



June 2, 2008

Commissioners Robert Fitzgerald and Angela MacRae
Productivity Commission
Paid Maternity, Paternity and Parental Leave Inquiry
GPO Box 1428
Canberra ACT 2601

By Email :parentalsupport@pc.gov.au

Dear Commissioners,

RE: Paid Maternity, Paternity and Parental Leave Submission

Please find attached the Queensland Council of Unions' submission to the Productivity Commission's Inquiry into Paid Maternity, Paternity and Parental Leave.

This submission supports, in the main, the submission of the Australian Council of Trade Unions, and should be read in conjunction with those submissions.

The QCU believe that the model we are proposing provides a fair, affordable and responsible way for Australia to meet its international obligations.

We thank the Commission for conducting this important inquiry and look forward to working with you to ensure the implementation of the best possible outcome for Australian families.

Should you require any further information regarding the QCU's submission, please do not hesitate to contact us.

Yours sincerely,

Ron Monaghan
General Secretary

**Submission of the Queensland
Council of Unions**

to

**The Productivity Commission
Inquiry into Paid Maternity,
Paternity and Parental Leave**

June 2008

1. Introduction

The Queensland Council of Unions works with Queensland Unions, representing over 350,000 workers in Queensland to advance the industrial, political and social standing of their members.

We congratulate the Government and the Commission for instigating this important inquiry, which we hope will provide much needed relief to thousands of Australian families by delivering a fair and equitable system of fully funded paid parental leave.

In the main, the QCU support the submissions being made to the Commission by the Australian Council of Trade Unions (ACTU) and rather than covering ground that is being adequately addressed by those submissions, this submission will provide details regarding any points of difference between the QCU position and the ACTU proposal as well as responses to the questions posed by the issues paper.

This submission has been prepared through consultation with QCU affiliated unions covering a broad range of occupations and industries within both the public and private sectors.

2. Background

Unions have been fighting for improved conditions for working families in the lead up to, and following the birth of a child for decades.

Whilst we have been able to achieve significant gains for union members through bargaining, such as paid maternity and parental leave, paid carers and family leave and flexible work arrangements, thousands of workers remain without basic internationally recognised rights.

Recognising this, in 2005 ACTU Congress formally resolved that it would lobby for the *“ratification and implementation of ILO conventions and the ICFTU maternity protection campaign”* and for *“Paid maternity leave, to be funded by employers, government or a combination of both.”*

The QCU’s submission is based on this resolution and proposes a range of new provisions to support parents of young children including:

- paid parental leave;
- the right to request up to 8 weeks concurrent unpaid parental leave;
- improved entitlements dealing with returning to work from parental leave; and
- breastfeeding breaks

The QCU believes that our proposal:

- balances the rights and obligations of employers, employees and government;
- is fair to parents however they are employed;
- promotes the best interests of women and newborn babies;
- is achievable and affordable; and
- imposes no additional cost on employees, who already bear the brunt of the cost of raising children

3. Australia’s International Obligations

As is well documented in the Inquiries Issues Paper, Australia lags Europe and many of our Asian neighbors in the standards of maternity leave rights. Less than one-third of Australian women have access to paid maternity leave, and most receive less than 12 weeks paid leave. This contrasts with 26 weeks paid

leave in France, 16 weeks in the Netherlands and Vietnam, 14 weeks in New Zealand, Germany and Algeria and 12 weeks in India, Mexico and Indonesia.

The principle of paying women during a period of maternity leave is an internationally recognised right and is by no means a new issue.

The international Labour Organisation (ILO) included the issue of paid maternity leave in its third convention, which came into force in 1921.

Article 3 of the "Convention Concerning the Employment of Women Before and After Childbirth" provided for a minimum of six weeks leave during which she shall:

"...be paid benefits sufficient for the full and healthy maintenance of herself and her child, provided whether out of public funds or by means of a system of insurance, the exact amount of which shall be determined by the competent authority in each country;"

The 1921 Convention was revisited in 1952 and came into effect in 1955 as the "Convention Concerning Maternity Protection (revised)".

The new Convention provided for 12 weeks leave, including a compulsory period after the birth of at least six weeks, with Article 4 of the convention stating that:

"Whilst absent from work on maternity leave.....the women shall be entitled to receive cash and medical benefits.

