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Assistant Treasurer  
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Ref: 05DOC0246

The Hon Bronwyn Bishop MP  
Chair, Standing Committee on Family and  
Human Services  
House of Representatives  
Parliament House  
CANBERRA ACT 2600

**SUBMISSION NO. 132** *SM*  
AUTHORISED: 15-6-05

Dear Ms Bishop

Please find attached a submission on behalf of the New South Wales Government to your Committee's Inquiry into how the federal government can better help families balance their work and family responsibilities.

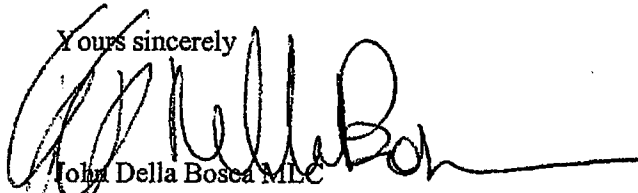
The New South Wales Government's submission addresses each of the terms of reference of the Inquiry. It makes the case that there have been dramatic changes in family formation, household organisation, job design, the employment market and ways of doing business however there has not been a commensurate level of change in workplace organisation. As a result, there is a substantial mismatch between workplace conditions and the work and family needs of the contemporary workforce.

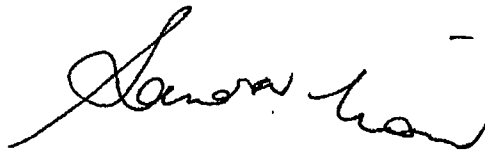
The New South Wales Government submission strongly advocates support for the centrality of employment conditions in the work and family policy debate. The workplace conditions promoted in the submission are those advanced by the New South Wales Government, along with the other states and territories, in the Family Provisions Test Case in the Australian Industrial Relations Commission last year.

Should you require any further information or clarification of issues raised in the submission, please contact Ms Catherine Quealey at the Office of Industrial Relations in the NSW Department of Commerce on (02) 9020 4643 or by e-mail at [Catherine.Quealey@oir.commerce.nsw.gov.au](mailto:Catherine.Quealey@oir.commerce.nsw.gov.au).

We trust that this submission will receive due consideration by the Committee. We look forward to reading your Committee's report.

Yours sincerely

  
John Della Bosca MLC  
Minister for Industrial Relations

  
Sandra Nori MP  
Minister for Women

**NEW SOUTH WALES GOVERNMENT SUBMISSION TO  
THE STANDING COMMITTEE ON FAMILY AND  
HUMAN SERVICES**

**INQUIRY INTO**

**BALANCING WORK AND FAMILY**

**MAY 2005**

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## **INTRODUCTION**

On 9 February 2005, the House of Representatives Standing Committee on Family and Human Services announced an inquiry into how the federal government can better help families balance their work and family responsibilities.

The Committee expressed particular interest in:

1. the financial, career and social disincentives to starting families;
2. making it easier for parents, who so wish, to return to the paid workforce; and
3. the impact of taxation and other matters on families in the choices they make in balancing work and family life.

The New South Wales government welcomes the opportunity to provide input to this Inquiry.

## OVERVIEW

Demographic, social, economic and labour force changes that have occurred over the last thirty years are driving governments to reconsider the economic and policy settings that influence work and family balance. Parents are an invaluable part of the Australian labour force. If Australia is to continue to develop and maintain an internationally competitive workforce and reap the benefits of continued economic growth, it must ensure that women and men are given the opportunity, if they so choose, to maintain their workforce attachment when they decide to start a family.

Work and family balance is influenced by a range of social and economic factors, primarily:

- the affordability of housing;
- access to affordable child care;
- the availability of flexible workplace conditions and arrangements; and
- tax incentives and disincentives to family formation and workforce participation.

The New South Wales government supports appropriate policy responses at the national and state level to assist workers balance family responsibilities, and to deliver economic and social benefits across the Australian community.

It is essential to the advancement of work and family balance that workplace conditions remain central to the public policy debate. The extent to which workplace conditions accommodate workers with family responsibilities has a major influence on decisions about both family formation and workforce participation.

The New South Wales government contends that the Australian industrial relations system needs to provide greater recognition of employees' family and caring commitments as well as employers' operational requirements for available labour supply in an environment of current and predicted labour shortages.

## **SUMMARY OF RECOMMENDATIONS**

### **Recommendation 1**

**It is recommended that the Commonwealth complete a review of the Child Care Benefit (CCB) regime and the availability of child care places nationally. The Review should consider:**

- **the need to increase CCB rates to assist in meeting rising child care costs;**
- **the need for differential CCB rates to reflect the true cost of service delivery, for example to account for different overheads of metro/rural service providers;**
- **expanding eligibility for access to the CCB to assist greater workforce participation;**
- **financial incentives that could be delivered through the CCB to help address the shortfall in places for 0-2 years;**
- **financial incentives that could be delivered through the CCB to address gaps in service delivery to disadvantaged and/or remote communities; and**
- **incentive-based measures that could be put in place to support more flexible child care operating arrangements, for example to accommodate the needs of shift workers and families with special care needs.**

### **Recommendation 2**

**It is recommended that the federal government collaborate with state and territory governments in the planning and delivery of services for children and families. The development of a National Agenda for Early Childhood provides an opportunity to progress a cooperative approach.**

### **Recommendation 3**

**The Community Services Ministers' Advisory Committee initiated a National Children's Services Workforce Planning Project in 2004. Under the Project, several strategies are currently under consideration, which have implications for work and family balance and warrant further Commonwealth support. These are:**

- **the promotion of traineeships in child care;**
- **funding and support for increased early childhood teacher training places in universities;**
- **the promotion of child care employment through priority apprenticeship schemes;**
- **the promotion of an industry/government partnership scheme to employ and support undergraduates to enter the children's services industry; and**
- **the identification of children's services as a priority for allocation of skilled immigration places.**

#### **Recommendation 4**

**It is recommended that the Commonwealth Interagency Taskforce on Work and Family investigate the potential impacts of debts incurred through the attainment of tertiary education, on the decisions people make about whether and when to have children.**

#### **Recommendation 5**

**It is recommended that the Standing Committee on Family and Human Services acknowledge the importance of a system of awards and agreements overseen by the Industrial Relations Commission as the principal means of delivering pay equity to women, thereby enhancing women's labour force attachment over the course of their lives.**

#### **Recommendation 6**

**It is recommended that the Commonwealth Interagency Taskforce on Work and Family work cooperatively with industry bodies to develop strategies to increase the provision and uptake of family-friendly provisions by both large and small employers.**

#### **Recommendation 7**

**That the federal government revise the *Sex Discrimination Act 1984* (Cth) to ensure consistency with state and territory developments and to promote work and family balance through the discrimination legislative framework.**

#### **Recommendation 8**

**The New South Wales government urges the federal government to fund and administer a national paid maternity leave scheme.**

#### **Recommendation 9**

**The New South Wales government urges the federal government not to further disadvantage Australian families who are reliant on award conditions, by reducing the allowable matters in awards.**

#### **Recommendation 10**

**The New South Wales government urges the federal government to support the fundamental right to collectively bargain in all Australian workplaces.**

#### **Recommendation 11**

**The New South Wales government urges the federal government not to deny unions access to vulnerable workers in Australian workplaces.**

#### **Recommendation 12**

**The New South Wales government urges the federal government not to exempt small businesses from unfair dismissal laws.**

#### **Recommendation 13**

**It is recommended that the Commonwealth Interagency Taskforce on Work and Family take an oversight role in tracking and considering the**

**effects of tax incentives and disincentives that influence decisions to start a family and/or participate in the workforce after starting a family.**



## **Part 1 – The financial, career and social disincentives to starting families**

Factors influencing the decision to start a family include:

- Economic security and the affordability of housing
- Access to affordable child care
- Career disincentives
- The cost of education and training

### **1.1 Economic security and housing affordability**

There is now, more than ever before, an economic imperative for families to be 'two income families'; primarily to meet the costs of housing but also to accommodate rising health and education costs, and to spread the risk of job loss across two bread winners (HREOC, Valuing Parenthood, 2002).

