



Submission on the *Paid Parental Leave Amendment*
(More Support for Working Families) Bill 2023

November 2023

Thank you for the opportunity to provide a submission on the *Paid Parental Leave Amendment (More Support for Working Families) Bill 2023 (the Bill)*.

In January 2023, we prepared a submission in relation to the *Paid Parental Leave Amendment (Improvements for Families and Gender Equality) 2022 Bill* whereby several concerns were raised, and recommendations made (**January 2023 Submission**).

In this submission we seek to address how the proposed amendments impact and correlate with issues our clients experience regularly, the benefits of the Bill to our clients, and the possible implications that do not appear to be considered in the current drafting, including recommendations in response.

NT WORKING WOMEN'S CENTRE

The NT Working Women's Centre (NTWWC) is a community based, not-for-profit organisation that provides free and confidential advice and support services on work-related matters to women and gender diverse people in the NT. Services commenced in 1994, and we operate across the NT from two offices in Darwin and Alice Springs.

The NTWWC works primarily with women who are not represented by a union, lawyer, or other advocate. Women who contact our Centre are often economically disadvantaged and work in precarious areas of employment. On average we provide about 3000 contacts per year. NTWWC assist women and gender diverse people; clients who often fall into several categories of workplace vulnerabilities, for instance those who are Aboriginal and Torres Strait Islander (19% of our clients), culturally and linguistically diverse (**CALD**) (24% of our clients), trans women, workers who reside in regional and remote areas (52%) and those who live with disability (21% of our clients). The service also provides community education and training on domestic and family violence as a workplace issue, workplace bullying, sexual harassment, and general industrial entitlements.

We conduct research and project work on a range of issues that women experience in relation to work. These have included access to childcare, family friendly practices, the needs of Aboriginal and Torres

Strait Islander working women, pregnancy and parental status discrimination, work/life balance, pay equity and the impact of domestic violence on women workers and their workplaces. In conjunction with the National Alliance of Working Women's Centres, we provide expert advice to government on legal and policy reform.

Considerations of the Bill

We have conducted a review of the Bill and considered the proposed legislation against our clients' needs and the current gaps in the system. Accordingly, we have outlined a number of areas that we suggest should be considered prior to the Bill passing Parliament.

1. Increase in Paid Parental Leave

Whilst this is a step in the right direction, and the NTWWC appreciates the efforts made by government in attempting to address this crucial policy area around Paid Parental Leave we remain disappointed with the current scope of the Bill, particularly as it falls short of what is offered in many other OCED countries. Extending the leave period beyond what is proposed would not only provide parents with more time to bond with their newborns but also contribute to their overall well-being and development of a strong parent-child relationship, and ensure greater financial security whilst doing this.

The International Organisation of Labour standards require 14 weeks minimum for *maternity* leave for mothers to ensure rest and recovery for mothers.¹ The present legislation provides that 2 weeks of the paid parental leave allocation is reserved for either parent and the remainder of paid parental leave may be distributed between parents/ care givers based upon their family's needs and requirements. The Bill fails to address this discrepancy with the international standard and does not contemplate an increase of the reserve of weeks available for mothers to ensure recovery post birth. It must also be noted that the OECD has reported that amongst its member countries there is an average of 53-61 weeks paid parental leave for mothers and 8 weeks for fathers.² The 26 weeks paid parental leave that this Bill

¹ [wcms_838655.pdf \(ilo.org\)](#)

² [\[Title\] \(oecd.org\)](#)

achieves is still significantly less than international standards and what is offered in other OECD countries such as the UK which offers 41 weeks, Bulgaria, 60 and Greece, 43.³

Countries such as Sweden, Norway and Denmark have some of the most generous paid parental leave policies in the world. In Sweden for example their Parental Leave policy, provides parents with a combination of maternity leave, paternity leave and shared parental leave. Under this regime:

1. Mothers are entitled to 480 days (approximately 64 weeks) of paid maternity leave. This period can start 60 days before the expected birth date and extends until the child turns 8 years old. During this time, mothers receive 80% of their salary, up to a certain cap.
2. Fathers are entitled to 90 days of paid paternity leave, which can be taken at any time during the child's first 8 years. This period is in addition to the maternity leave. Fathers also receive 80% of their salary, up to a certain cap.
3. Shared Parental Leave: After the initial required parental leave periods for each parent, parents can share an additional 90 days of paid parental leave. This means that both parents can take time off work simultaneously or consecutively. Shared parental leave is also paid at 80% of the salary, up to a certain cap.

In addition to paid leave, parents can also benefit from flexible work arrangements and the right to reduce their working hours until their child turns 8 years old. The Swedish approach encourages work life balance and shared parental responsibilities by supporting families not just after birth but as the children grow.

It is recommended that Australia take a similar approach to Sweden by extending the number of weeks available for paid parental leave to at least 52 weeks by 2026 and 'boosting the quantum of payments to reach a replacement wage and ensure the scheme incentivises men's use of paid parental leave' in line with Recommendation 2.7 of the *Women's Economic Equality Taskforce Report*⁴ Additionally the report

³ [Maternity Leave by Country 2023 \(worldpopulationreview.com\)](https://worldpopulationreview.com/maternity-leave-by-country-2023/)

⁴ The Women's Economic Equality Taskforce Final Report, 22 October 2023, Department of PMC

suggests implementing policies that promote flexible work arrangements, such as job sharing and telecommuting to enable women to balance their work and family responsibilities effectively. This will allow women to maintain their career progression while also being present for their children during the crucial early years.