The rate of cash benefit shall be fixed by national laws or regulations so as to ensure benefits are sufficient for the full and healthy maintenance of herself and her child in accordance with a suitable standard of living."

Again, Australia did not ratify the 1955 Maternity Protection Convention.

In 2000, a revised Convention was adopted by the ILO, on this occasion however, Australia did vote for its adoption.

Article 4 of the Convention provides for a period of maternity leave not less than 14 weeks.

Article 6 of the convention deals with the benefits to be payable to women absent on Maternity leave:

“1. Cash benefits shall be provided in accordance with national laws and regulations, or in any other manner consistent with national practice, or in any other manner consistent with national practice, to women who are absent from work on leave referred to in articles 4 or 5.

2. Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living.”

Again, whilst Australia supported the adoption of ILO 183, the previous government did not ratify it, arguing 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 and that it is not appropriate to require all employers, particularly small employers, to fund paid maternity leave.

Australia is also a signatory to the “United Nations Convention on the Elimination of All Forms of Discrimination Against Women” (CEDAW) but has a “reservation” in place, which means that it does not accept and as such is not bound by, article 11(2)(b) which states:

“Parties shall take all appropriate measures.....to introduce maternity leave pay or with comparable social benefits without loss of former employment, seniority or social allowances”.

HEREOC, in its *Pregnant and Productive* report, recommended that Australia withdraw its reservation and implement CEDAW in full however, the previous Australian Government refused to adopt this recommendation.

The fact that the provisions contained within these Conventions have become internationally accepted standards is supported by the reality that, as stated in the HREOC report *A Time to Value*

- 19 of Australia’s top 20 trading partners provide some form of paid maternity leave; and
- That of the 30 developed countries that make up the OECD, only 2, Australia and the United States, do not provide some form of paid maternity leave”.

3 The QCU’s Proposal

The QCU proposes a universally available paid parental leave scheme that provides at least 14 weeks at 100% pay for all women or primary care givers.

Take-up rates for parental leave suggest that it is still mostly women who assume the primary caring role for young children, however this is not always the case.

The QCU believes that any new system should be developed as a paid parental leave scheme, available to whoever is the primary care giver for the child. This is consistent with the current arrangements for unpaid parental leave in Queensland.

The QCU is seeking that the cost of the scheme be shared between the government and employers.

The government contribution would be for at least 14 weeks pay at the federal minimum wage (plus 9% superannuation) for all women or primary care givers, including those not in paid employment.

Employers would then, through a new National Employment Standard, be required to provide an additional payment to employees earning over the federal minimum wage to 'top up' the employee's paid parental leave entitlement to the level of their ordinary earnings.

The government funded component of 14 weeks at the federal minimum wage would be in addition to any existing paid maternity/parental leave entitlements that the employee already receives.

The government payment should be available around the time of the birth and paid fortnightly as all other payments administered by the welfare system. The employer payment would be paid at the employees normal pay cycle or families could opt to spread the payment at half rate across 28 weeks.

The introduction of the paid parental leave scheme would replace the current baby bonus entitlement.

It is the QCU's view that the introduction of such a scheme is affordable to government and employers and simple to administer.

Paid maternity leave on its own will not achieve all the desired outcomes. In particular flexible workplace arrangements are a key factor in the capacity of parents to combine work and family commitments.

The QCU seeks that the inquiries also recommend the following provisions:

- **Concurrent parental leave**

In addition to paid maternity leave, the Commission should consider measures to facilitate the partners, and potentially other family members, to take leave from work to provide emotional and practical assistance to the mother or primary carer.

Under Queensland legislation, partners are entitled to one week of unpaid leave immediately following the birth of a child, this is the only time that both parents can be on any form of parental leave concurrently.

In 2003 the ACTU made a claim in the AIRC that up to 8 weeks of the families' combined parental leave entitlement should be able to be taken concurrently. The submission relied primarily upon post partum recovery rates, evidence of increased caesarean deliveries and increased multiple births.

The AIRC decided in the Work and Family Test Case that it was appropriate for parents to have the right to request additional time to take unpaid leave at the same time following the birth of a child.

The AIRC considered such a request could be made for up to 8 week's concurrent unpaid leave for both parents, which the employer could refuse on reasonable business grounds.

The decision also reflected circumstances such as multiple sibling births or post birth complexities where the birth mother or child may need additional care at least in the immediate term.

