

Paid Maternity Leave

Submission by the National Pay Equity Coalition (NPEC)
in response to *Valuing Parenthood Options for Paid
Maternity Leave: Interim Paper 2002*

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The NPEC Proposal

14 weeks paid maternity leave (PML) at replacement income up to average weekly earnings with provision for the mother to transfer the leave to her partner.

2 weeks paid parental leave at replacement income up to average weekly earnings.

Continuing entitlement to the balance of 52 weeks unpaid parental leave to employees (public and private sector) with 12 month continuous service. Employees to continue to have the right to return to the position they held prior to taking leave.

Paid to employees with 12 months continuous service and self-employed in business for 52 of the last 104 weeks and employees in employment in 52 of the last 104 weeks.

Entitlement for employees to be administered through the employer in the same way as regular wage or salary payments, for the duration of the leave.

Entitlement for self employed and those women in employment in 52 of the last 104 weeks to be paid through a central government agency in a lump sum in advance.

Existing entitlements continue to women not in the paid workforce.

Paid maternity leave to be funded by federal government with employers to claim payment from federal government.

Public sector employer contributions to be held constant at least at existing levels.

Existing legal requirements to pay maternity and paternity leave to continue to be met.

Funding offset by:

- abolition of Baby Bonus (\$510m)
- provision that Maternity Allowance and Maternity Immunisation Allowance (\$1007 per head) would not be payable to those who claim PML
- proportion of PML to be partitioned and payment contingent on immunisation of the child
- tax revenue from PML with the scale of this revenue dependent on what other leave is taken, the timing of leave and family financial circumstances

1. Changing Social Relations

The absence of paid maternity leave in Australia – a country that has been relatively progressive in providing benefits recognising workers' needs – is in some ways surprising. It is a relic of an outmoded set of social arrangements, for which the underpinning conditions have long disappeared. Australia's social supporting arrangements around maternity are now unworkable, irrational and unfair.

Australia's historic accommodation has been that industry and agriculture would be protected, immigration would be limited and breadwinner wage earnings would be set at a sufficient level to support a family (in the Harvester decision, a wife and three children in frugal comfort). Men were expected to support the family. Separate arrangements to ensure that the woman could and might have to maintain her income from her paid work were not contemplated. Of course many men did not have a family to support. Nor did they support the one they had. Many women supported a family without receiving a family wage to do so.

The social security system developed as a tax-funded residual one. Benefits were paid at a low level and on a non-contributory basis, rather than in the social insurance model more characteristic of European countries. Social security was for those who could not support themselves through their participation in paid work, commencing, in the 1900s, with the introduction of old age pensions. In 1925 the *Widows Pension Act (NSW)* was introduced followed in 1927 by the *Family Endowment Act* (following the Industrial Commission of NSW's recommendation regarding providing a living wage). In 1947 the Commonwealth introduced widows pensions including covering de factos.

More broadly the social relations and institutional measures in place at the time of Federation have altered. Family structures have changed. The rate of divorce has increased and the fertility rate has declined. Women's participation in paid work has increased as has their entry to higher education. Attitudes to women securing their economic independence have progressed although women remain disproportionately represented in precarious employment. More recently the provision of retirement income has come under scrutiny and there is increasing pressure on workers to contribute to their own retirement incomes aided by legislative measures to channel current earnings to superannuation.

There has been a long period of recognition that some women required state support at and after they had their children. However, that support was provided for women not in the workforce rather than as a support for continuing workforce participation. In 1912 as part of the concern about population levels, a nearly universal maternity allowance was introduced (5 weeks wages for a working woman ("Asiatics" and Aborigines were excluded). The value of this allowance fell over time and it was abolished in the early 1970s following the introduction of the supporting mothers' benefit.

Maternity leave (paid) was awarded to the Commonwealth public service in 1973. In 1975 Australia ratified the International Covenant on Economic, Social and Cultural Rights which includes a provision requiring paid leave and special protection for mothers. In 1979, unpaid maternity leave was won through an ACTU Test Case, followed a decade later by the Parental Leave Test Case, and last year by extension of leave entitlements to casuals. The Maternity Allowance¹ is now less than six weeks of single rate unemployment benefit and is paid to all mothers. The allowance was partitioned and part of it made contingent on having the baby immunised².

Current federal social security payments – the parenting payment and baby bonus – continue this pattern of providing financial support for newborn children and their mothers in ways that do not support and maintain women's choices for continuing workforce participation.

1.1 Family Structure and Population Trends

ABS estimates 24% of Australian women now in their childbearing years will not have a baby (22% in the US, 20% in the UK). Couples without children will outnumber couples with children by 2016 (ABS, Cat. no. 4102.0, 2002). The marriage rate has fallen and the proportion of marriages likely to end in divorce has risen. Young adults live at home longer and study for longer, and marry later (26 for women, 28 for men). De facto rates have risen, and de facto couples are less likely to have children. Sydney has the lowest fertility rate in Australia, reflecting the high cost of living and cost of having a family. The ACT has a high birth rate, apparently reflecting the availability of services including childcare and the high prevalence of paid maternity leave and flexible working arrangements because of the higher proportion of public sector employees in its population.

Research repeatedly shows that while around 5% of Australian young women do not want to have children, a much higher proportion than that – variously estimated at 20-25% are actually unlikely to have children. Many more women now wait until their careers are established before having children and it may be that doing that reduces the prospects of fertility. The average age of new mothers will be 31.2 by 2008 (it is already 29.8 in NSW). Already, a quarter of first time mothers are 35 or more (an increase from one in eight in 1991) (ABS, Cat. no. 4102.0, 2002).

There is an increasing proportion of men who are unable to find either a job or a partner (Gregory, 2002: 18). Young people find it increasingly difficult to buy houses as the incidence of insecure employment rises. Gregory's work shows that women find it very difficult to leave income support and re-enter the workforce and be able to rely on employment as their main income source. A recent NSW ABS survey examining caring responsibilities and paid employment (ABS, Cat. no. 4903.1, October 2000) shows that an estimated

¹ Announced in the early 1990s but payment did not commence until 1997.

² Thus not all recipients receive the full \$1007.

5% of women 18-59 with children under 15 resigned from a job in the last five years because sufficient maternity leave was not available.

1.2 Current Funding Arrangements

Current arrangements could be seen as providing a possibly unintended incentive for women to leave the workforce when they have a baby. A woman without paid maternity leave may need to move onto the parenting payment to provide an income and is likely to have to leave her job (earnings limits for eligibility are \$31pw for full rate and the benefit cuts out completely at \$295 earnings a week for the eligible parent). The current Baby Bonus scheme also provides an incentive for leaving the workforce in order to maximise the tax-related benefits from the scheme. Most new families will get only \$500 while high income mothers who stay at home for five years will be eligible for up to \$12 500. Based on the previous year's tax return the bonus will pay a maximum of \$2 500 a year to women earning up to \$52 000 a year. A mother earning \$30 000 a year (average weekly earnings amount to around \$35 000 a year) will get \$1000 from the baby bonus. The scheme delivers most benefit to those who are better off and most likely already to have an entitlement to paid maternity leave.

Leaving the workforce has longterm negative effects on lifelong earnings, progression in employment and retirement income. The opportunity costs of leaving the workforce are very high for women. The economy is also negatively affected by women withdrawing from the workforce.

The Treasurer's recently published *Intergenerational Report* shows projections that fertility will decline from current level of 1.75 children per woman (already less than replacement) to 1.6 by 2005 then remain stable (Commonwealth of Australia, 2002). It could also fall further as it has in France where the rate is 1.3. The eminent demographer Peter McDonald observes that the birthrate is significantly higher in countries that provide social support for parenthood (McDonald, 1997).

1.3 Support for Paid Maternity Leave

Most people (80%) think it is becoming more difficult to balance work and family, especially men 40-59 and women 30-39. Ninety one per cent of mothers with children at home considered that it is becoming more difficult. 72% said that it is becoming more difficult to make the decision to start a family as did 79% of young people (18-29) (Relationships Australia, 2001)

The Newspoll in September 2001 showed 76% supported paid maternity leave, 55% strongly supported it and 21% were partly in favour. Support was slightly stronger among women and substantially higher among younger people. Support was 69% among Coalition voters and 81% among ALP voters. Support for paid paternity leave was 59%.

The motherInc poll showed 77% of respondents believed that paid maternity

leave was essential; 84% believed fathers should have the option of taking paternity leave; 52% believed the government should pay; 75% of the rest though the government and employers should each pay half the cost (www.motherInc.com.au 8 July 2002).