Home purchase is generally associated with the formation of a family. The affordability of housing in Australia has decreased significantly over the last twenty years. The average loan size for first home buyers in Australia has grown from \$73,000 in 1992 to \$124,000 in 2002, amounting to a 70% increase in a decade (Real Estate Institute of Australia, 2002). In 2003, the average home loan in Australia was \$184,700. The proportion of family income required to meet home loan repayments has therefore increased. Unlike previous generations households are borrowing on the strength of two full-time incomes to gain a foothold in the housing market.

Access to housing finance is more difficult for those without permanent or secure work, suggesting that for younger age and low income groups, home ownership and possibly family formation is likely to be problematic.

### **1.2 Access to affordable child care**

Many young Australian women aspire to combine family and paid work. The overwhelming majority of young women want to have children by the age of 35, with almost half planning to work full-time, one quarter aspiring to work part-time, and almost one fifth preferring self employment. Only five per cent of young women are planning to choose a traditional role of full-time unpaid work in the home (The Research Centre for Gender and Health, 2002, p. 28). Consequently, access to affordable child care is fundamental to the achievement of work and family balance.

Where families cannot access child care services, it is typically mothers who assume responsibility for the care of their children and adjust their labour market participation accordingly.

#### **1.2.1 Affordability**

The cost of child care has been identified as a factor in delaying having

children and reducing workforce participation after having children (HREOC, A time to value, 2002). The Melbourne Institute of Applied Economics and Social Research found that households with children aged 3– 4 years are most sensitive to child care costs (ie. they demonstrate the most significant reduction of work hours when child care costs increase or benefits and allowances drop - Dorion & Kalb, 2002).

### **1.2.2 Child Care Benefit (CCB)**

In July 2000, the Child Care Benefit (CCB) was introduced as part of the Commonwealth's New Tax System to assist families in meeting the costs of child care. The CCB provides a government rebate of up to \$2.81 per hour for approved or registered child care. The CCB is means tested towards providing a greater benefit to those on lower incomes. It utilises a sliding scale to a minimum of \$0.47 per hour for parents on a combined income of \$94,000 per annum or more.

New South Wales has identified the following issues associated with the CCB:

- the rate of CCB may not be keeping pace with increasing child care costs (ACOSS Submission to HoR, Workforce Participation Report, 2005, pp. 146ff);
- the CCB does not recognise the differential child care costs associated with children of different ages; and
- access to the CCB is restricted to those families that utilise Commonwealth approved or registered child care services.

### **1.2.3 Child Care Rebate**

The Commonwealth introduced a non-means tested 30% Child Care Rebate in 2004. The rebate is intended to further assist families to meet out of pocket child care expenses, for up to 50 hours per week for 51 weeks per year, capped at \$4,000 per year.

The Rebate provides delayed and limited relief. It will not be available for up to two years after the expenditure has occurred, is capped at \$4,000, and only available to those families that are already eligible for the CCB.

### **1.2.4 Availability**

The supply of children's services is unevenly distributed. Left to market forces, child care will be supplied in areas with greatest demand or highest returns. Providers tend not to locate in areas where there is an inability to pay, or where demand is lower (for example rural/remote areas). The extra costs associated with providing places for 0-2 year olds, incurred because a higher staffing ratio is required, is an economic deterrent for service providers to offer large numbers of places for 0-2 year olds. Similarly, providers do not generally accommodate the special care needs of some families, for example shift

workers and single parents. This reduces the choices that are open to some families.

The Australian Institute of Health and Welfare estimates that there is an overall shortfall of 175,000 child care places nationally, including 45,000 long day care places and 37,000 occasional care for children. The chronic shortage of child care places for 0-2 year olds, particularly in urban areas is an issue that is consistently raised by jurisdictions, including New South Wales.

Access to affordable child care is fundamental to work and family balance decisions. The Commonwealth controls relevant policy and financial levers at the national level through the CCB. The Commonwealth also has the ability to influence the distribution of child care places through the approval and registration processes associated with the CCB.

#### **Recommendation 1**

**It is recommended that the Commonwealth complete a review of the Child Care Benefit (CCB) regime and the availability of child care places nationally. The Review should consider:**

- **the need to increase CCB rates to assist in meeting rising child care costs;**
- **the need for differential CCB rates to reflect the true cost of service delivery, for example different overheads of metro/rural service providers;**
- **expanding eligibility for access to the CCB to assist greater workforce participation;**
- **financial incentives that could be delivered through the CCB to help address the shortfall in places for 0-2 years;**
- **financial incentives that could be delivered through the CCB to address gaps in service delivery to disadvantaged and/or remote communities; and**
- **incentive-based measures that could be put in place to support more flexible child care operating arrangements, for example to accommodate the needs of shift workers and families with special care needs.**

#### **Recommendation 2**

**It is recommended that the federal government collaborate with state and territory governments in the planning and delivery of services for children and families. The development of a National Agenda for Early Childhood provides an opportunity to progress a cooperative approach.**

#### **1.2.5 Quality of Child Care Services**

A shortage of qualified staff in the child care sector has emerged as a national issue in recent years. The main issues associated with the shortage are wages and conditions.

The Equal Remuneration Principle arising from the New South Wales Pay Equity Inquiry (1998) enables parties to bring a pay equity case before the New South Wales Industrial Relations Commission. The Commission makes a finding based on the merits of the case. This mechanism has led to a substantial wage and classification correction for librarians and archivists, significantly improving the work conditions of a women-dominated industry.

Pay rises for child care workers have been achieved in Victoria and the Australian Capital Territory. A case before the New South Wales Industrial Relations Commission has been lodged and a decision is expected this year.

In recognition of workforce shortages, the Community Services Ministers' Advisory Committee initiated a National Children's Services Workforce Planning Project in 2004. The project will provide advice to states and territories on recruitment and retention strategies, identify pathways to help existing staff increase their level of qualification and identify strategies to increase the status and standing of the children's services workforce. There are several strategies under consideration that could support and improve children's services.

### **Recommendation 3**

**The Community Services Ministers' Advisory Committee initiated a National Children's Services Workforce Planning Project in 2004. Under the Project, several strategies are currently under consideration, which have implications for work and family balance and warrant further Commonwealth support. These are:**

- **the promotion of traineeships in child care;**
- **funding and support for increased early childhood teacher training places in universities;**
- **the promotion of child care employment through priority apprenticeship schemes;**
- **the promotion of an industry/government partnership scheme to employ and support undergraduates to enter the children's services industry; and**
- **the identification of children's services as a priority for allocation of skilled immigration places.**

### **1.3 Career disincentives to starting a family**

A study conducted by the Australian Institute of Family Studies found that of all the matters considered important by people in deciding whether to have children, the number one ranking factor was being able to afford to support the child (Weston et al, 2004). Apart from the substantial direct costs of having a child, the opportunity costs to a woman of foregone lifetime earnings

have been estimated at \$160,000 (ie. one third of average life time earnings) (Franklin & Chee Tueno, 2003, pp. 54).

Problems caused by loss of income (due to child birth) are exacerbated for women on lower incomes and it is these women who are less likely to have access to paid maternity leave and less likely to be able to use unpaid parental leave arrangements due to their financial circumstances (HREOC, A time to value, 2002).

The disincentives for women on higher incomes to return to work following the birth of a child may be quite different. Access to flexible working conditions is likely to be a more significant impediment to balancing work and family.

A range of workplace strategies may be needed to encourage women to return to work after starting a family, including: the introduction of part-time and job share arrangements for senior management staff (such positions are presently extremely rare); providing greater flexibility as to when, where and how work is completed; greater acceptance of non-linear career progression in the recruitment of staff; removing the stigma associated with non-standard work arrangements; and maintaining contact with female staff while they are on maternity leave.

## **Recommendations – See Part 2**

### **1.4 The costs of education and training**

Between 1993 and 2003 the proportion of women (aged 25-64 years) with a vocational or higher education qualification increased from 37% to 51%. For men, the proportion increased from 52% to 60%. In the 35-44 age groups, more women are enrolled in higher levels of degree-level qualifications than men (ABS, Transition from Education to Work, 2002).

There is a strong correlation between time spent in education and training and family size. For women with no tertiary qualifications the average number of children is 2.3 and the likelihood of childlessness 11%, for those with an undergraduate degree the figures are 1.8 and 22%, and for those with a higher degree the figures are 1.3 and 34% respectively (1996 Census: Franklin & Chee Tueno, 2003, p. 52).