The Parental Leave National Employment Standard as currently drafted has increased the minimum right to 3 weeks but does not include the right to request up to 8 weeks.

The QCU seeks that the Commission recommend that this provision be revised to reflect the findings of the AIRC.

- **Breastfeeding breaks**

The introduction of regular 30 minute paid breastfeeding breaks for lactating mothers and a requirement upon employers to provide access to appropriate facilities (e.g. a fridge for storage of expressed milk) should be mandated across Australia. The New Zealand parliament is currently considering the Employment Relations (Breaks and Instant Feeding) Amendment Bill that requires all employers to provide facilities and unpaid breaks to enable working mothers to breastfeed or express milk where it is reasonable and practical.

- **Paid leave to attend ante natal appointments**

The provision of paid leave to attend ante natal appointments and the provision of breastfeeding breaks are important forms of leave to support both mother and child's well-being before and after birth.

The QCU seeks that expectant mothers be provided with paid leave to attend ante natal appointments. This provision should be included in the National Employment Standard on parental leave.

4. The Views of Queensland Parents

In 2005-2006 the QCU, in conjunction with the Queensland Office for Women, ran a campaign promoting maternity/parental leave rights for workers.

The campaign consisted of a brochure titled "Pregnant and Working?" which detailed both parents' rights to parental leave with a focus on the fact that either parent is entitled to unpaid leave. The brochure also outlined the campaign for paid maternity leave.

The brochure was distributed through the "Bounty Bag" which is a sample bag provided to women when they attend their first hospital appointment. During the 12 months of the project, over 30,000 bags containing our brochure were distributed to pregnant women in Queensland.

The brochure also included a tear-off survey seeking feedback from workers regarding their views of paid maternity leave and other maternity leave related issues.

The survey results for the 12 month period were particularly interesting as they came from an extremely broad sample range including private and public hospitals patients and represent workers from every type of occupation and salary level.

The responses were as follows:

QUESTION	YES	NO
1. Are you concerned about telling your employer you are pregnant?	26%	74%
2. Are you intending to take maternity/parental leave?	98%	2%
3. Did you know that you can share this leave with your partner?	49%	51%
4. Will you now consider this as an option?	44%	56%
5. Does your employer provide paid maternity leave at your workplace?	26%	74%
6. Will you find it hard to make ends meet while on unpaid leave?	86%	14%

7. Would you support the introduction of government-sponsored paid maternity/parental leave?	97%	3%
8. Are you interested in returning to work on a part-time basis?	95%	5%

These results clearly indicated that:

- 97% of respondents support government sponsored paid maternity leave;
- over 51% of respondents were not aware that their partner was entitled to share the period of unpaid leave with them;
- now that they do, 44% will now consider this an option;
- an overwhelming 95% of women are interested in the option of returning to work part time following the birth of their child.

5. Questions Posed within the Issues Paper:

What ought to be the objectives of a paid parental leave scheme? What are the implications of these objectives for the design of the scheme?

The QCU supports the Productivity Commission's view that the objectives of a paid parental leave scheme should be to provide:

- time for a mother to recover physically from birth and bond with her child;
- replacement of a mother's income to assist her to take time off paid work to look after newborn children;
- better health and development of newborn children including breastfeeding;
- increased opportunity for fathers to bond with and care for their child;
- financial support for families around the time of birth of a child;
- assistance to mothers to maintain their long-term attachment to the workforce (including funding their retirement); and

- equity for women through the right to paid leave from employment for child birth.

In addition, paid parental leave provides benefits to Australian society through:

- stimulation of the labour market and economy through increased women's participation in the workforce;
- return on investments in education and training;
- assisting employers to attract and retain skilled and experienced female employees;
- giving families and young children a well adjusted start in life as future citizens.

In assessing different schemes that have different effectiveness in achieving such multiple objectives, what weight should be given to each of the various objectives? How should the various objectives be traded-off against one another if they conflict?

Following the birth of a child, women need time to recover from childbirth, adjust to motherhood and establish breastfeeding – one of the most important contributions to the health and development of babies.

Two thirds of Australian women have no access to paid maternity leave. Most of these women are employed in low-paid, casual or part-time jobs in shops, cafes, hotels and other service industries.

These women and their families are forced to make the difficult choice between returning to work before they and their baby are ready, or dropping to one, or in the case of single parents, no income at all. Either option places enormous

financial and emotional strain on Australian households at a time that is already incredibly challenging.