The recently published survey *Women in the Professions* (Association of Professional Engineers, Scientists and Managers, 2002) showed that only half the professional women in the survey reported that they had parental leave. While most employees do in fact have entitlements to unpaid leave, this result shows that many professional women do not regard the entitlement they have as amounting to parental leave. The survey showed that women working in professions with more flexible conditions (for example, pharmacy) were more likely to have children (65% of them did) than their same-age counterparts in computing (where only 16% had children). The absence of conditions recognising women's needs around maternity and childcare (including maternity leave) in male dominated areas apparently contributes to the lower fertility levels.

2. Benefits of Paid Maternity Leave: What will PML do that other measures currently available do not do?

Paid maternity leave will ease some of the stress (time and money) many women and families experience around the birth of their babies. It will support improvements to the proportion of women breastfeeding their babies and the duration of breastfeeding. It will contribute to better maternal and child health and to reduced health care costs.

Paid maternity leave is likely to improve the prospects of some women and families being able to have a second child. It will improve family economic and social well-being, including reducing the likelihood of going into debt, falling behind on the mortgage etc.

The provision of PML will provide a stronger legitimization of women's continued participation in paid work after childbirth. This support will contribute to reduced pregnancy and maternity discrimination (as will increased rates of return of women to their jobs). It will improve the chances of women maintaining their workforce participation, with the associated benefits of improved lifetime earnings, education, experience and training, higher job levels, and retirement incomes. Improved capacity to source income from employment will contribute to reducing the need to rely on income support. Even a 10% increase in the rate of return to work of women after they have their babies would produce significant benefits for women, employers and the economy.

It will provide benefits to employers by reducing costs of turnover, recruitment and training. It will contribute to the productivity of enterprises through maintaining a higher quality labour force. It will reduce the opportunity cost of lost productivity because suitable quality labour is not available. Support through PML for selfemployed women will contribute to the viability of their businesses and contribute in the longer term to opportunities to build the business and provide employment opportunities.

It will yield benefits to the overall economy. The overall greater use of the economic resources of the country – including women's labour – will produce greater economic activity relative to social and economic infrastructure. Households with two incomes produce more for the same investment in transport, housing, services etc. Higher household incomes drive increased consumption providing markets for more household and other services, including childcare. Higher household incomes produce increased capacity to pay tax. Increased duration of workforce participation of women improves the returns from women's and social investment in women's increasing levels of education. The current incentive structure is far from optimal in this regard.

We agree with the Prime Minister, The Australian columnist Angela Shanahan and many others who have pointed out that PML alone will not turn around the fall in fertility in Australia. PML won't result in all women returning to full time work or returning at all.

We agree that many other things are required to provide adequate support for women and families including accessible affordable childcare, flexible working arrangements and facilities (including access to phones and facilities to breastfeed at work), appropriate carer's leave and well-resourced community services. It may well be that having children has become less appealing to some women as their other life choices have opened up – especially in view of the substantial disadvantages, burdens, demands and costs associated with having children.

What is important about the provision of PML is that it supports greater choice and more effective capacity to exercise it for women who do choose to have children. It would be an important achievement if it arrested the rate of decline. It would be an achievement if even a tenth of women who do not now return to work did so.

We strongly support a wide-ranging investigation of Australia's work and family arrangements. We consider that approaches to this so far have generally not risen above slogans, brochures and empty rhetoric. As we have pointed out in the introduction to this submission, Australia's arrangements in relation to maternity are underpinned by assumptions that no longer apply.

We call on the federal government to initiate a national inquiry into current and future arrangements, addressing the interrelationships of tax, social security, employment conditions, superannuation, childcare and health care funding throughout the life-cycle, especially as these intersections are experienced by the worst-off women. A useful model is the Green Paper process recently completed by the UK Government, although the Australian inquiry needs to be even broader in view of the ad hoc and piecemeal nature of existing provisions and their manifest inadequacy for the needs of women and families in Australia today and in the future.

2.1 Breastfeeding and Maternal and Child Health

The World Health Organisation recommends that babies be exclusively breastfed from birth to 4-6 months (WHO, 1990). While around 80% of babies in Australia are breastfed at birth, only 40% of babies are still breastfed at 6 months (ABS, Cat. no. 4102.0, 1997). Returning to work is a major reason for early weaning, according to many studies including the AIFS study. Breastfeeding significantly improves the health of mothers and babies and provides savings on the costs of formula that would otherwise be required. The health care costs of a formula-fed baby are approximately twice the cost of formula for that period and the health care costs of a breastfed baby are much less (Commonwealth of Australia, 2000).

2.2 Household Welfare and Women's Earnings

Households are increasingly dependent on women's earnings. The median mortgage in Sydney is now \$1265 a month, a 25% increase from 5 years ago according to the 2001 census. The average house price is around \$400 000.

For Australia, of the occupied private dwellings being purchased (1,872,132 dwellings), the median monthly housing loan repayment was \$870. The median weekly rent for the 26.3% of occupied private dwellings being rented (1,858,324 dwellings) was \$154.

Most families have very limited capacity to meet the additional costs of having children through savings – especially for second and other children. In trend current price terms, the proportion of household disposable income devoted to consumption in the quarter was 97.1%. The balance, household saving, was 2.9% (ABS, Cat. no. 5206.0, March qtr 2002). While some families do manage to save a year's mortgage to cover foregone income while the mother is on unpaid leave, many cannot. Families have to reduce expenditure (at a time when there are extra unavoidable costs) and many go into debt, falling behind on mortgages, using credit card debt, loans from family members, consuming savings etc. Some survive using a variety of social security payments including the parenting payment. Evidence in the long-running discrimination case involving the Commonwealth Bank (*Finance Sector Union v Commonwealth Bank of Australia (1997) EOC 92-889*) indicated that women saved up their leave (annual, sick and long service leave) so they could have an extended period of paid leave (including PML). Saving up leave entitlements and waiting until long service leave has accrued also contributes to mothers being older by the time they have their babies. That has an effect on fertility prospects and particularly affects the likelihood of being able to have a second child.

Currently almost all the cost of having a baby is borne by the mother and the family especially the mother. The costs are both direct costs and foregone short and long term earnings. The costs of raising a child have been variously estimated – an example is an estimate of \$200 000 clothes, food and education (excluding private school or university fees) to age 18; \$210 a week for a baby to age one (James, 2000).

There are large decreases in women's earnings associated with having a child. A 1999 ANU study estimates that the scale of foregone earnings at \$239 000 for women with 12 years education, \$201 000 for a woman with 10 years; and \$157 000³ for a woman with less than that (Chapman, Dunlop, Gray, Liu and Mitchell, 1999). The 1999 study included a comparison with the earlier study in 1988 (Chapman and Beggs, 1988). The extent of earnings decreases associated with having a first child, as measured by the two studies, fell by as much as a half over the last decade. However, the relative earnings decreases associated with having second and third child have not changed. One rationale for the decline in foregone earnings associated with having a single child was the relative infancy of unpaid maternity leave entitlements at the time of the 1988 study. At that time many workplaces had not experienced employees accessing the entitlement (Australian Institute of Family Studies, 1988).

³ Decreases in earnings associated with having a single child.

2.3 Labour Force Participation

Unpaid maternity leave probably has contributed to the ability of some women to maintain workforce attachment with the associated benefits of increased earnings over working life, better job opportunities associated with increased experience and better retirement income.

While participation rates for full time work have remained virtually the same (at an employment to population ratio of around 35%) over the last 35 years there has been a significant increase in the proportion of women working part time (Gregory, 2002: 6). Part time work has become increasingly available as an employment arrangement and one that is relied on by many women to be able to combine work and their family responsibilities. While participation of married women in full time work increased significantly, participation of single women fell (Gregory, 2002: 9)

Increases in the labour force participation rate for younger women (under 25) have been outstripped by those evident for older women (Table 1). The rapid increase in workforce participation of women 60+ is driven by increasing the age at which pension is paid to women and by the difficulties women face in accumulating enough money to live on in retirement, so they have to keep working.

Table 1: Women's labour force participation rates, Australia, 1976 - 2002

Year	15-19	20-24	25-34	35-44	45-54	55-59	60+	Total
1976	54.7	66.4	48.2	54.7	48.8	31.5	7	43
1986	56.6	74.6	60.1	64.7	54.4	28.7	4.9	47.6
2002	58.7	76.3	69.9	70.8	71.5	51.6	26.1	54.9

Source: ABS, Cat. no. 4113.0; ABS, Cat. no. 6203.0

The participation rate for women is being suppressed and lifetime workforce duration is being curtailed by the absence of the paid maternity leave that allows necessary time off for women when they have babies and provides financial support for that period while allowing women to maintain continuity of employment.

Now one woman in five is receiving full time income support from government mainly parenting payments in the childbearing years. Women are likely to have several episodes of leaving and returning to income support and find it difficult to find ongoing employment (Gregory, 2002: 11).