In 2003, more than 1.1 million people in Australia had a Higher Education Scheme (HECS) debt, to a total value of approximately \$9 billion (McGauran, 2003). The desire to retire HECS debts before purchasing a home and/or starting a family is a factor in delaying decisions to start a family.

The combination of the time taken to complete higher education, the desire to achieve a certain level of career advancement before starting a family and the delayed earnings and debts acquired whilst undertaking tertiary education, mean that many women are delaying having children, and therefore having smaller families, or not having children at all.

### **Recommendation 4**

**It is recommended that the Commonwealth Interagency Taskforce on Work and Family investigate the potential impacts of debts incurred through the attainment of tertiary education, on the decisions people make about whether and when to have children.**

## **Part 2 – Making it easier for parents who so wish to return to the paid workforce**

### **2.1 The New South Wales government's position on work and family provisions in federal awards**

The New South Wales government is committed to ensuring that employers and employees enjoy reasonable industrial settlements using award and enterprise bargaining systems, that facilitate a work and family balance.

New South Wales holds the view that a suite of work and family provisions is best achieved through a mix of employee entitlements, employee rights to request family-friendly conditions with an employer obligation to seriously consider and not unreasonably refuse, and by employer and employee agreement.

The New South Wales government was the first jurisdiction to legislate for maternity leave entitlements in 1980 and the first to amend anti-discrimination legislation to include carer's responsibilities as grounds for complaint of discrimination. Of equal significance to work and family conditions for the twenty first century workforce, the New South Wales government was the first to provide parental leave to eligible long term casuals with the same job protection provisions as permanent employees.

The New South Wales government contends that the Australian industrial relations system should provide greater recognition of employees' family care commitments through the adoption of an award safety net that enables employees to better balance their work and family lives. The position acknowledges that the interests of both employees and employers need to be balanced.

To manage the early years of parenting responsibilities while maintaining an attachment to the workforce, a suite of workplace provisions needs to be considered. This cluster of conditions has recently been the subject of the Australian Council of Trade Unions application to the Australian Industrial Relations Commission (AIRC) for a test case varying federal awards to include work and family flexibilities.

In 2004 the New South Wales government along with all the other states and territories, intervened in this test case with submissions that proposed new award standards to assist in the reconciliation of work and family balance (State and Territory Governments, May 2004).

Workplace conditions to assist parents' attachment to the workforce during childrearing years which are supported by the New South Wales Government are:

A right to:

- four weeks simultaneous unpaid parental leave after the birth or adoption of a child;
- meaningful consultation while on parental leave;
- improved personal / carer's leave, incorporating job protection measures for casual employees, in line with the conciliated agreement reached between the ACTU and the employer parties in the Family Provisions Test Case.

The New South Government supports award conditions which provide that an employee has the right to request the following benefits conditioned by an obligation on the part of employers to consider and not unreasonably refuse them (having regard to a specific list of factors relevant to balancing the needs of the business and the employee with family or other caring responsibilities):

- the extension of unpaid simultaneous parental leave after birth of child from 4 weeks up to 8 weeks;
- the extension of 12 months unpaid parental leave for a further 12 months (or up to a total of 24 months);
- a return to part time work after parental leave in one or more periods until child reaches school age;
- flexible working arrangements: variation in hours and times of work to enable an employee to provide care and support for an immediate family or household member;
- up to 6 weeks additional unpaid or purchased leave in order to assist employees better balance work and family responsibilities;
- a reasonable period of unpaid leave immediately following a period of annual leave to assist balancing work and family responsibilities.

By agreement:

- periods of unpaid child rearing leave up until a child is school age.

Apart from the provisions connected exclusively to parental leave, this suite of workplace conditions applies equally to caring responsibilities for elderly relatives or a disabled child.

### **2.1.1 The test of reasonableness**

The test of reasonableness should contain a set of factors that address the relative needs of the employee and of the business. This particular approach charts a middle course between employer discretion to manage their business



on the one hand and employee rights to acknowledged 'family friendly conditions of employment' on the other.

The New South Wales Government supports the test of reasonableness on the basis that it is the best accommodation of employer operational needs and employee caring responsibilities. This model privileges neither the employer nor the employee but recognises the legitimacy of their relative concerns and promotes a genuine assessment of a family leave request. Where the employee and employer cannot reach agreement in relation to a request made after application of the following criteria, the matter should be dealt with in accordance with the dispute settling procedure in the relevant award.

The New South Wales Government takes the view that employee requests should be determined in light of the following factors:

- the cost of accommodating the employee's request;
- the capacity to reorganise work arrangements to accommodate the employee's request;
- the impact on the delivery of customer service;
- the particular circumstances of the employee, especially the nature of his/her caring need(s); and
- the impact on the employee and his/her dependents of the request not being granted.

## **2.2 The case for work and family industrial provisions**

The fundamental policy objective of work and family is to help working parents, particularly women, maintain an attachment to the workforce while simultaneously fulfilling their caring commitments. The policy challenge is to address the mix of elements that influence decisions about family formation and attachment to or exit from the labour market.

This objective meets employees' needs for maintaining financially viable households and promoting economic independence from the state and/or partners, and meets employers' needs for a secure supply of labour.

Work and family policy is best viewed through the lens of the family life cycle. This approach not only acknowledges the diversity of caring commitments across the life cycle, but accommodates the federal governments' and peak employer organisations' goal of extended working lives in the view of an ageing population.

Evidence has been accumulating that shows the current voluntary approach to work and family arrangements has failed to deliver reliable conditions to employees with caring responsibilities. While providing favourable conditions for some highly skilled, highly qualified workers, an ad hoc approach cannot

deliver an equitable distribution of family leave provisions (Gray & Tudball, 2002).

Employees' caring responsibilities occur across all industries, as do employers' needs for predictable labour supply. Universal standards through legislation and awards provide a more efficient outcome and a more level playing field for business than voluntary ad hoc measures.

This position argues for more, not fewer, statutory protections and entitlements through the award system. For the Family Provisions Test Case hearings in 2004, evidence was submitted to the AIRC, demonstrating that the current voluntary system for family leave produces market failure in the form of adverse selection under asymmetric information. This is an inefficient mechanism for achieving work and family conditions across the workforce (Mitchell, 2004).

### **Recommendation 5**

**It is recommended that the Standing Committee on Family and Human Services acknowledge the importance of a system of awards and agreements overseen by the Industrial Relations Commission as the principal means of delivering pay equity to women, thereby enhancing women's labour force attachment over the course of their lives.**

#### **2.2.1 Family-friendly conditions are not evenly distributed**

Employment arrangements and conditions supporting women's work participation and progression are limited and fragmented. Fewer than 10% of enterprise agreements have a non-statutory, family-friendly employment condition and less than 20% of employed people have some flexible work arrangement in an enterprise agreement (Whitehouse, 1999). Flexible work arrangements are positively associated with higher earnings, professional and para-professional and clerical/sales (not plant/ production) occupations and structured human resource management in organisations.

Work and family provisions in agreements are unevenly distributed across Australian workplaces. They are most prevalent in the public sector and unionised agreements and comparatively rare in male dominated agreements and those recording high wage increases. There are also limitations to relying on agreements for achieving work and family conditions, since conditions can be bargained away as the only means to achieve essential pay rises (Whitehouse, 2001).

Women are more concentrated in low skilled repetitive work with poor conditions, service occupations, and still enter a narrower range of occupations than men. It is these industries where women are likely to experience a lack of family-friendly workplace practices and policies. While many workplaces do provide family-friendly conditions in policies rather than formal agreements, access to them is often discretionary.

## **Recommendation 6**

**It is recommended that the Commonwealth Interagency Taskforce on Work and Family work cooperatively with industry bodies to develop strategies to increase the provision and uptake of family-friendly provisions by both large and small employers.**

### **2.2.2 Changes to the workforce and households**

Caring responsibilities of workers can include being responsible for the care and wellbeing of not only children, but partners, parents, and other immediate family or household members. This has meant that a growing number of workers, especially female workers who assume primary responsibility for family caring, face pressure on a daily basis trying to reconcile their work and family responsibilities.