2. Eligibility Criteria

The Bill is very technical and needs to explain more plainly who is eligible and who is not, and clearly state any exceptions applicable under the Act. It is disappointing to see that the recommendations made by NTWWC in our earlier submission (dated January 2023) regarding Migrant workers on working visas, access to paid parental leave have not been taken into consideration in the proposed Bill. We submit that by broadening the eligibility to encompass individuals, particularly those women on temporary working visas ensures that all parents regardless of visa status have access to benefits they need to support their families. It would also address disadvantage experienced by women from marginalised backgrounds and the range of issues that impact women's economic equality.⁵

The Bill continues to utilise the *Australian Residency Test* as described at s45 of the *Paid Parental Leave Act 2010* (Cth). The *Australian Residency Test* requires that the claimant be a resident of Australia or a special category visa holder. A special category visa holder consists of New Zealand Citizens that obtain a visa to work or study in Australia,⁶ or a New Zealand citizen or passport holder for whom a class of visa other than a special category visa would be inappropriate.⁷ This suggests that the Bill is only available to those claimants who satisfy this threshold and are not subject to the residents waiting period, narrowing the availability of paid parental leave through Services Australia to a significant portion of Australia's society.

While NTWWC understands that crafting a Parental Leave Bill that satisfies everyone's needs is a complex task; we continue to reiterate the need to provide parental leave entitlements for migrants on working visas who contribute significantly to the Australian economy and workforce. There is great

⁵ Ibid page 5

⁶ *Migration Act 1958* (Cth), s 32.

⁷ *Migration Regulation 1994* (Cth), r 5.15A.

economic burden on families who have children in Australia, children who are born in Australia, but their parents do not meet the threshold of the current *Australian Residency Test* to be eligible for paid leave entitlements. There is a significant disparity in workers' rights of migrants despite their considerable contribution to the community and economy. This needs to be addressed, specifically in the context of paid parental leave and the policy push by government to increase migrant workers into Australia, especially in remote and regional locations who are often without family or community support.

The Bill indicates that if one parent does not meet the *Australian Residency Test* but the other does, then that parent who meets the threshold may apply and be eligible for paid parental leave under the Bill. The result of this structure is that mothers who are on a visa, and have just had a child, would have to choose between economic security by returning to work immediately after birth or being able to nurse and bond with her newborn child. It is unclear how the Bill proposes to support families in providing for the best interests of the child in this context. The best interests, and emotional and developmental needs of the children are the most important consideration when establishing the structures that this Bill proposes. Supporting families is the first step in meeting the needs of the children. As such, we believe that if a child is considered an Australian citizen by birth, the parents, regardless of their national or visa status, should be entitled to paid parental leave.

A broader availability of paid parental leave to migrants is recommended as it promotes equality regardless of their visa status and ensures that everyone has access to the same benefits. It also recognises the importance of family and supports the well-being of both parents and children. This also leads to social integration for migrants by providing them with the necessary support during a crucial life event, assisting in establishing connections within community and ultimately leading to a stronger and more cohesive society. Furthermore, parental leave for migrants is essential for the physical and mental health-being of parents regardless of visa status. It allows them to bond with their newborn, recover from childbirth, and adjust to the demands of parenthood. Migrant workers forced to return to work for economic reasons without fully recovering could potentially lead to potential emotional,

physical, and psychological health issues, which may impact their work performance and employment security.

Finally, by offering paid parental leave to migrants would enhance Australia's global reputation as a welcoming and inclusive country. It sends a positive message to the international community, showcasing Australia's commitment to human rights, diversity, and social welfare.

3. Superannuation

Compelling evidence compiled by the Women's Economic Equality Taskforce Final Report clearly highlights women's economic inequality. Therefore, it is disappointing to note that the proposed Bill does not tackle this important issue given gender equality and superannuation are closely linked. The Report recommends extending the requirement for employers to make superannuation contributions during periods of paid parental leave. This would ensure that women continue to contribute to their retirement savings leading to long term security and provide a safety net for the future.

It is encouraging to see in the report by the Workplace Gender Equality Agency (WGEA) in 2022,⁸ that whilst superannuation payments on paid parental leave is not a legal requirement, there is a significant portion of employers still electing to pay superannuation contributions:

- 83% of employers who offer paid parental leave also pay super on parental leave.
- 9% provide super on government-funded parental leave.
- 5% do so on unpaid parental leave.

This approach of paying superannuation on paid parental leave normalises parental leave entitlement the same as long service and annual leave entitlement, rather than warranting separate treatment, and make parents uncomfortable in accessing their entitlements.

⁸ <https://www.wgea.gov.au/sites/default/files/documents/WGEA-Gender-Equality-Scorecard-2022.pdf>

CLOSING STATEMENT

In conclusion, while the proposed Parental Leave Bill falls short in certain areas, especially if it fails to include requirements for paid superannuation, it is important to acknowledge the progress the Bill represents for working families, and more flexibility for sharing child caring responsibilities. While there is room for improvement as outlined in our submission - the NTWWC recognises the positive steps towards acknowledging the needs of families and promoting work-life balance.

Yours faithfully,

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