Longer duration of employment is associated with better pay, higher level jobs and greater retirement income. Men's retirement incomes are 50% higher than women on the same income because of women's time out of paid work. A woman on the median income for women who works from the age of twenty to the age of sixty with a five year break in her late twenties would retire on 1.5 times the age pension, while a man working from twenty to sixty would retire on three times the age pension (Donath, 1997).

The plateau in employment to population ratios for full-time work invites an

analysis of the labour force profile of women following the birth of a child.

2.3.1 Returning to work after the birth of a child - Australian evidence

The Australian Institute of Family Studies (AIFS) study found 25% of women don't go back to work after a baby, 65% of those employed during pregnancy are back at work in 18 months, and 73% of those who took maternity leave return within 18 months (1988: xii). The majority said they went back for financial reasons; three-quarters wanted to go back part time and most of them were actually working part time.

70% of those who did not return had never intended to work while they had young children. 50% said breastfeeding was a reason for not returning, one-third said their partner preferred they did not go back, 25% said they had no economic need to work at that time. 20% were concerned about the cost and availability of suitable childcare (on average, childcare cost was reported as 25% of earnings) (p.6). Of the non-returners, 13% never meant to come back, 27% decided after the birth and 37% decided when the leave was about to end (Australian Institute of Family Studies, 1988: 52)

Women giving birth in the private sector had on average 5 years service; those in the public sector had average 7 (Australian Institute of Family Studies, 1988: xiii). The longer the time in the workforce, the higher the likelihood of return (1988: 75). The rate of return was higher for women with higher earnings and higher status jobs (1988: 6) While 28.5% of women took maternity leave at least once, 23% took it once, 5% twice and 1% three or more times. Of women who worked for their whole pregnancy, 37% were taking their first maternity leave, 10% their second and 1% their third (p.23). Women were more likely to be in the workforce at their first than their later pregnancies – 73% of those having the first child were in the workforce, 38% of those having their second and 21% of those having their third (1988: 69).

32% of women were eligible and did not take maternity leave – 57% of them had no information about maternity leave. 72% of those qualified for maternity leave and who did not take it resigned from their jobs (Australian Institute of Family Studies, 1988: 25). Thirty two per cent took additional leave – 17% took sick leave, 94% rec leave, and 8% long service leave (1988: 51)

2.3.2 Returning to work after the birth of a child - USA evidence

The US is the only other OECD country apart from Australia that does not provide paid maternity leave.

US data shows that fertility rates in the US rose with the increasing popularity of flexible work schedules, employment based childcare in the 1980s (United States Department of Labor, 2001: 3). Households have become increasingly dependent on women's wages as men's wages fell, housing costs rose and other expenses increased

Most women who worked during pregnancy (67% of women) worked full time.

The proportion working was much lower for women under 20 than those 25-30 and much higher for more educated women. Under the *Family and Medical Leave Act (US) 1993* eligible employees with a year's service in workplaces over 50 get a year unpaid leave. That means around 50% of employees are covered by the Act. Pregnant women sometimes took several types of leave to cover maternity absences (11% used combined arrangements after the birth and 6% did so before the birth). Forty-three per cent of pregnant working women took paid maternity leave in 1991-95, reflecting increasing availability of the provisions. 27% resigned their jobs, 40% took unpaid leave, 11% disability leave and 14% took a combination of paid and unpaid leave. It is apparent that many women's maternity entitlements exist through workplace policies and practices rather than being securely based in legislation, as is also the case in Australia.

Younger women were more likely to resign than older women – 44% of women who had their baby before the age of 22 resigned, compared with 19% of those who had their baby after 25. Part timers were more likely to resign (53%) than full-timers (21%). Higher educated women were more likely to use paid leave (63%) than women with less than completed high school education (18%), probably reflecting job level and type associated with prevalence of paid maternity leave. In the early 1960s few women worked within a year of the birth – 14% returned to work within 6 months, 17% within a year. By 1991-94 52% returned by the 6th month and 60% by the 12th. Only 3% returned in less than a month, 13% in a month, and 30% in two months.

Women who had not worked during pregnancy (about a third of mothers) and returned to work after the birth returned at a much lower rate with only 25% being back at work by 12 months, 17% by 6 months and 9% by 3 months. Women who were older were likelier to return earlier, as were women who use maternity leave – they were around twice as likely to return to work within three months compared with women who left their jobs.

Since the early 1980s around 75% of women who worked during pregnancy returned to work within a year of the birth; and around 76% of them went back to the same employer. The proportion that worked fewer hours on their return increased from 14% in 1981-85 to 20% in 1991-94. 95% of women returning to the same employer earned the same or higher pay and 97% returned to jobs at the same or greater skill level. Women who went back to work with a different employer had much greater variability in their hours, pay and skill level of their jobs.

Of the women who returned to work within 12 months, those who went back to the same employer most frequently (61%) used paid leave; and unpaid leave (48%). Of those who went back to a different employer, 29% used unpaid leave. There was a much stronger relationship between using paid leave and going back to the same employer than using unpaid leave and going back to the same employer.

This data suggests some interesting comparisons with the Australian situation. The level of paid maternity leave taken by pregnant working women

has increased substantially in the US and now is quite similar to the level currently available in Australia. The proportion that resign their jobs is roughly similar to the current level of non-returners in the UK and in Australia. The women who left paid work in the US were those least likely to have paid maternity leave entitlements through insurance or other arrangements or provisions; those for whom the economic incentives for remaining in paid work were lowest; and those most likely to experience long term disadvantage by absence from paid work. The availability of paid leave was strongly related to the rate of returning to work.

2.4 Benefits to Employers

According to research by the Equal Opportunity in the Workplace Agency (EOWA), one-quarter of reporting organisations with over 100 employees offers paid maternity leave, with larger employers more likely to provide it than smaller ones. The cost of losing an employee can be around a year's salary while paid maternity leave of 14 weeks costs just over a quarter of a year's pay (26.9%).

The UK Government's consideration of extending paid maternity leave to 26 weeks included the assessment that if 10% of the one third of women (3.3%) who do not return to work after they have their baby returned as a result of increasing the period of paid leave, there would be substantial savings to employers through retention of valuable employees. The assessment included the assumption that 95% of larger businesses manage maternity absences through a temporary replacement and 60% of smaller businesses do.

The UK Government assessed that recruitment and training savings to employers from more mothers remaining in employment would amount to 39 million pounds (calculated at average recruitment and training cost per employee of 3500 pounds). The costs of extra Statutory Maternity Pay (SMP) and Maternity Allowance (MA) payments would largely be borne by government.

The economic benefits of increased workforce participation of women are diffused broadly in the economy and in households as well as benefiting particular employers. The amount saved in recruitment and training costs per employee is estimated at 103.6% of the projected full cost of the new SMP, without taking account of the broader economic benefits of increased workforce participation of women.

Material, provided to the EOWA from employers, on the benefits of providing paid maternity leave from the EOWA website is located at Appendix One.

3.0 Eligibility for Paid Maternity Leave: Who should be

eligible?

Maternity leave according to the ILO is to protect the workforce position of women and the health of mothers and new babies. Its logic is to apply to women who leave the workforce to have a baby and that is how paid maternity leave schemes around the world operate. An eligibility period for paid leave is common as an indicator of substantial workforce attachment.

Other social security payments are appropriate and are paid for compensating families for additional costs associated with having children. Parenting payments are paid to low income earners who are taking care of children, whether they are partnered or not and there are also family tax benefits to assist with the costs of raising children. These substantial provisions are outlined in the HREOC issues paper (HREOC, 2002). Some calculations of entitlements for mothers in various situations are provided at Appendix Two.

We point out that extending PML to all births would double the number of eligible births and significantly increase the costs of a PML scheme, as well as being inconsistent with the rationale for PML as a benefit relating to supporting workforce participation and addressing short and long term foregone earnings.

3.1 Employees

In general we propose that eligibility for paid maternity leave mirror eligibility for unpaid leave, except that we propose extending entitlements to self-employed women and to workers with strong workforce attachment but without continuous employment with a single employer.

The paid maternity leave is to secure a period out of the workforce for the mother to recover from the birth and to establish breastfeeding and for the household to make accommodations and arrangements for the new baby. The benefit is specifically to make it possible for women who want or need to return to work to take that time without prejudice to their employment and to help to cover their living costs for that period. PML would address, in part, the loss of earnings in this period. Without the benefit many would have to return sooner to the detriment of their and their baby's health. The withdrawal of the mother from paid work leaves some women and their families in real poverty. For these reasons we do not identify PML as a benefit available to all women nor the mechanism to address the issue of the unpaid labour undertaken by women in household production.

In Australia, the eligibility requirement for maternity leave has been one year, as for other industrial conditions including annual leave and sick leave. In the NSW public sector, the qualifying period is 40 weeks.