The contemporary workforce includes 5.7% of mothers of children under five, and 14.9% of mothers of children under 12 years old. It also includes an increasing number of workers with caring responsibilities for elderly relatives or disabled children (ABS, Cat. No. 6203, 2003).

### **2.2.3 Caring for an ageing population**

The population is becoming concentrated into older age groups. This effect is intensified by increased life expectancy (Commonwealth of Australia, Budget Paper No 5, 2003). One of the consequences of increased life expectancy and a low fertility rate, is the decrease in the proportion of working age to non-working age people (ABS, Population Projections Australia, 2003). One quarter of Australians will be aged 65 years or more by 2044–45.

The Taskforce on Care Costs released research findings in February 2005 establishing that there is a direct and causal relationship between levels of workforce participation and the cost of care for elders, children and people with a disability (Equal Employment Opportunity Practitioners Association (NSW), 2005). One in four workers with caring responsibilities had reduced their hours of work and one in four were likely to leave the workforce because the cost of care is too high (Equal Employment Opportunity Practitioners Association (NSW), 2005).

Aged care can last much longer and involve more people than child care (House of Representatives, Workforce Participation Report, 2005). This has implications particularly for female labour force participation, attachment and earnings over time. Policy responses are required to assist the emerging 'sandwich generation' of employees who face the challenge of caring for the aged as well as young children (House of Representatives, Workforce Participation Report, 2005). Women are most likely to enter an 'exit pathway' from the workplace if care services are inadequate or unaffordable.

Carers living in New South Wales have access to the most progressive anti-discrimination measures on the grounds of caring responsibilities. The Commonwealth provisions in the *Sex Discrimination Act* are now ten years old and are not consistent with more recent developments in state and territory

jurisdictions. Commonwealth provisions are limited to a narrow definition of caring relationships, direct discrimination and only in circumstances of dismissal from the workplace. The Carer's Amendment to the New South Wales *Anti-Discrimination Act* more closely reflects contemporary relationships. It identifies a broad range of family relationships, it covers both direct and indirect discrimination and applies to a range of workplace experiences up to and including dismissal.

The cost of child care and caring for an elderly relative or disabled child is a major disincentive to workforce participation, as confirmed by the Taskforce on Care Costs. The report notes that much of the data are underestimations since those who find it too difficult to combine paid labour with caring commitments have already left the labour market (Taskforce on Care Costs, 2005).

### **Recommendation 7**

**That the federal government revise the *Sex Discrimination Act 1984* (Cth) to ensure consistency with state and territory developments and to promote work and family balance through the discrimination legislative framework.**

#### **2.2.4 Squandering the pool of potential employees**

The refusal of the federal government and peak employer organisations to agree to family leave entitlements such as a right to request a return to work part-time after parental leave, licenses a labour market rigidity the Australian economy can no longer afford in an era of current and future labour shortages (Family Provisions Test Case, AIRC, 2004).

This is inconsistent with the concerns raised by employer organisations and the federal government over the current and predicted problem of labour supply shortage. Results from the *Survey of Employer Confidence* (ACCI, July 2004) cited 'availability of suitable labour' as the most significant inhibitor of investor confidence.

The Australian Bureau of Statistics (ABS) publication, *Persons not in the Labour Force*, describes that part of the population who are parents, not in the labour force but who identify themselves as available for work. Of those who wanted to work but were not actively looking because of child care commitments, 79% preferred to work part-time (ABS, Cat. No. 6220, September 2004, Table 6).

These figures identify an unused or under-utilised cohort of potential employees. They suggest that these people may have continued to participate in the work force, with benefits to the individual, the household and the economy, if work and family conditions were available.

The majority of under-utilised paid work labour in the Australian economy are women who either are currently not in the labour force or are working part-time hours (House of Representatives, *Workforce Participation Report*, 2005).

Parents, amongst others, have been identified as having the potential to participate more fully in the workforce with appropriate support and incentives (House of Representatives, Workforce Participation Report, 2005).

Working families, particularly working mothers, are among the labour market's most disadvantaged workers as they are most likely to be working on a casual basis in order to undertake their caring responsibilities. Data from the ABS *Forms of Employment Survey (2002)* show that females are less likely to be entitled to paid leave because they make up the majority (59%) of self identified casuals in the workforce.

### **2.3 Lack of a National Paid Maternity Leave scheme**

Decisions about family formation are influenced by many separate, but related factors. One of these factors is the presence or absence of paid maternity leave. Research shows organisations that have introduced paid maternity leave increase the return and retention rate of their workforce (Business Council of Australia, 2003).

There is no consistent national scheme for paid maternity leave in Australia. This is in spite of the extremely large base of community support demonstrated during the national paid maternity leave inquiry conducted by the Federal Sex Discrimination Commissioner in 2002 (HREOC, *A time to value*, 2002). Australia is the only Organisation for Economic Co-operation and Development (OECD) country which does not offer some form of national paid parental leave after the birth of a child (see Appendix 2).

The most recent New South Wales public sector agreement provides an example of governments' role in leading the way in work and family conditions. The agreement provides 14 weeks of paid maternity leave, one week of paid parental leave, long service leave to be made available after seven years, and an option to take long service at double pay (New South Wales Premier's Department Circular No. 2004 – 45).

While unpaid maternity leave has assisted many women to maintain workforce attachment, the low levels of paid maternity and parental leave still affect the duration of absence and ease of women's workforce re-entry (New South Wales Government, 2004). An absence of paid maternity leave can lead to women workers using recreation and sick leave to cover their recovery following the birth and the adjustments required at a household level, such as securing quality child care.

While the long awaited increase of the Maternity Payment to \$3000 helps families meet the medical and other costs associated with the birth of a child, it should not be labelled as de facto paid maternity leave. The Maternity Payment does not maintain a connection to the woman's work place nor does it entitle women to 14 weeks of leave, placing them at risk of being coerced by employers to return to work soon after the birth. Finally, it equates to just over \$200 per week for fourteen weeks, which may provide some income replacement for women who are engaged in part-time or casual work. For

women in full-time work, however, it does not replace their wages nor meet the threshold of the Federal Minimum Wage.

The New South Wales government's position is that paid maternity leave is of such fundamental and national importance to women's continued workforce participation that it supports a national paid maternity leave scheme of fourteen weeks' leave, administered and funded by the federal government.

### **Recommendation 8**

**The New South Wales government urges the federal government to fund and administer a national paid maternity leave scheme.**

#### **2.4 The Commonwealth industrial agenda is anti-family**

Although the federal government has been reluctant to disclose the detail of its industrial intentions for employees, it is abundantly clear that the target is the working conditions of the most vulnerable employees – those who are time poor, with low skill levels, insecure in employment and dependent on safety net award conditions.

The industrial landscape currently being promoted by the federal government – peopled with workers on AWAs, or casuals, or independent contractors – is about employment insecurity, not flexibility. This industrial relations program cannot assist working parents to combine work and family responsibilities. These reforms will widen the existing gender pay gap in Australia. As women are drawn into the federal system, they will lose their capacity to commence pay equity cases through their respective state Industrial Relations Commissions.

For many women combining paid work with caring, reduced wages and job security will mean second or third jobs in order to keep their families financially viable. This will have a detrimental impact on them as well as those they care for.

Each level of government has a responsibility to lead policy. Only through a mix of levels of government can we achieve 'balanced power, contained government, local control of local affairs and respect of regional difference' (Craven, 2004). The checks and balances of federalism provide the most effective framework for industrial policy initiatives to improve work and family balance in workplaces across Australia.

The federal government is well placed to assist employees balance their work and family responsibilities through its existing industrial relations framework. The objects of the *Workplace Relations Act 1996* (Cth) require the maintenance of an effective award safety net of conditions of employment.

The objects also require: the prevention and elimination of discrimination in employment on a number of grounds including family responsibilities; assistance for employees to balance their work and family responsibilities through the development of mutually beneficial work practices with employers;

and assistance in giving effect to Australia's international obligations in relation to labour standards.

It is regrettable that this inquiry comes at a time when the keystone of the Australian Settlement, conciliation and arbitration by an independent umpire, is threatened by changes from the federal government's industrial relations agenda.