The primary objective of any paid parental leave scheme must be ensuring that no family is forced to make these difficult decisions. The QCU believes that as a bare minimum the establishment of a safety net of 14 week paid parental leave on full pay will alleviate this strain in the first few months following birth. This basic entitlement must remain the focus if trade offs are required.

What assessment criteria should be used to assess the merits of different models of paid parental leave? Are there existing studies that provide lessons on how to undertake rigorous assessment of options in this area?

The QCU believes that models must be assessed on the basis of the relief they provide to families.

Who should be eligible?

Whilst take up rates of parental leave indicate that it is still mostly women who assume the primary caring role, the QCU believes that any scheme must be developed as a paid parental leave scheme that is available to whoever is the primary carer for the child. This is consistent with current Queensland legislation for unpaid parental leave.

The QCU model advocates for a minimum payment at the federal minimum wage for all new mothers/primary carers, regardless of whether they are in paid work or not. This recognises:

- the casual and insecure nature of work for many women/primary carers;
- that women with children often move in and out of the workforce, and may not qualify for leave if it was dependent on a minimum length of service;

- the value society places on having and raising a child;
- the present and future economic benefits of population growth; and
- the financial costs in having and raising a child.

The universal nature of the QCU model makes it simple, fair and consistent. Importantly it ensures that women in insecure employment are not excluded.

What type of eligibility tests should be established? Who should be eligible?

The QCU is proposing a universal system, which replaces the baby bonus. As such, it should be available to whoever is the primary carer of the child whether employed or not. Those not employed would not however be entitled to the employer “top-up” component of our proposal.

All new mothers/primary carers and adoptive parents of children under the age of 5, would be eligible for the government component. This includes casual employees, who would be eligible for paid parental leave at ordinary earnings or an average of their past earnings.

The QCU believes that there should be no requirement for labour market attachment for the government component and no exclusion based on the number of hours worked per week, or on their weekly wage.

Should the eligibility test be designed to encourage ongoing workforce attachment? How could this be done?

The QCU is proposing a universal system that replaces the baby bonus. As such, it should be available to whoever is the primary carer of the child.

Should other prime carers, such as grandparents, foster and adoptive parents, also be covered?

If grandparents or others are the primary carer of a child, they should be entitled to Paid Parental Leave.

Should any support of a similar nature be extended to non-working parents?

Yes, the QCU believes that the existing baby bonus should be remodeled into a paid maternity leave scheme. Parents not working would be entitled to the Government funded minimum wage component only and would not receive an employer “top up”

Should all employees be covered and if not, why not?

Yes, all employees should be covered.

What implications do different levels of coverage have for the effective administration of the scheme, the behavior of employers and employees, and its impacts generally?

The QCU's proposed scheme is universal and as such simple to administer.

Should there be a qualifying period – a minimum time spent in the workforce – before an employee becomes eligible for paid leave? If so, how long should that period be?

No

Why? Should there be an eligibility period based on time with the employee's current employer?

The QCU recognise the cost to business in paying parental leave for new employees. The model provides for universal government funded component for all mothers, but limits employer top up until 6 months of service.

There should be no time based-restriction on taking second or subsequent periods of leave with the same employer for future children.

Should the rate of payment be linked to the employee's wage (either current or an average wage over a recent period)? If not, what basis should be used for the parental leave payment?

In view of the purpose of paid parental leave to provide income security for workers following the birth of a child, we call for a scheme that provides full income replacement of the women/carers pre-leave income during the period of leave.

As a work related entitlement, parental leave is no different from sick leave, annual leave, long service leave, jury service leave and defense forces leave which are funded at 100 per cent income replacement.

To avoid erosion of its value overtime, the rate of payment for the base entitlement should be benchmarked against an appropriate external rate. The minimum wage is an appropriate benchmark because it is an independently assessed rate, which is varied from time to time, reflecting the needs of employees in the context of living standards generally.

The minimum wage is also appropriate because it is set with the industrial parties and governments having opportunity to present their case to the AIRC.

The national minimum wage represents a modest claim for an adequate base level income to maintain a mother/carer and the child at a reasonable standard of living.

