

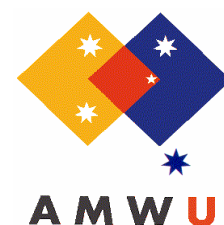
Senate Community Affairs Committee

Exposure Draft of the Paid Parental Leave Scheme Bill 2010

**Comments by the
Automotive, Food, Metals, Engineering, Printing and Kindred
Industries Union known as the Australian Manufacturing Workers'
Union (AMWU)**

11 May 2010

AMWU
National Research Centre
Level 3, 133 Parramatta Road
Granville NSW 2142
nrc@amwu.asn.au



The AMWU represents approximately 120,000 members working across major sectors of the Australian economy. AMWU members are primarily based in the manufacturing division in the sub-divisions of metal manufacturing, printing and graphic arts, food and vehicle building, repair and service. The AMWU also has significant membership in the mining, building and construction, aircraft and airline operations, laboratory, technical, supervisory and public sector employment. Our members work in unskilled, semi skilled, trade and professional occupations within these industries and source their workplace entitlements and responsibilities from a variety of industrial instruments including award, over award certified agreements and common law arrangements.

The AMWU is supportive of the of the Bill and commends the Government for introducing the legislation that will enable Australia to comply with its obligations under international convention.¹ The AMWU supports and endorses the substance of the ACTU submission. The AMWU wants to briefly emphasise a couple of matters that will potentially adversely impact on some of our members as a result of the legislation as proposed.

The AMWU has some concerns that the definition of employee in clause 6, the Dictionary of the Bill, may not be perceived to capture apprentices and trainees. As drafted it excludes ‘a person on a vocational placement.’ For convenience the definition is extracted below:

employee has its ordinary meaning and:

- (a) includes a reference to a person who is usually such an employee; and
- (b) does not include a person on a vocational placement.

Although the definition of employee ‘has its ordinary meaning’ and thereby captures those employees who are performing apprenticeships, traineeships and cadetships, there is a danger that some of those employees and their employers might think that they are excluded. To counter this possibility the AMWU proposes that the clause is either reworded, or a clause defining vocational placement is included that explicitly excludes workers performing apprenticeships, traineeships and cadetships.

The AMWU acknowledges that some rewording of the Bill has been completed ‘to better suit the circumstances of casual, seasonal and contract workers.’² However the AMWU is concerned that many seasonal workers may still not qualify for parental leave pay because they do not meet the work test requirement contained in clause 32. This concern is

¹ Article 4 of C183 Maternity Protection Convention (the ILO Maternity Leave Convention).

² Media Release Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, 4 May 2010.

exacerbated by the lack of any provisions for seasonal workers in *the Food, Beverage and Tobacco Manufacturing Award 2010* (MA000073), a provision which was common in the pre-modern awards.³ Seasonal workers will now be considered casual workers under this modern award. Many casual workers will be unlikely to satisfy the work test requirement contained in the Bill, indeed many will not even have the right to take unpaid parental leave under the *National Employment Standards* (the NES) contained in the *Fair Work Act 2009* because of the 12 month requirement (s 67). According to the 2006 Census⁴, over a quarter of all female employees had less than 12 months service with their employer. The AMWU submits that some modification to the scheme is required. For example, if an employee in exceptional circumstances, such as those employees working in industries that are by their nature are not continuous, can demonstrate that they have a work history that meets an average of 330 hours annually over a period of two years then they are still eligible.

The AMWU also strongly supports the contention that there should be a requirement for an employer to inform employees upon engagement and again when a request for parental leave is made about the Government's PPL scheme. Something similar to the existing requirements in relation to the NES is envisaged. Without such a requirement there is the real risk that many eligible employees will not be aware of and informed about the scheme.

In closing the AMWU would like to acknowledge the positive effect that the introduction of a paid parental scheme will have on the existing inequalities in the workplace between the genders and the AMWU again commends the Rudd Government for this sound initiative which will relieve some of the financial burden experienced by Australian working families in what is by its nature a very testing time.

Dave Oliver
National Secretary
Australian Manufacturing Workers' Union

³ See for example the *Food Preservers' Award 2000* (AP781106CRV)

⁴ Australian Bureau of Statistics Census 2006.