New South Wales supports the on-going role for the AIRC in reviewing and maintaining a relevant and fair safety net of wages for employees under federal awards in accordance with well established principles. It does not support transferring the responsibility for ensuring fair minimum wage outcomes to a panel of economists or Treasury officials.

The New South Wales government opposes reducing the income of working mothers who are earning essential household incomes. This can only exert more pressure on families to engage in more hours of work, or third jobs per household, to compensate for the federal government's lowering of their wages. This is the antithesis of family-friendly.

**Recommendation 5 is reiterated.**

#### **2.4.1 Reduction of allowable award matters**

The federal government wants to reduce the number of allowable matters abolishing many guaranteed conditions available to workers through the award system. Conditions that have been flagged for elimination are long service leave, superannuation, jury service, bonuses, skills based career paths, many allowances, and accident make-up pay.

Removing the independent umpire from minimum wage setting processes and reducing the number of allowable matters in awards will further entrench the gender pay gap as more women are reliant solely on awards to determine methods of pay compared to men. Further, the proposed removal of skills-based classification structures from awards will make it harder to compare the wages of employees with the same skill level across industries and jobs in pay equity claims and to achieve pay equity through award reclassification.

The majority of workers targeted by the federal government's dismantling of industrial relations protections are women, many with family commitments, who rely solely on awards for their basic pay and conditions. About 24.4% of women compared with 15.7% of men are entirely dependent on awards for their pay and conditions (ABS, Cat. No. 6306, 2004). The New South Wales government therefore is opposed to the further stripping away of allowable matters in awards.

With a further reduction of allowable matters, previous entitlements will become items to be traded during bargaining to secure any improvement in pay and conditions. It concerns the New South Wales government that the effect of further award stripping is to increase the conditions that fall outside award protection.

The AIRC has concluded hearings in the Family Provisions Test Case. It is essential to the advancement of work and family reconciliation that the Test Case to vary awards to include protections for workers with family commitments remains free from further award stripping.

### **Recommendation 9**

**The New South Wales government urges the federal government not to further disadvantage Australian families who are reliant on award conditions, by reducing the allowable matters in awards.**

#### **2.4.2 Individual bargaining**

The federal government's industrial relations agenda also aims to impose enterprise and individual bargaining over common rule awards and collective bargaining. These policies seek to increase the uptake of Australian Workplace Agreements (AWAs) and favour non-union bargaining in the workplace. These changes will preclude an equitable distribution of family provisions.

The federal government plans to use the Corporations power to override state industrial relations jurisdictions by bringing employees of corporations under the coverage of their federal system. Further, it seeks to allow minimum wages to fall in value by implementing changes to wage setting processes and link pay rises for workers to productivity improvements in the workplace.

The work performed in many female dominated sectors such as child care and aged care is limited in its capacity to provide productivity linked wage rises. Increasing the ratio of babies or elderly people to be cared for by an employee cannot be the currency of exchange for pay increases. Not only would quality of care be compromised but client to staff regulation in the sectors' prescribed standards of care.

Women are more likely to be employed as casuals or part-time workers in order to combine paid work with family responsibilities and the weaker labour market position of women is also evident in the wage gap. These factors combine to make workers with caring responsibilities, particularly women, least able to individually negotiate on their own behalf for improved pay and conditions.

### **Recommendation 10**

**The New South Wales government urges the federal government to support the fundamental right to collectively bargain in all Australian workplaces.**



### **2.4.3 Access to unions**

The federal government's proposals will increase the number of workers on individual contracts and AWAs. It plans to introduce legislation to exclude the operation of state right of entry laws where federal right of entry laws apply, thereby restricting the capacity of unions to enter workplaces to assist employees organise and to collectively bargain. Workers with caring responsibilities, and in relatively new industries lacking a history of union involvement, will be precluded from collective bargaining processes. This has the potential to further disadvantage these employees by reducing alternatives to individual bargaining.

Working parents and carers, particularly women, have been and will continue to be significantly disadvantaged by individual bargaining because the conditions and entitlements necessary for balancing work and life are more likely to be bargained away or excluded from the bargaining process all together. Women in particular are significantly worse off under individual agreements than awards (Whitehouse, 2001).

#### **Recommendation 11**

**The New South Wales government urges the federal government not to deny unions access to vulnerable workers in Australian workplaces.**

### **2.4.5 Unfair dismissal exemptions**

The federal government's proposal to exempt small business from unfair dismissal laws will make it easier for employers to dismiss the 47% of private sector employees in New South Wales who are employed in small business. Small business employees with family responsibilities will be even more precariously placed in the workforce as the competing demands of work and family make working parents or carers vulnerable to arbitrary dismissal by employers (ABS, Cat. No. 5675.0, 2001).

#### **Recommendation 12**

**The New South Wales government urges the federal government not to exempt small businesses from unfair dismissal laws.**

The federal government is in a position to use the existing industrial relations framework to support the suite of family provisions in the states' and territories' submission to the Family Provisions Test Case, to assist parents return to, and stay attached to, the paid workforce.

## **Part 3 – The impact of taxation and other matters on families in the choices they make in balancing work and family**

### **3.1 The interaction of taxation and other matters is central to decisions about balancing work and family**

When families are making decisions about who works, for how long and how to manage their caring responsibilities, they will take into account the interplay between four variables:

- the taxation treatment of earned income;
- the impact of additional earnings on family allowances;
- child care costs and rebates, disability support services or aged care services; and
- access to workplace entitlements designed to support combining work and family responsibilities.

The interplay between these variables creates a set of incentives and disincentives to workforce participation. Governments' fiscal, social and industrial relations policy converge at this point. Policy designed to help families balance work and family responsibilities therefore needs to consider this convergence at the household level.

Recent discussions of incentives and disincentives to paid work have occurred in the 'policy silos' of falling fertility rates, an ageing population and labour shortages. A limitation of these discussions is that they fail to examine the inter-relationship of variables at key decision points, such as the decision to return to work after the birth of a child.

The introduction of the New Tax System (ANTS) by the Commonwealth in July 2000 included substantial changes to social security payments, including family assistance and child care subsidies. As part of these reforms, the government rolled ten forms of assistance into two new payments – Family Tax Benefit A (for all families with children) and Family Tax Benefit B (for single income families, including sole parents).

While these reforms are intended to remove barriers to paid work, the National Centre for Social and Economic Modelling (NATSEM) found that the interplay of tax, family allowances and child care subsidies may be acting to limit the options for some families, particularly single parents and low-income couples with children (Beer, 2003, pp. 14-25).

NATSEM found that although the tax reforms reduced Effective Marginal Tax Rates (EMTRs)<sup>1</sup> for families, almost a quarter of sole parents and 15% of individuals in a couple with children still face EMTRs in excess of 60%. The

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<sup>1</sup> An EMTR is the percentage of a one dollar increase in private income that is lost to income tax and income tests on government cash payments.

latter is largely due to the withdrawal of the Family Tax Benefit Part A. High EMTRs are a significant disincentive to increasing private income.

A second NATSEM study used effective average tax rates (EATRs)<sup>2</sup> to analyse the financial incentives for increasing household income by mothers entering paid work. The results suggest that when the interaction of tax, social security and increasing child care costs are considered, the financial incentives to return to work may be negligible or outweighed by the financial disincentives, particularly for women on low incomes.

### **3.2 The limitations of reforming fiscal, welfare and industrial relations levers without comprehensively considering work and family balance**

The House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation Inquiry released a report on increasing workforce participation in Australia in March 2005. The report calls for more 'family-friendly' work arrangements (par 2.120) and consideration of opportunities for governments and employers to expand and improve child care assistance provisions and after school and holiday care programs. The New South Wales government supports these recommendations.

The Inquiry was limited in that it did not provide a detailed analysis of the availability of work and family provisions across various employment sectors. The comment that 'work and family strategies are becoming more common' (par 2.165) does not accurately reflect the piecemeal availability of flexible working conditions.

### **3.3 Taxation as a strategy for making child care more affordable**

The costs of child care and loss of benefits and/or tax advantages in returning to work are key factors that influence a mother's decision to return to work.