With respect to the “top-up” component, this should be calculated on the basis of the women/carers actual earnings. Where a workers income has varied during the course of the previous year, averaging of wages over a period of time could be used. The period of averaging must be long enough to deter employers from artificially reducing an employees hours in the period before the leave, yet not so long as to discount recent wage movements, promotions or access to increments. The QCU is of the view that 12 months is an appropriate averaging period.

How long should a parent receive paid parental leave for? Why?

What benefits would arise from longer or shorter periods of paid leave?

Article 4 (1) of ILO Convention No. 183 on Maternity Protection 2000 states that “a woman to whom this convention applies shall be entitled to a period of maternity leave of not less than 14 weeks”. As noted earlier Australia complies with this minimum by providing 52 weeks absence from work, but without payment. A national scheme should, as a minimum standard, conform to ILO C183, and introduce 14 weeks paid maternity leave. Fourteen weeks would at least protect the health of the mother, give her the best chance of establishing breast-feeding, and reflect the limited availability of formal childcare for babies under 13 weeks. This should be a first step, aiming to reach the provision of 18 weeks contained in ILO Recommendation 191, and ultimately 6 months leave.

We are also aware that a number of organisations have submitted proposal for paid parental leave entitlement of up to 6 months. The QCU wholeheartedly supports these submissions on the basis of current understandings of post-partum recovery and the benefits of longer term breast-feeding and urges the Commission to consider the maximum period of leave possible under the funding model proposed by the QCU and the ACTU.

Whether the Commission is inclined to recommend the minimum of 14 weeks or a more substantial period of leave, the QCU submits that in order to maximize the period of time available to families at this crucial time they should at the very least have the option of receiving their payment at half pay over double the period.

At what time in the prenatal period should people be entitled to parental leave?

The decision about when to commence and cease leave should be left to the individual and their doctor however, generally speaking, most women would need to commence leave at some stage between 8-2 weeks prior to the expected date of delivery.

The scheme would also need to facilitate situations where the employee wished to utilise a period of recreation or long service leave with their Paid Parental Leave. In such cases, it would be difficult to have a prescribed timing for the leave.

Should each parent have a separate entitlement for leave, or should there be an amount of leave to be shared between the parents? If the leave were to be shared, should there be an amount that is reserved for exclusive use by either parent?

The QCU submits that any new system of paid parental leave should operate in the same way as current unpaid parental leave entitlements in Queensland.

The Queensland *Industrial Relations Act* – 1999 provides as follows:

18 Entitlement

(1) This section details the parental leave entitlement of an employee for—

- (a) an employee who is not a long term casual employee and who has had at least 12 months continuous service with the employer; or*
- (b) a long term casual employee.*

(2) A pregnant employee is entitled to an unbroken period of up to 52 weeks unpaid maternity leave—

- (a) for the child's birth; and*
- (b) to be the child's primary caregiver.*

(3) For the birth of a child of an employee's spouse the employee is entitled to the following leave—

- (a) an unbroken period of up to 1 week's unpaid short parental leave;*
- (b) a further unbroken period of up to 51 weeks unpaid long parental leave.*

(4) For the adoption of a child, an employee is entitled to the following leave—

- (a) an unbroken period of up to 3 weeks unpaid short adoption leave;*
- (b) a further unbroken period of up to 49 weeks unpaid long*

adoption leave.

(5) However, parental leave must not extend—

- (a) beyond 1 year after the child was born or adopted; or*
- (b) if an application for an extension of parental leave under section 29A is agreed to—beyond 2 years after the child was born or adopted.*

*(6) In this section—**continuous service** means service, including a period of authorised leave or absence, under an unbroken employment contract.*

Further, the act states:

25 Spouses not to take parental leave at same time

(1) An employee is not entitled to parental leave, other than short parental leave or short adoption leave, when his or her spouse is on parental leave.

(2) If the employee contravenes subsection (1), the period of parental leave that the employee is entitled to is reduced by the period of leave taken by his or her spouse.

The Queensland legislation provides that both parents are entitled to take leave together for the first week following the birth of the child. At this point the partner who has not given birth is entitled to unpaid “short parental leave”. After this point, whoever is to be the primary caregiver is entitled to take parental leave. Families are entitled to split this leave in any way that suits them, provided the total amount of leave taken does not exceed 52 weeks

(plus one week of concurrent parental leave and short parental leave in the first week following birth).

The QCU submits that leave a new Paid Parental Scheme should operate in this way also.

