

Secretary  
Senate Employment, Workplace Relations and Education Committee Department of the  
Senate  
Parliament House  
Canberra ACT 2600  
Australia

The Adoptive Families Association of the ACT Inc has around 150 family members and is the only adoption support organisation in the ACT.

EurAdopt Australia is the national representative organisation for families who have adopted children from Europe.

This submission to the Inquiry into the Workplace Relations Amendment (Work Choices) Bill 2005 is a combined submission from both organisations. Many other adoption organisations would doubtless have made similar submissions if there had been sufficient time to do so.

Firstly, we would like to congratulate the government on including at least some adoptive parents in the unpaid leave provisions of the proposed legislation. The inclusion of workers who adopt children under 5 years of age in the legislation allowing for unpaid leave is a positive move, but for some reason families who adopt children over 5 are excluded from the leave provisions.

It should be noted that in all cases of adoption at least one parent must take leave from work as this is a requirement of the State or Territory government when approving adoptive parents. However, the proposed federal legislation distinguishes between the adoption of a child under the age of 5 years and the adoption of a child over the age of 5 years in determining eligibility for unpaid adoption leave. It is stated that to qualify for adoption leave the child must be less than 5 years of age at placement. Under present legislation, NSW and the ACT are the only jurisdictions in which adoption leave is available to an employee adopting a child who is 5 years or older (legislation in NSW was changed in 2003 to remove the limitation of leave protection to those adopting children under the age of 5 years).

Therefore, in most of Australia, people who adopt children who are 5 years of age or older will not be protected by leave legislation and are at risk of losing their jobs when they adopt. This is a real risk that is of great concern to families adopting older children.

Legislation that restricts adoption leave eligibility to those adopting children under the age of 5 years ignores the characteristics of children being adopted at this age and of current adoption practice and it reinforces a belief that children adopted at 5 years of age or older are independent, not

in need of intensive care and would commence schooling immediately on placement in a family. This is simply not the case. Children being adopted at 5 years of age or older have generally lived in one of two situations (sometimes a combination of both). These situations are: having lived in an institution in a third world country where it is likely they experienced emotional and physical deprivation; or having lived in an abusive family environment in Australia and been removed from the care of that family. The majority of older children who have been adopted come from overseas and need additional help to adjust to a new language and culture when they come to Australia. They cannot simply slot straight into school, allowing their parents to go back to work.

As a result of their history, children placed in a family for adoption, who are 5 years of age or older are facing enormous challenges, as are their families. Parenting a newly adopted older child, while incredibly rewarding, also requires a tremendous input of time and effort. And they are forced by approving authorities to take leave to remain at home with the child. Families adopting older children should be protected from the worry of losing their job or being demoted while caring for their newly adopted child.

The Human Rights and Equal Opportunity Tribunal's report 'A Time to Value' recommended that the age restriction for qualification for unpaid adoption leave be removed. Legislative change to provide all adoptive families with access to unpaid leave entitlements would have very little impact on the majority of employers but would be of great importance to the families currently excluded by age restrictions. It is also important to note that while some present awards and workplace agreements do not restrict unpaid adoption leave to those adopting a child under the age of 5 years, many do (for example, in NSW the Miscellaneous Workers' Kindergartens and Child Care Centres; in SA, the South Australian Academic Staff Academic Award).

Adoptive Families Association of the ACT Inc and EurAdopt Australia recommend that the provision limiting adoption leave to parents of children under 5 be deleted and no age limit be specified.

Thank you for the opportunity to comment on the proposed legislation.

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