There are a number of possible mechanisms to provide relief for families with child care expenses through the taxation system. These include:

- child care benefits;
- child care rebates;
- tax credits; and
- tax deductibility of child care expenses (allowing parents to deduct their child care expenses from their annual taxable income before calculating the tax owed).

#### **3.3.1 CCB and Rebates**

As previously discussed, the Child Care Benefit (CCB) provides a government rebate of up to \$2.81 per hour for those using approved or registered child

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<sup>2</sup> EATRS are derived from EMTRS (effective marginal tax rates)- they are essentially the weighted sum of EMTRS over a range of private income (rather than a single dollar), whereas EMTRs are defined as the proportion of a one dollar increase in private income which is lost to income tax and income tests on government cash payments.

care. The CCB is means tested towards providing a greater benefit to those on lower incomes. The non-means tested 30% child care rebate is also available to parents to assist in meeting out of pocket child care expenses. However it is retrospective and does not assist in meeting the upfront costs of child care.

### **3.3.2 Tax deductibility of child care costs**

The cost of child care is not tax deductible (*Income Tax Assessment Act 1936* (Cth) s 51(1) and *Lodge v FCT* (1972) 128 CLR 171). In some jurisdictions such as Canada, New Zealand and the United States, child care expenses are considered to be tax deductible in certain circumstances (The Taxation Institute of Australia, Economic Objectives, 1992).

There are reasons in favour of making child care expenses tax deductible. As a matter of principle, for working parents the expenditure on child care could be considered essential for the derivation of assessable income, where no free, informal care is available.<sup>3</sup>

It is also arguable that making child care expenses tax deductible would bring more declared income into the taxation system, as assessable income through wages paid to domestic child minders, baby sitters and nannies that is not currently being declared (Bayer, 1991).

It could also increase female participation in the workforce generating a revenue gain for the government in increased productivity. In 1992 it was estimated by the Australian Taxation Institute that a 10 per cent increase in workforce participation by non-earning parents would result in a revenue gain of approximately \$700 million annually (The Taxation Institute of Australia, Submission to the Federal Government, 1992).

The major argument against tax deductibility of child care expenses, however, is that it is regressive, in that families in higher tax brackets receive more relief for the same amount paid out in child care costs than those who are taxed at lower rates (Gifford, 1992). Parents on the highest marginal tax rate of 47.5% would effectively receive a rebate at that rate, whereas parents on a lower marginal tax rate would receive a rebate at their marginal tax rate.

### **3.3.3 Fringe Benefits Tax**

The current fringe benefits tax (FBT) arrangements mean that FBT is payable by an employer on any child care benefits given to an employee, whether by way of salary sacrifice, provision of child care facilities or contribution to child care expenses, unless an exemption applies (*Fringe Benefits Tax Assessment Act 1986* (Cth)). Exemptions are available where the childminding facilities are "located at the employer's premises" (*Fringe Benefits Tax Assessment Act 1986* (Cth) s47(2)) or where the employer

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<sup>3</sup> This fact was accepted by Mason J in *Lodge v FCT* (1972) 128 CLR 171, however, he held that the expenditure was not "incidental and relevant" to the derivation of that income. Other cases have held that the expenditure is of a "private or domestic nature" and is thus excluded within the meaning of s51(1).

makes contributions to secure priority access to an eligible child care centre (*Fringe Benefits Tax Assessment Act 1986* (Cth) s47(8)).

From the employee's perspective, only a very limited number of employers offer FBT exemptions. The provision favours large employers who are better able to afford on-site facilities.

The House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation recommended that the federal government introduce FBT exemptions for child care services provided by employers (HoR, Workforce Participation Report, 2005, Recommendation 12, p. 149).

The New South Wales government supports, in principle, measures that increase the access and affordability of child care places without compromising quality. A blanket FBT exemption to employers may not be the most effective means of increasing affordability or supply.

There is no guarantee that a FBT exemption would be passed on to employees. Any benefit gained from the exemption is only realised at the end of each financial year and does not necessarily address the ongoing, weekly burden of child care costs faced by families.

In view of these considerations, it may be a better use of limited resources to increase the amount of Child Care Benefit or direct fee relief to families for child care expenses, rather than providing a general FBT exemption.

### **3.4 Conclusion**

Ultimately, the best combination of child care benefits, child care rebate, fee relief and tax deductibility to assist families in balancing work and family commitments cannot be determined without a comprehensive review of the interaction of the taxation system and the welfare system.

### **Recommendation 13**

**It is recommended that the Commonwealth Interagency Taskforce on Work and Family take an oversight role in tracking and considering the effects of tax incentives and disincentives that influence decisions to start a family and/or participate in the workforce after starting a family.**

## **Appendix 1 – The social context in which balancing work and family operates**

### **Increased workforce participation by women is a major driver of economic growth**

Women's workforce participation has been one of the most dramatic social changes in Australia in the last half century. Between 1985 and 2003, the labour force participation rate for women increased from 46% to 56%, while the rate for men decreased from 76% to 72% (ABS, Measures of Australia's Progress, 2004). The majority of women (70.8 per cent) in the key childbearing years of 25-34 participate in the labour force and there is now almost no difference between the workforce participation rate for married women and all women. A strong attachment to the labour force amongst this group means that having children is avoided, or delayed, with most women likely to have children between the ages of 30-34.

Women in couple relationships have accounted for much of the increase in female employment, as have women with dependent children. Women in this group are more likely to be in the labour force than in the past, suggesting that mothers are returning to work sooner after the birth of their children than previously. Census (2001) data shows that for women in couple relationships with a youngest child under 5 years of age, the labour force participation rate is 51.4 per cent, rising dramatically to 69.7 per cent where the youngest child is 5 to 9 years old. Once the youngest child is 10 years or older, the increase in the participation rate plateaus at about 77.0 per cent (ABS, Australian Social Trends, 2003, p. 41).

The increase in women's participation in employment has been strongly associated with an increase in part-time work, with women accounting for the majority of part-time workers (72% in 2003). Similarly, there has been strong growth in the number of casual employees over the last two decades. In 2003, casual employment represented 27.6 per cent of total employment, rising by about 10 per cent since 1998. Around one in three (31.9 per cent) of all women in the workforce are casually employed compared to one in four men (ABS, Measures of Australia's Progress, 2004). While there are now more varied employment arrangements and flexible hours through part-time, casual work and contract work, some of this flexibility does not necessarily support women's participation and progress in the workforce.

The dramatic increase in women's workforce participation reflects positive social changes – women hold more formal qualifications than before and more women are entering professions and moving into a wider range of occupations (ABS, Education and Training Indicators, 2002 and ABS, Australian Social Trends, 2003). Women's labour force participation has increased across all educational attainment categories and for all age groups (ABS, Measures of Australia's Progress, 2004).

The net increase in the workforce since the 1960's has been a leading driver in Australia's economic growth (HoR, Workforce Participation Report, 2005).

Growth in productivity is directly linked to the significant increase in women's participation in the labour force. Through their presence in the workforce, women have become a major contributor to unprecedented levels of economic growth (HoR, Workforce Participation Report, 2005). Between 1992-93 and 2002-03, real net national disposable income per capita grew by around 2.8% a year - appreciably faster than during the preceding twenty-year period (ABS, Measures of Australia's Progress, 2004 and RMIT Centre for Applied Research, 2002). Between 1992-93 and 2002-03, Australia's real Gross Domestic Product GDP grew by around 46% (averaging growth of 3.8% a year); in the same decade, population grew by around 12% (averaging just under 1.2% a year).

### **Changing family structures and societal expectations**

The transformation of families has been one of the most significant social changes since the Second World War and arguably over the entire century (HREOC, Valuing Parenthood, 2002). The social revolution in attitudes concerning the roles and responsibilities of men and women in the latter part of the last century have influenced all facets of society.

The structure of Australian families and their working arrangements is far more diverse than twenty or even ten years ago. Women in Australia today are working in increasing numbers, undertaking more study, delaying childbirth and having fewer children. This has significant repercussions for family formation and in turn, how men and women balance their work and caring responsibilities now and into the future.