In addition, the Commission should consider measures to increase the period of short unpaid parental leave from 1 week to 8 weeks to facilitate partners, and potentially other family members, taking leave from work to provide emotional and practical assistance to the primary carer.

During the Family Provisions Test Case, the ACTU made a claim in the AIRC that up to 8 weeks of the families' combined parental leave entitlement should be able to be taken concurrently. This claim relied primarily upon post partum recovery rates. Although also pointed to evidence of increased caesarean deliveries, increased multiple births, and so forth.

In 2005, the AIRC awarded parents the right to request up to 8 weeks concurrent unpaid leave following the birth of a child, which the employer could refuse on reasonable business grounds.

Earlier this year the government released an exposure draft of its Parental Leave National Employment Standard. This draft provides for an entitlement of 3 weeks concurrent leave, but does not include the right to request up to 8 weeks. While three weeks is an improvement on the previous one-week entitlement, it does not acknowledge the physiological factors which govern post-birth recovery. The QCU encourages that this provision be revised to entitle parents and partners 8 weeks concurrent leave.

Should government contribute to the funding of the paid parental leave scheme? Should employers and/or employees contribute?

Yes, the QCU proposes that:

- All mothers (whether in paid work or not) to receive at least the equivalent of 14 weeks pay at the Federal Minimum Wage;
- All mothers to receive at least 9% super contribution on the paid leave;
- Working mothers to receive a “top-up” to ordinary time earnings funded by their employer as part of the National Employment Standards legislation;
- Working mothers to accrue long service leave, annual leave and sick leave entitlements whilst receiving paid maternity leave as part of the National Employment Standards legislation.

The Government’s contribution to this is as follows:

- The government funded maternity assistance (the baby bonus, currently \$4258.00 to be increased to \$5,000.00 on 1 July 2008 after tax) would be increased to 14 weeks pay at Federal Minimum Wage (currently \$7120.00 after tax);
- Plus 9% super;
- Payable to all mothers (whether in paid work or not) fortnightly.

If the cost were to be shared among employees, employers and the government, what basis should be used to calculate each group’s contribution?

The QCU believes that the cost of any scheme should be shared between the Government and employers.

The Government to fund up to the level of the Minimum wage and employers responsible to “top-up” to the level of the employees actual wage.

How would any national scheme interact with existing privately funded schemes?

Employees current paid maternity leave entitlements should be preserved through a mechanism of the Parental Leave National Employment Standard.

The QCU model of paid maternity leave is based on replacement of the baby bonus. Currently one third of employees receive both the baby bonus and employer provided paid maternity leave. Employers should not be able to absorb any current entitlements at the expense of employees’ current entitlements.

Ensuring employee’s existing entitlements are preserved over and above the additional government component raises the bar set by employers of choice. Employees in these companies will receive on average 26 weeks paid maternity leave comprising 14 weeks at full income, (the new standard) and the remainder (any existing entitlements provided by the employer) paid at least at the level of the federal minimum wage level.

Employees and employers could reach agreement at the workplace for additional top up for the remainder of the leave paid at the federal minimum wage as part of their bargaining agenda.

What are the likely costs of different schemes, how are these appropriately measured, who would ultimately bear them and does this influence the form of financing adopted?

The submission of the ACTU provides full costing for the basics 14 week model. The QCU supports and adopts these costing and urges the Commission to view these as a bare minimum entitlement.

If employees and/or employers contribute to the scheme, is a pooled funding arrangement desirable?

The QCU submits that the cost of any paid parental leave scheme should be shared between the government and employers.

Should all employees who would be eligible under a national paid parental leave scheme also be accorded the right to return to their previous job? What are the costs and benefits of mandating this requirement?

The QCU absolutely believes that all employees accessing paid or unpaid parental leave should be entitled to return to their previous role.

Under Queensland legislation, an employee is entitled to return to their pre-leave position. If that position no longer exists and other position that the employee is qualified for and capable of performing do exist, the employee is entitled to be employed in a position that is nearly as possible comparable to that of the employee's former position.

If a long term casual's hours were reduced because of pregnancy before starting leave, those hours must be restored.