3.2 Self-Employed

Currently there is no entitlement to maternity leave for self-employed women. An entitlement to return to the same job would of course mean nothing to self-employed women. Businesses that employ none but their owner make up about half of all small businesses. The ABS survey examining the relationship between caring responsibilities and work (ABS, Cat. no. 4903.1, October 2000) showed that around 28.6% of the women who had gone into self-employment had done so because of their caring responsibilities compared with 9.4% of men. Overall, 22.9% of men who provided care for others were selfemployed, compared with 9.5% of women.

Businesses carried out by self-employed people are almost by definition small and generate low incomes. The people who run them have limited capacity to save for the costs and foregone income of maternity. It may be that for some businesses the need to take time off without income and without a capacity to engage someone else to replace the work of the self-employed person would cause the demise of the business and so deprive the self-employed person of the opportunity to generate an income for a period of time after taking time off. At the same time, self-employed women may have strong labour force attachment and have been in their businesses for a considerable time. A higher proportion of women small business operators (82%) have been working in their businesses for 12 months than have been working in the same job for a year (75%) (ABS, Cat. no. 8127, 2001).

3.3 Workers with Strong Workforce Attachment and Without Continuity of Employment with a Single Employer

An increasing proportion of the workforce is employed on a succession of contracts. Currently they do not meet eligibility criteria for unpaid maternity leave. While casuals do have entitlements that is only if they are employed on a continuous basis by a single employer. Workers who may have been employed for many years can miss out where they are seasonal workers – working non-continuous periods but with the same employer – or where they are contract workers. These workers are contributing to the national economy through their labour productivity and through their tax payments and consumption. Their capacity to continue in paid work clearly affects their lifetime earnings, economic opportunities, their families' economic wellbeing, their retirement incomes and the national economy, in various ways. Strong workforce attachment together with frequent change of employer, because of the nature of work in the industry, has already been recognised for industrial purposes in, for example, the Building and Construction Industry Long Service Payments Scheme where periods of employment with various employers count towards legibility for an employment benefit.

One area where women frequently and repeatedly are employed on successive contracts and/or by various employers is community services. Government funding is often short term and project based. Repeated re-employment of the same people – indeed, requirements for the experience

they gain through that employment – shows that the work is ongoing.

The scheme we propose would provide these workers with a period of paid leave without providing a right to return to the same job. The position the woman currently is employed in may well be a short term one. It could be seen as an excessive burden for the particular employer she is working for when she takes her maternity leave to manage her maternity leave payments and to provide a job for her to return to. This would have the effect that some workers would be eligible for paid maternity leave and not for unpaid leave with a right to return to the same job.

We propose that these workers be paid their maternity pay through a Commonwealth Government agency, such as Medicare or Centrelink. The most efficient and beneficial approach probably would be to pay the whole entitlement in a lump sum at the commencement of the leave.

3.4 The Public Sector

The 1995 Australian Workplace Industrial Relations Survey (Morehead, 1997) showed that 59% of public sector workers and 23% of private sector workplaces had paid maternity leave in 1995. While most public servants have some paid maternity leave, many employees in the broader public sector do not.

Across federal and state and territory public services, entitlements to paid maternity leave vary significantly. While public servants in Victoria, the Commonwealth, the Northern Territory, and the Australian Capital Territory have 12 weeks paid leave at income replacement level, public servants in South Australia have only 2 weeks paid leave, Queensland 6 weeks, only half the Western Australian public servants even have 6 weeks and the NSW public servants have 9 weeks income replacement paid maternity leave.

While NSW public servants entitlements would exceed those provided by the scheme we propose, public servants in Western Australia, Queensland and South Australia would have some level of entitlement. While on one view it is the responsibility of governments to provide adequate levels of paid maternity leave for their own employees, it is clear that does not happen now. Where existing entitlements are very low – notably in South Australia – there would be some substantial budget impact in making good the deficiency in a single budget. It would be most unfair to penalise the public sector workers by excluding them categorically from any scheme to be introduced. While it would be desirable for levels of paid maternity leave provision to be increased automatic exclusion would simply penalise those women workers employed by public sector employees currently providing low entitlements.

It should be noted that the incidence of maternity is so low that the costs are not enormous although they are certainly significant. For example, in South Australia, there are 88 300 state public sector employees, (ABS, Cat. no. 6248.0, December 2001). It could be expected that 55% of them are women – 48 565. Of these women, 65% would be in the 15-44 age group (applying

data from ABS, Cat. no. 6203.0, April 2002) – 31 567 women. NSW public sector data shows that 4.7% of women employees took maternity leave in 2001. If the same proportion took maternity leave in South Australia, that would mean 1483 women would take maternity leave. However, 29% of those women who took maternity leave took only unpaid leave. So it could be expected that 1052 women would take paid leave. The existing entitlement is for two weeks income replacement. At average public sector earnings for South Australia that would provide \$1722. The shortfall would then be the difference between the cost of providing the 16 weeks paid leave we propose (at up to average weekly earnings) and existing entitlements. The gap is unlikely to be more than \$5000 per person – a total of \$5.26m.

A fairer approach would be to introduce a new scheme providing for all women to be paid their entitlements under the scheme and for employers to claim that cost back from federal government funding. In the case of public sector employers, the reimbursement should be offset by the existing expenditure on paid maternity leave in that jurisdiction, so the introduction of the scheme would be cost and revenue neutral. The existing expenditure would be held constant. It may be that the direction of further improvement would be to provide for top-up provisions to income replacement levels for women whose earnings exceed the capped maximum level proposed in our model. It may be desirable for jurisdictions providing lower entitlements to be required to increase entitlements progressively to a point where public sector maternity costs are met by each jurisdiction.

3.5 Parental Leave for the Mother's Partner

There are two important issues to consider: transferability of the mother's paid maternity leave entitlements to her partner; and a period of paid parental leave so the family can be together in the period immediately after the baby's birth.

3.5.1 Transferability

While a key rationale for paid maternity leave is to provide a period of leave for maternal and child health while maintaining the mother's workforce attachment, there may be circumstances where the overall welfare of the household is best secured by transfer of the leave to the partner. That decision is one for the mother. It is cost neutral whether the leave is taken by the mother or her partner, provided the paid maternity leave entitlement is based on her earnings and transferred at that rate.

There has already been strong interest in providing an entitlement of fathers to take the paid leave including from the Transport Workers Union. This is consistent with international trends to facilitating closer engagement of fathers in families and of providing gender equitable entitlements to parents in providing care for families.

It is not difficult to identify circumstances in which it may best suit families for the partner to take paid leave to provide care for the baby and the mother to

return to paid work. For some mothers breastfeeding is not possible. In some families the mother may earn more than the other parent and therefore household welfare is maximised by her return to work.

The existing legislated parental leave provisions do in effect generally provide for transferability of leave by allowing either parent (who is the primary care-giver) to take the leave and not allowing both to take leave at the same time. In the public sector in some jurisdictions, and in some private sector agreements both partners can take leave at the same time.

3.5.2 Paid Parental Leave

There are strong arguments in favour of providing a period of paid parental leave for partners of women giving birth. Women now stay in hospital for quite brief periods after birth and do require care in the immediate post-birth period. There are many household accommodations to be made particularly in relation to establishing breastfeeding, sleeping, baby-care and looking after other family members.

The AIFS study (1988: 39) found that partners of 59% of the partnered women in the sample (95% of the sample) took time off at the birth, 35% took no time off and 7% were unemployed. Thus 66% of partners of partnered women were not working around the time of the birth. On average, the partners took 9.7 days leave, 40% of them as recreation leave, 16% as paternity/parental leave, 10% as special paid leave, 12% as unpaid leave, 5% as sick leave and 8% as other leave. 45% took 5 or fewer days and the most common period was 6-10 days (taken by 33%), followed by 11-15 days, taken by 11%.

Men's earnings are higher than women's and so the cost of the two week paid parental leave would be higher than two weeks paid leave for the mother. However the take-up rate for the two-week period of leave for the mother's partner could be expected to be high but less than 100%. The UK government estimate of takeup rate for paid paternity leave was 70% (based on assumptions that 20% would take one week and 60% two weeks) (UK Department of Trade and Industry, 2001: 41).

4.0 Rate of Entitlement: What rate should be paid?

Some public commentators have expressed concern that a government funded scheme should not 'end up being a payment to people who are extremely well off' (Senator Vanstone, Adelaide Advertiser, July 1 2002). Senator Minchin has expressed concern that a paid maternity leave scheme 'reeks of middle class welfare' (Herald Sun Melbourne July 1 2002).

However, the current system of paid maternity leave in Australia already favours higher-paid workers – including senior executives, journalists, and Members of Parliament. It is unsurprising that maternity leave has been won more quickly by women in occupations with greater human capital (levels of education and experience) and greater bargaining power. It is also evident that women in the lower earning positions have had little success in achieving paid maternity leave through industrial bargaining – indeed women continue to have less success in bargaining altogether. The recently introduced Baby Bonus specifically delivers greatest benefit to highest earning women.