The traditional model of the male breadwinner family, that is a father working full-time and the mother at home caring for the family, is no longer the norm. In the 1980s, the single full-time earner and full-time carer model reflected the working arrangements of the majority of Australian couples with children. However in 2001, only 28 per cent of couples with children opted for this arrangement, while around 43 per cent of all families with children under 15 years were couple families where both parents were employed (ABS, Australian Social Trends, 2003).

Women combine work and family differently, at childbirth and across their lifetimes. The most common working arrangements for couple parents with children aged 0-4 years, is for the male parent to be working full-time, while the female parent was not in the labour force (36 per cent), followed by the female parent working part-time (26 per cent) (ABS, Census of Population and Housing, 2001). There were only 23,446 couples (9 per cent), both working full-time with children in this age group.

The 'single full-time earner and a full-time carer' model, now tends to be a temporary rather than permanent arrangement in response to the need to care for young children. For example, a 2001 OECD survey suggested a clear preference among couples with children under six to move away from the single earner model towards the one full-time and one part-time earner model (OECD, Employment Outlook, 2001).

For couples with children aged 5-12 years, the most common arrangement was for the male parent to be working full-time while the female parent worked part-time (31 per cent), followed by the female parent not being in the labour force (22 per cent). Seventeen per cent of couples with children aged 5-12 years were both working full-time.

Lone parents are less likely to be in the labour force than couple families. In 2002, 30 per cent of lone fathers and 47 per cent of lone mothers were not in the labour force (ABS, Australian Social Trends, 2003).

In 2001, 82 per cent of Australians (14.8 million people) lived with at least one other family member, forming 4.9 million families in Australia. Forty-seven per cent of all these families comprised couple families with children.

In contrast, couple families without children increased by 33 per cent (to 1,764,167 families) between 1986 and 2001 (ABS, Census of Population and Housing, 2001).

Divorce rates are increasing as is the proportion of never-married women and single person households. In 1971, the divorce rate in Australia was 1.0 in 1,000, compared with 2.7 in 1,000 in 2002 (ABS, Crude Divorce Rates, States and Territories:1901 Onwards, 2004, Table 97).<sup>4</sup> Related to this is the rise in one-parent families, increasing by 53 per cent (to 762,600) between 1986 and 2001. Further, in 2001, 75.67% of 20-29 year olds (1,981,247 people) had never been married, a significant increase since 1971 when only 35.7% (725,116 people) had never been married (ABS, Census of Population and Housing, 2001). People living alone increased by 64 per cent (to 1.6 million) between 1986 in 2001 (ABS, Australian Social Trends, 2003).

Another important change has been the decrease in the size of families. The number of children being born per woman has been falling since 1961. Australia's fertility rate is 1.75 babies per woman, which is below the replacement rate of 2.1 (HREOC, A time to value, 2002). Between 1969 and 1979, the fertility rate declined from 2.9 to 1.9 babies per woman. This trend reflected a sharp decline in fertility rates of women in the 20-24 and 25-29 age groups.

The lowest fertility levels are recorded amongst women with higher attachment to the labour force, higher income and greater educational attainment. The declining fertility rate has been attributed to a number of economic and social factors, including the rising cost to women of withdrawing from the workforce to bear and raise children, relative to previous generations. Attitudes towards the role of women in society have significantly changed since the 1950s and women are now more actively pursuing education and employment opportunities.

Accompanying these changes has been a large increase in women's workforce participation, which has been associated with changes in attitudes

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<sup>4</sup> Calculated as the number of divorces in a year per 1,000 of the estimated resident mean population.



towards working women, anti-discrimination measures, the advent of formal child -care, falling birth rates and an increased availability of part-time work.

## **Appendix 2 – International Comparisons of Work and Family Provisions**

### **Paid Parental Leave- International Obligations**

A number of international instruments recognise paid maternity leave as a work related entitlement for women. The two most widely acknowledged are the International Labour Organisation's Maternity Protection Convention (ILO 183) and the United Nations *Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW).

The ILO 183, which was adopted in 2000, specifically encourages countries to provide a minimum of 14 weeks paid maternity leave. The federal government has not ratified ILO 183 and responded to this Convention by noting that Australia does not have a tradition of social insurance and that employers fund various leave entitlements such as sick leave, long service leave and maternity leave where paid. Further, the federal government has indicated that it is not appropriate to require all employers, particularly small business employers, to fund maternity leave.

CEDAW decrees that "parties shall take all appropriate measures ... to introduce maternity leave with pay or with comparable social benefits without loss of former employment seniority or social allowances". CEDAW was signed by 163 countries including Australia. However Australia is the only developed nation among the five signatories to CEDAW who have not introduced a national paid maternity leave scheme.

### **Paid Parental Leave - International Comparisons**

Since the introduction of paid maternity leave in New Zealand in 2002 and the state of California in the United States in 2004, Australia has become the only member of the Organization for Economic Co-operation and Development (OECD) that does not have paid parental leave. Further, many of the countries identified as Australia's major trading partners also provide paid maternity leave.

The following table describes the conditions of paid parental leave across Europe, Asia and Australasia. The periods of paid leave offered by the countries listed range from two months in Singapore to over one year in Sweden Norway, Canada and Denmark.

Responsibility for payment varies across nations and reflects institutional and social arrangements. The economic models which fund paid parental leave in the countries listed below are identified as employer funded, government funded, social insurance funded or a combination of these models.

**Table - International Parental Leave Provisions**

Country	Who pays?	How long is the paid leave for?	How much pay?
<b>Austria</b>	Government	16 weeks	100%
<b>Belgium</b>	Government	15 weeks	82% for 30 days, 75% after
<b>Canada</b>	Government funded social insurance program	15 weeks paid maternity leave + 35 weeks paid parental leave	55% of average insured earnings
<b>Denmark</b>	Government	1 Year	60%
<b>Finland</b>	Government	18 Weeks maternity + 26 weeks parental	70%
<b>France</b>	Government	16 - 26 weeks	100%
<b>Germany</b>	Government	14 weeks	100%
<b>Greece</b>	Government	16 weeks	75%
<b>India</b>	Employer/ Government	12 weeks	100%
<b>Ireland</b>	Government	14 weeks	70%
<b>Italy</b>	Government	5 months	80%
<b>Japan</b>	Government	14 weeks	60% of wage
<b>Netherlands</b>	Government	16 weeks	100%
<b>New Zealand</b>	Government	13 weeks	Flat rate - maximum of NZ\$325
<b>Norway</b>	Government	52 weeks  (or 42 weeks at 100%)	80%
<b>Poland</b>	Government	16 weeks for first child and 18 weeks for subsequent children	100%
<b>Singapore</b>	Employer & Government	8 weeks	100%

<b>Spain</b>	Government	16 weeks	100%
<b>Sweden</b>	Employer & Government	Up to 450 days	360 days 75% wage, and 90 days at flat rate
<b>Switzerland</b>	Employer & Government	Up to 16 weeks	Up to 100%
<b>Thailand</b>	Employer 45 days, then Government	90 days	100% 45 days, then 50% for 15 days

Sources: Kamerman (2004); HREOC (2002) & OECD (2001).

## **Paid Maternity Leave – International Case Studies**

### **Sweden, Switzerland and Singapore**

Sweden provides paid maternity leave for over a year which is funded through health and parental insurance. Employers provide the majority of contributions to these social insurance funds and the remaining contributions are made by government and employees.

Switzerland provides both employer and social security funded maternity leave. This scheme differs from social insurance models because it involves separate payments by the employer and government rather than a single payment from pooled funds.

The Swiss parental leave model provides employer funded full pay to employees for a minimum of three weeks. Special maternity insurance funds will pay between 70 - 80 per cent of the woman's wage for the period of leave which the employer will not cover. Sickness insurance funds then provide payment for the minimum standard period of ten weeks leave, with six weeks being after the birth.

In Singapore paid parental leave is funded by the government and introduced in April 2001 in direct response to Singapore's declining birth rate.

Prior to the introduction of government funded parental leave in Singapore, employers were required to pay eight weeks maternity leave at full pay after the birth of a family's first two children. The lack of paid leave for a third child was seen as an impediment to increasing the birth rate. Under the new arrangements, employers are required to pay maternity leave for a third child and then recoup the payment from the government.

Switzerland and Singapore are both examples of how paid parental leave can be a legislated entitlement even in purely market driven economies based entirely on neo-liberal welfare models and free market principles.