Specifically, the Queensland Industrial Relation Act – 1999 provides that:

32 Return to work after parental leave etc.

(1) This section applies to—

- (a) an employee who returns to work after parental leave; or*
- (b) a female employee who returns to work after special maternity leave or sick leave under section 37.*

(2) The employee is entitled to be employed in—

- (a) the position held by the employee immediately before starting parental leave; or*
- (b) if the employee worked part-time because of the pregnancy before starting maternity leave—the position held by the employee immediately before starting part-time work; or*
- (c) if the employee was transferred to a safe job under section 36 before starting maternity leave—the position held by the employee immediately before the transfer.*

(3) If the position no longer exists but there are other positions available that the employee is qualified for and is capable of performing, the employee is entitled to be employed in a position that is, as nearly as possible, comparable in status and remuneration to that of the employee's former position.

(4) An employer must make a position to which an employee is entitled available to the employee.

(5) If a long term casual employee's hours were reduced because of the pregnancy before starting maternity leave, the employer must restore the employee's hours to hours equivalent to those worked immediately before the hours were reduced.

The QCU submits that these entitlements must be maintained.

Should this requirement be the same in all circumstances? Should there be expectations for particular types of jobs or particular types of employers (such as very small employers?)

Yes, all employees must retain the right to return to their previous position.
There should be no exemptions.

Should the rights accorded to the employee be different according to whether the period of paid leave is funded by the employer or the taxpayer?

No

To what extent (and why) would an increase in the availability and duration of paid parental leave significantly alter the quality of infant care and outcomes for the child?

The submissions of the ACTU have addressed this issue, the QCU supports and adopts these submissions

What is the appropriate duration of leave to maximise such benefits, and should any minimum period be mandated?

Article 4 (1) of ILO Convention No. 183 on Maternity Protection 2000 states that “a woman to whom this convention applies shall be entitled to a period of maternity leave of not less than 14 weeks”. As noted earlier Australia complies with this minimum by providing 52 weeks absence from work, but without payment. A national scheme should, as a minimum standard, conform to ILO C183, and introduce 14 weeks paid maternity leave. Fourteen weeks would at least protect the health of the mother, give her the best chance of establishing

breast-feeding, and reflect the limited availability of formal childcare for babies under 13 weeks. This should be a first step, aiming to reach the provision of 18 weeks contained in ILO Recommendation 191.

We are also aware that a number of organisations have submitted proposals for paid parental leave entitlement of up to 6 months. The QCU wholeheartedly supports these submissions on the basis of current understandings of post-partum recovery and the benefits of longer term breast-feeding and urges the Commission to consider the maximum period of leave possible under the funding model proposed by the QCU and the ACTU.

Whether the Commission is inclined to recommend the minimum of 14 weeks or a more substantial period of leave, the QCU submits that in order to maximize the period of time available to families at this crucial time they should at the very least have the option of receiving their payment at half pay over double the period.

To what extent would the introduction of a paid parental leave scheme assist mothers in establishing and maintaining breastfeeding routines, and with what benefits?

Studies show that breastfeeding has significant health benefits for both babies and mothers.

Some of the short term impacts include a reduced incidence of gastrointestinal infections and eczema and there is evidence that breastfeeding may reduce the risk of depression in teenage years and the incidence of obesity in later life.

The World Health Organisation (WHO) recommends that babies be exclusively breastfed until 4-6 months. It goes on to say, “Although 80% of babies are

breastfed at birth, only about 40% are breastfed at 6 months Studies have shown that returning to work is a major reason for early weaning."

According to a recent study into "Maternal Employment and Breastfeeding: Results from the Longitudinal Study of Australian Children", conducted by Cooklin, Donath, and Amir, less than half Australian infants receive any breast milk by the age of six months.

The study also found that returning to work is the most important factor influencing the early weaning of infants off breast milk six weeks after birth as mothers tend to stop breastfeeding their babies if they return to work within six months of birth even if they return as part-timers or casuals.

The study also found that Mothers who return to full-time work before 3 months are twice as likely to cease breastfeeding before their baby is six months as mothers not in the workforce, whilst returning to work between 3 and 6 months triples the likelihood.

In Canada, significant increases in breastfeeding were associated with the introduction of paid maternity leave. The QCU believes that the provision of Paid Parental Leave in Australia is also likely to improve mother's opportunities to breastfeed their babies for longer periods with associated infant benefits.

<p><i>What complementary measures would reinforce the infant and parental welfare effects of paid parental care?</i></p>

The QCU believes that Paid Maternity Leave needs to be implemented along with:

- The right to 8 weeks concurrent parental leave;
- Improved return to work provisions;

- Leave to attend ante natal appointments; and
- Improved right to request flexible workplace arrangements.