While 78% of managers and 60% of professional have paid maternity leave entitlements already, only 16% of elementary clerical sales and service workers and 31% of labourers and related workers have an entitlement (ABS, Cat. no. 6361.0, April to June 2000, unpublished data). Managers and professionals both earn (on average) in excess of average weekly earnings (as occupational groups) (ABS, Cat. no. 6306.0, May 2000), while elementary clerical, sales and service workers earn less than half average weekly earnings and labourers and related workers earn close to half average weekly earnings.

Of course, within these occupational groups there is a range of earnings – and over 10% of managers, around 40% of professionals, over half associate professionals, over 80% of trades and related workers, over 60% of advanced clerical and service workers, over 80% of intermediate clerical sales and service workers, and over 80% of intermediate production and transport workers earn under average weekly earnings (ABS, Cat. no. 6306.0, May 2000).

4.1 Costing Paid Maternity Leave: How much will it cost?

In calculating the costs of various PML schemes it must be remembered that many women earn below the minimum wage and below average weekly earnings. The following table shows the distribution of women's earnings for full-time and part-time employees (Table 2).

Table 2: Distribution of women's weekly total earnings, Australia, 2000

Deciles and quartiles	May 2000	Inc. 5.3% (to Feb 2002) ⁴
10%	120	126.36
20	232	244.30
25	280	294.84
30	329	346.44
40	421	443.31
Federal minimum wage \$431.40		
50	495	521.24
60	565	594.95
70	647	681.29
75	697	731.15
80	759	799.23
90	936	985.61
Average weekly earnings – women	521.60	549.24
Average weekly total earnings - persons	652.80	684.70

Source: Calculated from ABS, Cat. no. 6306.0 (Table 6)

It can be seen from this table that 40-50% of women earn less than the federal minimum wage and 70-75% of women earn less than average weekly earnings (persons).

It can be expected that the cost of PML based on income replacement up to the federal award minimum rate would be about 80% of the cost of a scheme covering up to average weekly earnings (persons). The overall cost is significantly reduced by absorption of the maternity allowance and by tax offsets where they occur. However, where women do take additional leave the PML may still leave them below the tax threshold. It is very difficult to estimate the effect on behaviour of access to PML but it can be expected that many women – like those in the AIFS study and in the NSW public sector – will take a combination of paid and unpaid leave.

A broad estimate of the cost of an average weekly earnings based scheme can be obtained from the following calculations, detailed more extensively in Table 3.

Around half of all births can be expected to be to women eligible for PML because 65% of women 15-44 are in the workforce and three-quarters of them have been with their employers more than a year. However, most public sector workers (20% of the workforce - who have been counted in the labour force data) will not be eligible, as their existing benefits are greater. On the other hand while some selfemployed women have already been counted in the labour force data, others have not and some who have been counted in

⁴ Increases to 2002 based on earnings increases recorded by average weekly earnings data (ABS, Cat. no. 6302.0, February 2002).

labour force data as employees actually are employers. In any case the proportion of selfemployed women is certainly small and unlikely to affect overall figures. Similarly a small addition to overall totals is the likely result of extending eligibility to strongly workforce-attached women whose one year of service was accumulated over the previous two years, not necessarily with one employer.

Table 3: Estimated number of eligible births

Births (2001)	245 759
Employed Women (April 2002) (54.9 % of all women aged >15)	4 269 872
Employed Women (15 – 44) (April 2002) (64.7% of women aged 15-44)	2 765 700
Employed Women in Jobs > 12months (November 1998) (75.2%)	2 079 806
Est. births to employed women 15-44 In workforce more than 12months (245 759 x .647 x .752)	119 573 ⁵
Number of eligible births likely to be balanced by: - The non-eligibility of a number of public sector employees; - The inclusion of self-employed women and strongly workforce attached women.	
Final estimate	125 000

Source: Calculated from ABS, Cat. no. 3101.0; ABS, Cat. no. 6203.0. ABS, Cat. no 6254.0

Working from these estimates there would be a total of around 125 000 births to eligible women, who would be paid at various levels. This estimate and the earnings distribution in table 2 provides the basis for an analysis of the cost of an entitlement that provides replacement income up to average weekly earnings.

- 25% of women earn under \$295 and account for 25% of births – so 31 250 births would be to women earning, say, \$147 (midpoint)
\$4 593 750
- the next 25% of women earn \$295-\$521 and account for 25% of births – so the next 31 250 would be to women earning, say, \$408 (midpoint)
\$12 750 000 (\$17 343 750)

⁵ 48.7% of all births, 2.9% of all employed women, 4.3% of employed women 15-44

- the next 20% of women earn \$521 - \$681 and account for 20% of births - so 25 000 births would be to women earning, say, \$601 (midpoint)
\$15 025 000 (\$32 368 750)
- the remaining women earn more than average weekly earnings so the remaining 37 500 births are costed at \$687 (average weekly earnings)
\$25 762 500 (\$58 131 250)

The total weekly cost of the scheme is therefore \$58 131 250 and the 14 week cost is around \$813 837 500 a per capita⁶ figure of \$6510, and the 16 week cost is \$930 000 000 (per capita \$7440).

If the existing maternity allowances are absorbed, the total cost is \$687 875 000 and the net figure is \$5503 per capita for the 14 week scheme. The total cost is \$804 125 000 and the per capita cost \$6433 for the 16 week scheme.

If the full amount is taxed at 30c in the dollar (the marginal rate for those on average weekly earnings) the total net cost is \$480 500 000 and the net per capita cost for the 14 week scheme would be \$3844. The total net cost for the 16 week scheme is \$562 875 000 and the net per capita cost is \$4503.

4.2 Means Testing

Existing means test levels for parenting payments are such that maximum rate for partnered parenting assistance (\$166 per week) is paid to those earning under \$31 pw and with household income of under \$311 per week, and part payment is provided up to earnings of \$295 per week and partner's earnings of \$518 per week (combined income under \$575 per week).

Average weekly earnings for a male and female couple each earning average weekly earnings is around \$1364 per week. Average earnings for the lowest earning 25% of men and 25% of women would amount to \$811 per week. Average earnings of the lowest paid 10% of men and women would amount to \$383 per week (calculated from ABS, Cat. no. 6306.0, May 2000).

It is evident that means testing in line with current social security based means tests would not provide any benefits at all to most women and most of those with any entitlement would receive only part payment.

If a means test were set at limiting entitlement to those who earn less than the federal minimum wage, with no payment for those who earn above \$431, around six in ten women would not receive PML. Similarly if a means test limited entitlement to those earning below average weekly earnings, more than 30% of women would not receive any payment.

4.3 Capping the Scheme

⁶ To those receiving paid maternity leave.

It may be considered undesirable for a full income replacement scheme to be funded through taxation. Internationally, full income replacement schemes are largely contribution-based.

A scheme with a cap at average weekly earnings so that income replacement is provided for women earning below average weekly earnings and those who earn more are paid at average weekly earnings would provide income replacement for around 75% of women and would provide some benefit to those earn more in recognition of the drop in their and their household earnings. A scheme capped at minimum wage would provide income replacement for a minority of women, an outcome that does not support recognition of maternity as a part of working life rather than as an alternative to it.

Another possible level for the entitlement to be capped would be the level of payment provided during the first 26 weeks of workers' compensation. Workers compensation payments in the first 26 weeks are paid in recognition that a worker is temporarily and briefly absent from the workplace because of illness or injury and are expected to return. The level of current maximum weekly payment is \$1197. 20. The level of payment falls to \$281.60 after the first 26 weeks in recognition that the absence has become longer term (WorkCover, 2002: 10). If the income replacement level were set at this level, in excess of 95% of women would receive full income replacement.

PML is far more analogous to workers compensation than to social security since it is a provision for a temporary absence required for the worker to be able to return to paid workforce participation and economic self-sufficiency. Some argue that low levels of social security payments and general availability without a specified duration while people meet eligibility requirements (including stringent means testing) mean that recipients must cut their expenses in line with their incomes. PML is an entirely different type of benefit. It provides a bridge to continuing participation in paid work and ongoing economic self-sufficiency rather than requiring an ongoing downgrading of standard of living and/or entering into income support arrangements.

A scheme capped at average weekly earnings would provide at least two thirds of previous income (in keeping with ILO 183 article 6) for around 95% of women and would provide income replacement for around 75%.

5.0 Funding the Entitlement: Who should pay?

The main approaches that have been proposed are:

- a government-funded entitlement
- an employer levy
- a combination of government funding and employer levy

There has also been limited discussion around a HECS style framework and a social insurance scheme.

