Prime Minister and Cabinet, & Department of Family and Community Services
21	Slater & Gordon Solicitors
22	Dr Marian Baird
23	National Tertiary Education Industry Union (NTEU)
24	Women's Electoral Lobby Australia (WEL)

- 25 Festival of Light
- 26 Australian Hotels Association (AHA)
- 27 YWCA of Australia
- 28 Australian Industry Group (AI)
- 29 Community and Public Sector Union (PSU Group)
- 30 Victorian Automobile Chamber of Commerce (VACC)
- 31 National Pay Equity Coalition (NPEC)
- 32 Australian Catholic Commission for Employment Relations (ACCER)
- 33 Independent Education Union of Australia (IEUA)
- 34 Australian Chamber of Commerce and Industry (ACCI)

## **Appendix 2**

### **Hearings and Witnesses**

#### **Melbourne, Friday, 9 August 2002**

##### **Australian Industry Group**

Mr Stephen Smith, Director, National Industrial Relations

##### **Women's Action Alliance**

Mrs Pauline Smit, National Secretary

Mrs Lisa Brick, Member, Victorian Branch

##### **Australian Council of Trade Unions**

Ms Sharan Burrow, President

Ms Cath Bowtell, Industrial Officer

##### **Esprit Australia**

Ms Libby Sanderson, National Operations Manager

##### **Australian Manufacturing Workers Union**

Ms Anne Donnellan, National Women's Committee Co-ordinator and Assistant  
National Secretary, Technical, Supervisory and Administrative Division

Ms Tania Clarke, National Officer

Mr Jim Angelis, Chief Executive Officer, Coverforce

##### **Australian Catholic Commission for Employment Relations**

Mr John Ryan, Executive Officer

Ms Megan Spring, Research Officer

##### **Australian Family Association**

Mr William Muehlenberg, National Vice President

##### **Women's Electoral Lobby**

Ms Susan Halliday, Member, Victorian Branch

## **Canberra, Thursday, 22 August 2002**

### **Department of Employment and Workplace Relations**

Ms Catheryn Bowen, Assistant Director, Employment Conditions Section, Workplace Relations Policy and Legal Group

Mr Rex Hoy, Group Manager, Workplace Relations Policy and Legal Group

Mr Philip Knight, Assistant Director, International (ILO) Section

### **Department of the Prime Minister and Cabinet**

Ms Rosemary Calder, First Assistant Secretary, Office of the Status of Women

Mr Rick Lilienthal, Adviser, Economic Status Section, Strategic Policy and Development Branch, Office of the Status of Women

### **Department of Family and Community Services**

Ms Fiona Mallise, Assistant Secretary, Family Policy Branch

### **Human Rights and Equal Opportunity Commission**

Ms Pru Goward, Federal Sex Discrimination Commissioner

Ms Melissa Stutsel, Senior Policy Officer, Sex Discrimination Unit

## Appendix 3

### Tabled documents and additional information

#### Tabled Document

<b>Date</b>	<b>From:</b>
22 August 2002	<p><b>Department of the Prime Minister and Cabinet</b>            Ms Rosemary Calder, First Assistant Secretary, Office of the Status of Women, tabled an amendment to page 9 of submission in relation to the information about the entitlements of public sector employees to paid maternity leave. The amendment provides clarification and a more accurate description of this information. (EWRE p.49)</p>

#### Additional Information

<b>Date:</b>	<b>From:</b>
9 August 2002	National Entitlement Security Trust, Mr Jim Angelis