<p><i>What factors deter fathers from taking more parental leave?</i></p>
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ABS statistics show that only a quarter of male employees took paid parental leave. Also, fifty-one per cent of male workers were eligible for unpaid leave but did not use it.

This is not surprising as many partners would be financially unable to take up the unpaid leave, particularly if the mothers' income has just been lost. It is simply impossible for a family to have both income earners on unpaid leave.

Providing paid maternity leave to the primary care giver (generally the women, particularly in the first few weeks) may also assist the facilitation of partners being able to take time off to be present during the first weeks of the birth of a child.

The QCU's submission calls for the implementation of a Paid Parental Leave Scheme that is available to either parent, whoever is to be the primary carer for the child, rather than a Paid Maternity Leave scheme that is only available to women.

Whilst acknowledging that in the vast majority of cases, the women will be the most likely to access Paid Parental Leave, particularly in the first few weeks following the birth of a child, The QCU believes that families need to be given the ability to make the choices that are right for them. Families must have the right to choose who is the most appropriate person to be the primary carer for their child and this will not always be the mother.

The QCU also believes that it will be extremely important to ensure that any new scheme is marketed to the community as a whole to ensure that all families are aware of their entitlements.

The “Pregnant and Working Survey” conducted by the QCU in 2005 showed that 51% of families were not aware that current unpaid parental leave entitlements were available to be shared between parents. Once becoming aware of the entitlement, 44% indicated that they would now consider it as an option.

To what extent do income considerations, as opposed to the right to return to the same employer, play a part in the parental leave decisions of Australian families?

The QCU contends that financial considerations are the most significant factor influencing the parental leave decisions of families.

Many families rely on two wages to survive financially. ABS Data shows that 63% of families with dependents are two income earning households.

In couple families with dependents, women’s income contributes 30% of household incomes. In families without dependants this figure rises to nearly 40% these figures demonstrate that prior to having children both partners are contributing significantly to the family income. Families base their spending and borrowings on this level of income. For these families female/primary carer earnings are not discretionary.

These families have to make decisions based on the trade off of lost income and time off work to spend with their children.

Financial reliance on dual incomes contributes to a significant number of families with young infants making the decision for both parents to return to work. A survey of its members by the Finance Sector Union reported that nearly half of

the 182 respondents indicated that they might have to return to work earlier than they would like because of their financial situation.

To what extent will any new arrangements change the period of absence from work?

Paid Parental Leave will provide families with the ability to make the choices that are right for them. Families will be able to continue to receive dual incomes for at least the bare minimum of 14 weeks following the birth of a child.

The QCU also submits that in order to give families access to further time off, those that are in a position to do so, should also have the option to take their paid parental leave at half pay over double the period.

The ACTU have made significant submission regarding the remaining questions at point 4, *Labour Market and the Economy*, of their submission. The QCU supports and adopts those submissions and as such will not be providing separate or specific response.

Conclusion

The international standard has been set and it is now time for Australia to meet its obligation to working families.

The QCU urges the Productivity Commission to recommend the immediate implementation of a system of paid maternity leave that is funded by both the government and employers. We call on the commission to recommend that the government pay women/primary carers to the level of the federal minimum wage and that employers are responsible to pay a “top-up” to the level of the workers ordinary time earning.

We urge the Commission to recommend the maximum amount of leave possible. If the Commission is only inclined to recommend a safety net of 14 weeks paid parental leave, we seek that this be seen as a first step towards a longer term goal of securing 6 months fully funded leave.

Such a system, if introduced in conjunction with the right to request up to 8 weeks concurrent unpaid parental leave, improved entitlements dealing with returning to work from parental leave, breastfeeding breaks and time off to attend ante natal appointments, will have a significant impact on the lives of thousands of Australian families.

The public debate that has been generated by the issues paper has, in our view, cemented the support of the community, employees and in many cases employers for the provision of a fully funded paid parental leave scheme.

We believe that the model we have proposed is fair, as it shares the responsibility between the government and employers, is simple to administer and ensures that Australia can meet its international obligations as set by ILO C183.

We wish to thank the Commission for the opportunity to make submissions prior to the development of the Draft Report and look forward to working with other stakeholders to ensure that whatever scheme is recommended is implemented in the best possible way.