5.1 Government Funded Entitlement

We strongly support the funding of PML by federal government from consolidated revenue. We see it as a very clear example of something that justifies a broadly based community contribution. It is a good example of an area of social policy where a small investment yields very high economic and social returns. PML is a highly leveraged strategy for supporting women's capacity to secure their own market-sourced incomes in the short and long term. PML is a strong incentive for "participation", a leading theme of the government's current social welfare strategies.

The most appropriate areas of expenditure and administration for government are those where the benefits and costs are intergenerational and spread broadly throughout the community and the economy rather than invested by and returned to each person proportional to their private outlay. That is the basis on which substantial investments are made in public health and public education.

Some have argued that paid maternity leave is analogous to other forms of paid leave for which employers are responsible – such as annual leave, long service leave and sick leave. To a degree we recognise paid maternity leave as an employment entitlement as it is paid to eligible women in the paid workforce (and self-employed women). We do not identify paid maternity leave as a social security benefit for which all women should be eligible.

Yet there are benefits that arise from the availability of paid maternity leave that require a different funding basis to other employment entitlements. Maternity leave has a significant broader and intergenerational benefit to the community generally and to the national economy. Undoubtedly there are employment benefits, in maintaining quality labour supply. There are also broader issues at stake including securing a better economic base for women during and after their working lives and making better use of women's educational investments. On the basis that the benefits of the paid maternity leave are more broadly applied and used, it is appropriate for the contribution base to be broader than employers alone. Other forms of employment related leave are largely related to ongoing maintenance of the labour force and their benefits largely utilised and consumed within the employment relationship.

5.1.1 Does the federal government have the power to legislate PML?

NPEC has concerns about the constitutional validity of the proposed Australian Democrat legislation seeking to amend the *Workplace Relations Act 1996 (Cwlth)*. The federal government does not have power to legislate employment conditions on a national basis under industrial relations powers. In some areas it has based its employment legislation on international conventions (for example, equal remuneration, anti-discrimination and termination provisions). However, Australia has not ratified ILO 183 and has a reservation to CEDAW in relation to maternity leave. We do not consider that Australia's current arrangements are sufficient to ratify ILO 183 or to justify removing the reservation to CEDAW.

The current *Workplace Relations Act* provisions relating to maternity leave relate only to the period after the birth and are founded on the family responsibilities convention, ILO 156. Many women choose or need to take leave before the birth. It may be that this has simply been permitted in practice at the workplace while the leave provision has been unpaid.

It is very likely that Australia could found legislation relating to PML on its ratification of the International Convention on Economic Social and Cultural Rights. On this bases paid maternity leave could be incorporated into the *Workplace Relations Act*. It is also clear that the federal government has constitutional power to legislate in relation to social security so there is no impediment to the introduction of PML under that head of power.

5.1.2 Administration costs – government funded scheme

There would be some administrative costs involved in implementing and overseeing a paid maternity leave scheme.

In the UK regulatory impact assessments, the administrative cost of implementing maternity pay was estimated on the basis that since the occasions of an employee in a small business taking the leave were infrequent, the employer (probably the owner) would probably check requirements on each occasion and that would take around an hour. The estimated time to check details and complete paperwork was about an hour, at a cost of 20 pounds for each occasion of maternity leave in the smaller businesses using manual methods. It was also estimated that 3% of employers are large employers using sophisticated software packages, 18% using off-the-shelf software packages and 79% making manual payments for maternity pay. For the larger businesses there would be system changeover costs (UK Department of Trade and Industry, 2000)

It has been estimated in the UK that around 5% of the 1.5 million employers pay SMP in a year. In the UK, 63% of women are employed in businesses with 25 or more employees and 37% in businesses with under 25 (UK Department of Trade and Industry, 2001: Annexure A).

In New Zealand, administrative costs of the scheme have been estimated at around 4.76% of the total cost of the fully government funded scheme.

The scale of administrative costs also needs to be set against the incidence of maternity leave. Small business does not often experience maternity leave. The UK Department of Trade and Industry Employers' survey on support for working parents found that on average employers with ten employees or less have a pregnant employee one year in every ten and employers with under 25, one year in five (UK Department of Trade and Industry, 2000).

The AIFS study showed that (1988: 8) 1.2% of the workforce took maternity leave; 1.8% of the female workforce. Due to the concentration of women in smaller organisations, the rate was higher in smaller businesses – 3.02% of the workforce and 5.8% of the workforce in workplaces with under 100 employees (AIFS, 1988: 110)

The following table from the AIFS study (1988: 102) shows the proportion of businesses of various sizes that had ever experienced maternity leave (Table 4). The private sector employer survey was carried out in 1986 and unpaid maternity leave was introduced in 1979 through a test case in the (now) Australian Industrial Relations Commission. The data therefore relate to experience of maternity leave over a five year period.

Table 4: Experience of maternity leave by business size

Business size	Experienced maternity leave %	No experience of maternity leave %
1-4	2	98
5-19	8	92
20-99	31	69
100-499	66	34
500+	93	7
All	36	64

Source: AIFS (1988: 102)

The total proportion of private sector businesses with under 20 employees that had experienced maternity leave at some time was 5.6% (an annual average of 1.12% taken over the five years from the introduction of maternity leave through the Test Case in 1979).

One mechanism to significantly reduce the administrative cost of PML to the employer would be for employers to claim the entitlement through the existing workers compensation system. The requisite claiming machinery is already in place. State jurisdictions could claim the costs back through the Commonwealth. All workers compensation jurisdictions define an employee as someone with a 'contract of service'. Self-employed women would, by definition, require a separate claiming mechanism. We propose that self-employed women, in addition to those employees in employment in 52 of the last 104 weeks be paid their maternity pay through a Commonwealth Government agency, such as Medicare or Centrelink.

5.2 A Levy on Employers

Based on ABS National Accounts data (ABS, Cat. no. 5206.0, March qtr 2002) the cost of paid maternity leave could be met by a levy of .1% of employee compensation for each \$322m of costs (so a levy of .2% would cover costs of \$644m, a levy of .3% would cover costs of \$966m and so on).

Some calculations of levies for organisations of various sizes are at Appendix Three.

There has been strong public concern about possible effects on small business if maternity leave were to be funded by a levy on small business (from the Prime Minister and Treasurer and the Leader of the Opposition, and business organisations among others). Small business can be expected to experience employees taking maternity leave relatively rarely so the benefits might be visible only occasionally while the levy would be visible all the time. In some industries, including some where women's employment is concentrated, labour costs are very finely calculated (for example, retail and hospitality). In those industries, even a relatively small levy could affect the viability of enterprises, especially small ones, and/or their capacity to employ people.

Surveys published by the Australian Business and the NSW State Chamber of Commerce (May 2002) show a strong view that small business should be exempt from paying maternity leave. The Australian Industry Group has said PML is socially desirable and economically achievable. The way to pay for it is to review existing government parenthood payments, particularly the baby bonus. Bob Herbert particularly stressed the role of PML in meeting future skill requirements (Workplace Info 15 July 2002).

If there were an employer levy excluding small business (those employing under 20), the levy would be a third higher for the remaining organisations liable to pay the levy. There would be considerable resentment and probable manipulation of employment and data about it especially for organisations close to the cut-off point.

While we are proposing a government-funded benefit and not an employer-levy scheme, if there is to be an employer-funded scheme we do not see a rationale for excluding small business from the levy. A levy would indicate that PML was being regarded as a conventional employment entitlement and cost of employment. Just as small business has to pay the cost of employment in relation to workers compensation, it should have to pay the (very small) costs of a PML levy.

Although an overall employer levy would not locate the payment of paid maternity leave specifically on industries and enterprises mainly employing women it is possible that a levy could contribute to a negative climate for the employment of women. We already know that although unpaid leave has been in operation for over 20 years, many people including CEOs still have not fully accepted the legitimacy of securing women's continued workforce

participation without disadvantage after they have their babies. A survey by TMP Worldwide (albeit a small and unrepresentative sample) found that 38.9% of men and 19.3% of women believe that women on maternity leave should not expect to come back to the same position and authority. 42.6% of CEOs and general managers believe that women should not expect to return to the same position. There is ample evidence of pregnancy and maternity discrimination from the HREOC Inquiry (HREOC, 1999), the ADB Inquiry (New South Wales Anti-Discrimination Board, 1993) and from the ongoing record of cases and complaints in federal and state discrimination and industrial tribunals and courts. PML would be another step in confirming the legitimacy of women continuing their careers without disadvantage occasioned by a relatively brief period of absence in their working lives.

However, the integration of women in the labour force and the dependence of the economy on women's labour means that it is unlikely that women's employment would be reduced – especially since an overall levy would apply whether women were employed or not.