## **United Kingdom**

Since the Blair government came into power in 1997, the parental leave landscape has dramatically changed in the United Kingdom with:

- paid maternity leave increasing from 14 weeks to 18 weeks, before being raised again to the current level of 26 weeks; and
- increases in the amount of maternity pay so that mothers now receive 90% of their average weekly earnings for the first six weeks, after which they receive the Statutory Maternity Pay rate of £102.80 (\$A250) a week for the remaining 20 weeks.

A further rate increase is scheduled in April 2005 when the Statutory Maternity Pay is set to rise to £106 (\$258) a week. In 1997, the Statutory Maternity Pay was £55 (\$134).

The UK government is also proposing to increase paid maternity leave to nine months by 2007 and then to twelve months within five years. The UK's Department of Trade and Industry (DTI) released a consultation document in February 2005 titled "Choice and Flexibility" which lists the following further proposed changes to paid parental leave and flexible working arrangements in the UK:

- introducing a new right for mothers to transfer a proportion of their maternity leave and pay to fathers to give more choice to parents when caring for their children in the first year;
- considering extending the right to request flexible working hours to carers of adults and parents of older children;
- extending the notice period from 28 days to three months for employees who seek to change their post-maternity return-to-work date;
- allowing mothers to transfer part of their pay and leave to their partners;
- extending the right to request part-time work to carers and parents of older children (it is currently confined to young children); and
- simplifying the administration of maternity leave and pay for employers (DTI, 2005).

## **New Zealand**

From 2002 female employees in New Zealand were entitled to up to 12 weeks of paid maternity leave after taking leave for the birth of a child or when adopting a child under six. This entitlement increased to 13 weeks in December 2004 and will increase again to 14 weeks in December 2005.

Recipients may also transfer some or all of their entitlement to payment to a spouse (husband or de facto partner, including same sex partner) if they are also an employee, are taking parental leave, and meet the eligibility criteria for parental leave.

In New Zealand, a birth mother or an adoptive parent is eligible for paid parental leave if they:

- have worked for the same employer for either the six months up to the expected due date or the expected date of adoption, or the 12 months up to the expected due date or the expected date of adoption for an average of at least 10 hours a week (including at least one hour every week or 40 hours in every month); and/or
- have not been on parental leave during the year ending at the expected date of delivery of the child.

Payments are made only for periods of parental leave actually taken to care for a child. If two spouses jointly adopt a child, they must nominate which of them is primarily eligible to the parental leave payment. The nominated spouse can transfer some or all of the payment to the other spouse, if they are also eligible.

Under the new laws, an employer may not unreasonably refuse a late application for paid parental leave (NZ Department of Labor online [www.dol.govt.nz](http://www.dol.govt.nz), 2005).

### **United States**

In July 2004, the first paid parental leave system in the United States was instituted in California. Only workers who pay into the existing State Disability Insurance (SDI) system will be eligible for paid family leave. Under the scheme, workers receive up to 6 weeks of paid leave per year to care for a newborn, adopted or foster child or seriously ill family member.

This program is entirely employee-funded. The estimated average cost is \$27 (US) per worker per year while a minimum wage earner will pay an additional \$11.23 (US) a year into the SDI. The benefit replaces up to 55% of wages while on leave, up to a maximum of \$728 (US) per week. The maximum benefit will increase automatically each year in accordance with increases in the state's average weekly wage. Employers can require that a worker use a maximum of two weeks of vacation time first before receiving paid family leave (Fende, N., Gregory, L., Chang, J. & Firestein, N., 2003).

Businesses with fewer than 50 employees are not required to hold a job for a worker who goes on paid family leave. Collective bargaining agreements may offer different protections for these workers. Current state and federal laws across America guarantee 12 weeks of unpaid leave for those working for larger employers. The recently passed laws in California guarantee that six of those weeks will be paid for workers who reside in that state. Activists are currently lobbying at the state level to try to replicate the California model in other states. A number of US states are also considering the introduction of

legislation which will enable new parents to have access to unemployment benefits for 12 weeks (Fende et al, 2003).

## **Work and Family provisions – International Comparisons**

### **United Kingdom**

In the United Kingdom the right to request flexible working arrangements was introduced on 6 April 2003 under the *Employment Act 2002* as part of a package of new work and family legislative provisions. The new legislation gives parents of children under the age of six and parents with disabled children under the age of eighteen the right to request flexible working conditions, provided they have at least six months service with their current employer.

Eligible employees are able to request a change to the hours they work, a change to the times when they are required to work, or to work from home. These provisions cover working patterns such as part-time work, annualised hours, compressed hours, flexitime, home-working, job sharing, self rostering, shift working, working only during school term time and staggered hours.

The new legislation also places a statutory duty on employers to seriously consider all applications for flexible working from eligible employees. According to Section 80F(1) of the Act, an employer can only refuse an employee's request for flexible working on the grounds of a reasonable refusal if the request threatens the commercial viability of the business (Department of Trade and Industry, 2003).

### **New Zealand**

In New Zealand the *Flexible Working Hours Bill* (the *Bill*) to amend the *Employment Relations Act 2000* passed its first reading in April 2005 with support from the New Zealand government. The *Bill* aims to provide employees with young and dependent children the statutory right to request part-time and flexible hours and will now go to a Senate Committee.

If passed, the *Bill* will introduce a legal duty on employers to seriously consider requests for flexible working arrangements from the parent of young and/or disabled children and must demonstrate good reasons for a refusal.

The duty of an employer to consider a request for flexible working will apply to parents with children under the age of five or a disabled child under the age of eighteen and where the parent has worked for the same employer for a minimum of six months.

These reforms are largely based on the UK flexible working legalisation (NZ Department of Labor, 2005).

## Benefits of Flexible Working Legislation

The above examples of legislated flexible working provisions acknowledge the needs of contemporary workplaces to assist employees maintain their attachment to the workforce while simultaneously meeting their caring responsibilities.

There are also associated cost benefits associated with flexible working for employers. These cost benefits are directly attributed to reduced unplanned absenteeism and reduced training and employment costs due to increased staff retention. It could be further argued that legislated flexible working increases recruitment options for small businesses by enabling small businesses to become employers of choice, thereby levelling the recruitment playing field with larger organisations.

In the UK a survey titled *A Parent's Right to Ask - A Review of Flexible Working Arrangements* was conducted by the Chartered Institute of Personal Development (CIPD) & Lovells six months after the introduction of flexible working legislation. The survey found that:

- the percentage of employers that noted that the impact of the legislation on their organisation had been negligible was 76%;
- the percentage of employers that reported no significant problems complying with the new requirements was 90%; and
- the percentage of employers that believed that the opportunity to work flexibly had a positive effect on employee attitudes and morale was 68% (CIPD & Lovells, 2003).

Almost one year after the introduction of flexible working provisions in the UK, the Department of Trade and Industry (DTI) commissioned a survey to review the impact of this new legislation. The survey, titled *Employment Relations Occasional Papers - Results of the Second Flexible Working Employee Survey* (2005), was conducted across the UK in January 2004.

The DTI survey found that:

- 81% of flexible working requests were either fully or partly accepted by employers since the flexible working legislation was introduced;
- 11% of flexible working requests had been declined since April 2003, representing a near halving of the rate of refusal compared with the previous two years;
- only one in seven employees said they had requested a change to their working arrangements in the last two years;
- one in five employees reported taking time off to care for someone in the last two years, with over half taking time off to care for dependent children;



- employers were most likely to accept requests from employees who were women, had dependent children, worked less than 40 hours per week or had a line manager who was a woman.

Both the CIPD & Lovells and DTI survey findings suggest that the right to request provides an incentive for employers to seriously consider employee requests, against the grounds for a reasonable refusal.

The successful introduction of flexible working practices in the UK has challenged the notion that family-friendly workplaces are not commercially viable for many employers. The legislated test of reasonable refusal has enabled employers in the UK to test requests on economic and commercial grounds. The review of the legislation has shown an increase in employer acceptance of flexible working requests coupled with the low costs associated with implementing the new regulation.

The survey findings suggest that a critical by-product of the introduced legislation has been the refutation of the economic grounds traditionally given by some employers for resisting flexible working practices.

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