

Ai GROUP SUBMISSION

Senate Community Affairs
Legislation Committee

Paid Parental Leave Amendment (Flexibility Measures) Bill 2020

6 March 2020



About Australian Industry Group

The Australian Industry Group (Ai Group) is a peak national employer association representing and connecting thousands of businesses in a variety of industries and sectors across Australia. Our membership and affiliates include private sector employers large and small from more than 60,000 businesses employing over 1 million staff. Ai Group promotes industry development, jobs growth and stronger Australian communities. Our members have a common interest in creating more competitive businesses and a stronger economic environment. We provide advice, services, networks and advocacy to help members and industries thrive, and the community to prosper.

Ai Group contact for this submission

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Paid Parental Leave Amendment (Flexibility Measures) Bill 2020

Ai Group welcomes the opportunity to provide our views on the Government's *Paid Parental Leave Amendment (Flexibility Measures) Bill 2020 (PPL Amendment Bill)*, which is the subject of an inquiry by the Senate Community Affairs Legislation Committee.

Ai Group supports the PPL Amendment Bill, but it is important that any associated changes to the Fair Work Act 2009 (**FW Act**) take into account the legitimate needs of employers to manage their businesses effectively, including managing leave arrangements and staff absences.

The PPL Amendment Bill provides greater flexibility to working parents. The legislative amendments support, and are consistent with, greater parental workforce participation and the desire by many businesses to provide wider return to work options for employees returning from parental leave.

Over the years, there has been an increase in fathers and partners accessing existing Government-funded or employer-funded parental leave arrangements. The PPL Amendment Bill acknowledges that the primary care of a child can be shared by others in a family or household by enabling flexible parental leave payments to be accessed by secondary and tertiary claimants where such claimants have primary care of the child on a specified flexible paid parental leave (**PPL**) day.

The PPL Amendment Bill facilitates different parental leave and return to work options for employees by allowing 30 days (or 6 weeks) of the existing 18 week Government-funded PPL to be claimed as a flexible parental leave payment, available up to 24 months from the date of birth or adoption of a child.

For instance, an employee may access flexible parental leave payments by being absent from work:

- for 30 consecutive workdays following the employee's return to work after taking continuous PPL;
- one day a week over 30 weeks, as an interim part-time 4-day week employment arrangement;
- as a combination of a consecutive work-day absence or interim part-time work arrangement capped at 30 work days of absence.

Ai Group notes the Government's intention to introduce complementary amendments to the FW Act.¹

The Explanatory Memorandum for the PPL Amendment Bill states:

If an employee wishes to access flexible PLP they will general (stet) need to negotiate time off work or a part time return to work with their employer.

¹ Second Reading Speech, Minister for Population, Cities and Urban Infrastructure, 6 February 2020, p.11

The Explanatory Memorandum also provides the following example of an employee (Jane) who *“returns to work and enter (stet) into an agreement to work three days per week”*.

Ai Group supports this approach. It is important that the employee reach agreement with the employer on when the flexible PPL days will be taken or, at the very least, that the employer has a right of reasonable refusal to a particular pattern of absences, consistent with the approach in sections 65 (Requests for flexible work arrangements) and section 76 (Extending period of unpaid parental leave) of the FW Act.

Such amendments to the FW Act need to consider the impact of employees taking flexible PPL on the varying capacities of business, including SMEs, to provide leave at particular times. An employee absence for the purpose of accessing Government-funded flexible PPL payments, once the employee has returned to work from continuous PPL, will require employers to manage and plan their operations and service requirements. Employers will often need to manage the workload of other employees and/or arrange replacement employees, and this requires planning and sufficient notice.

Provided that the associated changes to the FW Act are appropriate, the PPL Amendment Bill strikes the right balance in providing greater flexibility to parents regarding access to Government-funded PPL.



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