A hypothecated maternity leave levy would persistently exceptionalise paid maternity leave, in distinction to other government funded payments including parenting payments, aged pensions, unemployment benefits, disability pensions, sickness benefits and other benefits, that are not funded by specific purpose levies. The only employer levy we have is for superannuation and the only taxpayer one we have is for Medicare. The superannuation levy too is strictly a mechanism for administration as the funds involved represent employee earnings. We do not finance sport, arts or defence through levies. They are accepted as legitimate government expenditure from consolidated revenue.

An employer levy would also bring its own administrative costs. We have noted that there would be some costs for employers and for government in administering a paid maternity leave scheme where employers paid maternity leave and claimed reimbursement from the government. This no doubt would be regarded very differently from a scheme where employers actually themselves funded as well as made the payments for the scheme. There could be some value in considering an arrangement like that in the UK where small businesses can claim 105% of the costs involved in paying and claiming SMP.

An employer levy might not be seen as appropriate to provide entitlements to PML for self-employed women nor for women with strong workforce attachment with a succession of employers and/or contracts.

The NZ government has estimated administrative costs to government of 4.7% for introducing the paid maternity leave scheme there. The NZ scheme provides PML payments direct to bank accounts. While there would be some costs in re-configuring government payment systems to deal with direct payments of paid maternity pay to women and/or reimbursement of maternity pay paid by employers, government is better positioned to make these arrangements and bear these costs than employers are.

5.3 Superannuation

Currently general entitlements to superannuation are funded by a 9% employer levy on employee earnings (for those earning above the \$1350 per month threshold). These payments, administered through the employer, historically represent foregone wage increases. Because of women's broken patterns of workforce participation, earnings-related superannuation can never work as effectively in providing retirement income for women as for men. On that basis, there is some appeal in the concept of increasing superannuation contributions to cover paid maternity leave.

Superannuation currently amounts to about 8% of employee compensation. There are frequent complaints of non-compliance with levy payments. It would not be straightforward simply to add another stream to the superannuation levy to fund paid maternity leave, since there would be completely different eligibility criteria and separate processes and systems would be required. It is very likely that the administrative costs (in collection and enforcement) would overburden what probably would be a fairly small levy on employers to pay for PML, and produce an inefficient system of administering PML with very high transaction costs.

5.4 A HECS Styled Scheme: Women and families mortgaging their futures?

We regard this option as completely unacceptable. It continues the punitive and unfair arrangements that currently treat the costs of creating and nurturing the next generation as private costs rather than a social investment.

A HECS-type scheme would have all the disadvantages and inequities of existing HECS arrangements for financing education investment and some additional ones. Already, HECS is a heavy burden for many people and the fear of it excludes some from education. Forcing families to acquire substantial debt adds to the already substantial stress and financial burden they face. Whereas HECS affects mainly a minority of the population with reasonable prospects of good earnings later in life, so the costs are borne by the person who derives the benefits. A HECS-type scheme for PML would continue to impose on individuals and families the cost of a life-event that benefits the whole community.

5.5 Social Insurance

A social insurance scheme such as exists in the UK covers many other benefits (including retirement pensions and jobseeking allowances). It includes government, employee and employer contributions. Employees pay a substantial levy – a common amount to pay would be 10% of earnings for earnings between a third and one and a quarter times women's average weekly earnings. The UK scheme provides over the 26 weeks of the scheme

(from 2003) around half women's average weekly earnings. The UK scheme is based on entirely differently based, funded and paid social security and employment arrangements. The employer contribution required is substantial and so are the administrative and compliance costs.

It would be a huge and expensive exercise to introduce a social insurance system for funding various entitlements to workers on the basis of finding a way to provide a small benefit like PML. It may be appropriate for other reasons and at other times to have a detailed consideration of how the full range of work and social security entitlements should be provided in an integrated way.

5.6 The Relative Cost of Paid Maternity Leave

The amount (whether a levy on employee compensation or superannuation, or a proportion of government expenditure) that would be required to fund PML is small compared with ordinary increases in earnings and tax. For example, earnings increased 4.4% in the year 2000-01. Total taxation revenue in Australia rose 9% from 1999-2000 to \$213 766m in 2000-01 (ABS, Cat. no. 5506.0, 2000-01). Each .1% increase in taxation revenue would fund \$213.766m of paid maternity leave – so .2% increase would fund \$427.532m, a .3% increase would fund \$641.298m, a .4% increase \$855.064m and so on.

The 2002/03 budget showed total revenue was projected to rise by 2.9%. Personal tax revenue was projected to rise 6.5% compared to company tax increases of 3.3%. Social security accounted for 42% of total budget spending (\$72.894b) an increase of 4.7% (AFR May 30 2002). A 1% increase in the social security budget would yield \$729m for paid maternity leave.

Whatever way the cost of paid maternity leave scheme is regarded, in the overall scheme of earnings and tax and government expenditure, it is substantial. Relative to other income and expenditure it is well within the range that is accepted as necessary for financing other items of government expenditure that are considered important.

The Australian Tax Office received additional funding of \$359m for 2002/03 and \$402m for 2003/04. Government budget expenditure (2001/02) on business fuel tax concessions was \$3b, the bush fuel subsidy scheme \$230m, funding for diesel and alternative fuels \$760m, Treasury borrowed \$2.5b from the US in currency swaps and entered into \$16b of interest rate swaps and Australia's exposure to foreign currency swap losses increased this year to \$1.9b (www.treasury.gov.au). The Collins Submarine Project projected cost is \$5.1b and an additional \$266m was allocated to ensure two submarines were brought to increased capability by December 2000-01. The Government has spent \$285m on the Pacific Island solution and is planning to budget \$200m a year for five years to continue.

6.0 Other Proposals

6.1 The Australian Democrats Proposal

The NPEC proposal envisages a longer period of leave (including two weeks paid parental leave), a higher rate of payment and a larger pool of eligible women workers than the provisions contained in the scheme proposed by the Australian Democrats. We consider that the additional costs related to the NPEC provisions are well within reasonable limits, eminently affordable in the Australian economy and are more consistent with international standards.

In contrast to the Democrat proposal the NPEC proposal:

- provides 16 weeks paid leave rather than 14 weeks as the NPEC proposal includes two weeks paid parental leave so the mother and her partner can both take two weeks together at up to average weekly earnings, after the birth
- uses average weekly earnings rather than minimum wage. Currently the minimum wage is 66% of average weekly earnings
- uses a different distribution of earnings for those women earning under average weekly earnings (based on ABS, Cat. no. 6306.0, May 2000). The Democrat proposal calculated the earnings for the 36.3% of working women earning below the minimum wage at \$229 pw (based on August 2001 earnings data, ABS. Cat no. 6302.0). Using the earnings distribution presented in Table 2 (average weekly earnings – \$684.70) it is NPEC's assertion that 30% women earned \$681.30 or more, 25% earned less than \$294.84 pw. All calculations necessarily rely on assumptions since there is no strictly accurate and applicable data.
- includes eligible public sector workers whose entitlements are lower than the proposed scheme
- includes self-employed women
- includes strongly workforce attached women who have multiple employers

6.2 ACTU Proposal

The ACTU scheme provides for a minimum wage level government funded scheme topped up to average weekly earnings (full time public sector total wages) by an employer levy. These provisions can be supplemented by bargaining.

This proposal would result in substantially greater total cost for the scheme. Almost all public sector workers would become eligible for income

replacement and for the period of 14 weeks rather than the existing 12 weeks or less. All jurisdictions would incur extra costs in respect of their own public sector employees.

Pragmatically it is NPEC's view that a scheme that requires an employer levy lowers the probability of paid maternity leave.

Many women are in sectors of the economy where they are unlikely to be able to bargain adequate entitlements. Enterprise bargaining has delivered a very low incidence of agreements with paid maternity leave entitlements (DEWRSB, 2000). Entitlements that have been secured through industrial bargaining to date are well below international standards and are unlikely to be improved in the short-term. Those workplaces that have negotiated paid maternity leave are more likely to be located in industry sectors with higher earnings.

In NZ the model in consideration for some years was an employer levy one but political pressure for paid maternity leave and against an employer levy ultimately resulted in a government funded scheme. Internationally very few developed countries have employer-funded schemes. The main approaches are government funding or social insurance.

7.0 Conclusion

The absence of an equitable paid maternity leave scheme in Australia is an anachronism that requires redress. It is at odds with the ideal of a society that encourages the meaningful participation of men and women in paid work and the development of sustainable family relationships. The lack of an accessible PML scheme, contrary to conservative assertions, narrows the choices that are available to women and their families. Through this absence continued participation in well paid, sustainable work is effectively segregated from child rearing.

Opposition to the principle of PML marginalises those women in the workforce who choose to have children. Opposition to PML on the basis of cost is frequently poorly reasoned. It lacks comparative fiscal analysis, fails to account for the benefits of PML and excludes assessment of the likely number of employed women who would access the entitlement.

Paid maternity leave contributes to the health of working women and their children and recognises the importance of workforce attachment to future economic livelihood. It is a positive measure that secures the position of women in paid work, reduces labour turnover and assists the development of the skill base in labour supply.

The PML model we advance protects the workforce position of women and recognises their different forms of participation in paid work, including women who are self-employed and those in non-standard forms of employment.

The period of paid leave (16 weeks) in our model is consistent with international standards and of a length that assists maternal and child health and sustainable family arrangements. The level of entitlement (replacement income up to average weekly earnings) recognises women's existing contribution to household income and provides at least two thirds of previous income for around 95% of women and income replacement for around 75%.

The entitlement is limited to those women in paid work as PML is directed to supporting workforce participation. The scheme should be funded by the federal government from taxation revenue. It requires a different funding base to conventional employment entitlements as PML will provide broader and intergenerational benefits to the community and the economy. Government funding also facilitates equity and access. Present industrial arrangements have not ensured a widespread availability of PML, particularly for those women in low paid occupations.

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Appendix One: Benefits to employers arising from provision of paid maternity leave

Paid maternity leave is increasingly seen by employers to benefit their organisation by:

- Increasing the number of employees returning to work after maternity leave;
- Reducing recruitment and training costs;
- Improving staff morale and productivity;
- Providing a cost-effective means of retaining skilled staff; and
- Improving organisational efficiency through the benefits of long service, eg, institutional memory, industry knowledge, networks and contacts.

Benefits of Providing Paid Maternity Leave:

- NRMA was able to increase their parental leave return from 32% in 1993 to 85% in 1998.
- Westpac introduced six weeks' paid maternity leave five years ago and lifted their return to work rate by 30 per cent, which saved the company \$6 million.
- AMP was able to increase the number of women returning from maternity leave from 50% in 1992 to 90% in 1997, which saved the company between \$50,000 and \$150,000 for each woman who returned.
- The Australian Catholic University, which offers 12 months paid leave (combined full and part pay) says that even if every potential paid maternity leave up-taker took the leave, it would still only represent 1% of payroll. In contrast, the cost of replacing a departing employee is, depending on the nature of the business/organisation, as much as ¾ to 100% of their annual salary.

"While this is a substantial investment in our people, we have done sufficient cost-analysis to know that we reap the dividends in terms of employee productivity, job satisfaction and retention".

Helen Ormond, Head of Organisational Capability, National Australia Bank

Where Are We Now?

In Australia, just 34 per cent of workplaces offer paid maternity leave – and this figure drops to 23 per cent if you count private sector workplaces only. However, many organisations offering paid maternity leave to employees are leading edge organisations:

The Australian Catholic University, Advantra, AMP, Blues Point Engineering, Brisbane City Council, City of Onkaparinga, The Council of Australian Postgraduate Associations, Coliban Region Water Authority, Community Aid Abroad, Coopers & Lybrand, Edith Cowan University, Ford Australia, General Motors Holden, George Patterson Bates, The Hazelwood Power Corporation, IBM, Integra Information Systems, Lend Lease, McDonalds, Mission Energy, Mitsubishi, National Australia Bank, News Corp, Optus, Pacific Power, Phillip Morris Ltd, Private Hospitals and Nursing Homes Association of Australia, Queensland Rail, Rothmans, Stafford Manufacturing, Sydney Water, Sydney

Electricity, Toyota, University of NSW, University of South Australia, University of Western Australia, and Westpac. Many of these organisations also offer paid paternity leave.

Industry Comparisons

Latest statistics from EOWA's 2001 reporting cycle reveal the following incidence of paid maternity by industry:

- Education (56.4%)
- Personal and Other Services (37.0%)
- Property and Business Services (33.5%)
- Finance and Insurance (30.1%)
- Mining (29.5%)
- Health and Community Services (24.9%)
- Cultural and Recreational Services (19.4%)
- Manufacturing (15.4%)
- Transport and Storage (7.4%)
- Retail Trade (7.2%)
- Accommodation, Cafes and Restaurants (5.2%)
- Wholesale Trade (4.5%)
- Construction (4.2%)

International Comparisons

By international standards, Australia is lagging behind in the provision of paid maternity leave.

International Labour Organization

Maternity Leave statistics for Selected Countries

Country

Length of Leave

% Wages/

Earnings

Who Pays?

Australia	1 year	Small percentage of employers voluntarily provide paid benefit, usually for 6-8 weeks	
Angola	90 days	100	Employer
Cambodia	90 days	50	Employer
Canada	17-18 weeks	55 for 15 weeks	Insurance
China	90 days	100	Employer
France	16-26 weeks	100	Social Security
Germany	14 weeks	100	Social Security to ceiling; employer pays difference
Guatemala	12 weeks	100	Employer 33% Social Security 67%
Mozambique	60 days	100	Employer
Norway	18 weeks	100	& 26 extra paid weeks by either parent
Peru	90 days	100	Social Security
Switzerland	8 weeks	100	Employer
The Netherlands	16 weeks	100	Social Security
United Kingdom	14-18 weeks	90 for 6 weeks; flat rate after	Social Security
United States	12 weeks	0	

Source: International Labour Organization, 1998: Maternity Protection at work in selected countries.

Source: EOWA, www.eowa.gov.au, 30 June 2002

Appendix Two: Parenting payments and family tax benefits – case scenarios

The primary earner's income is not taken into account for Family tax B. The maximum rate of FTB is \$2836 (payable only where the youngest child is under 5).

The maximum rate Family tax A is \$3303 pa, payable at income under \$30 806. Over \$30 806 the amount reduces by 30 cents for every dollar down to the basic rate \$1062 pa, payable at income up to \$79 643.

Parenting payment is \$421.80 per fortnight (pf) for a sole parent (payable where income is under \$116pf) and \$322.80 pf for a partnered parent (payable where partner's income is under \$561 pf and claimant income under \$62pf)

These calculations assume no assets. They assume this is the first child.

Case One

A woman not in the workforce and her partner earning \$280 per week (\$16 172 pa)

Her entitlements:	
maternity allowances:	\$1007
Parenting payments for a year:	\$8392
Family tax A:	\$3303
Family tax B:	\$2836
Total:	\$15 538

Case Two

A woman not in the workforce and her partner earning average weekly earnings (\$35 724 pa)

Her entitlements:	
Maternity allowances	\$1007
Family tax A (part)	\$1827
Family tax B	\$2836
Total:	\$5670

Case Three

A woman earning average weekly earnings before PML and her partner earning average weekly earnings (\$35 724). She returns to work after 14 weeks PML. Her earnings for the year including the PML amount to average weekly earnings. The family income is thus \$71 448. Her earnings exclude her from Family Tax B.

Her entitlements:	
PML \$9618 gross; net of tax (\$2885)	\$6733
Family tax A (base)	\$1062
Total:	\$7795

Case Four

A woman not in the workforce

Her entitlements	
Maternity allowances	\$1007
Parenting payments @ \$422 pf for a year	\$10972
Family tax A	\$3303
Family tax B	\$2836
Total:	\$18 118

Source: Calculations based on Family Assistance Office leaflets

www.familyassist.gov.au/Internet/FAO/FAO1.nsf/Payments/FTBA.html

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Appendix Three: Estimate of impact of .2% levy on employee compensation for varying sizes of organisations.

A .2% levy on employee compensation would provide \$622m for PML (based on total employee compensation being \$322b - ABS, Cat. no. 5206.0, March qtr 2002). Severance, termination and redundancy payments and employer social contributions (superannuation and workers' compensation) accounted for around 12% of employee compensation in the Dec 2001 quarter. Therefore, employee compensation could be estimated at roughly 12% more than wage and salary payments.

Organisation with 20 employees earning average weekly earnings (AWE) - \$684.70

Wages and salaries = \$712 088 pa
Employee compensation (12% greater) = \$797 539 pa
.2% levy = \$1595 pa
= \$80 per employee per year = \$1.53pw.

Organisation with 5 employees earning AWE = \$684.70

Wages and salaries = \$178 022 pa
Employee compensation (12% greater) = \$199 385 pa
.2% levy = \$399 pa
= \$80 per employee per year = \$1.53pw.

Organisation with 100 employees earning AWE = \$684.70

Wages and salaries = \$3 560 440 pa
Employee compensation (12% greater) = \$3 987 693 pa
.2% levy = \$7976 pa
= \$80 per employee per year = \$1.53pw.

Organisation with 500 employees earning AWE = \$684.70

Wages and salaries = \$17 802 200 pa
Employee compensation (12% greater) = \$19 938 464 pa
.2% levy = \$39 877 pa
= \$80 per employee per year = \$1.53pw.