



Australian Government
Department of Social Services

Paid Parental Leave scheme

Review Report

Department of Social Services

June 2014

Terms of Reference

A review of the current Australian Government Paid Parental Leave (PPL) scheme is required under the *Paid Parental Leave Act 2010* (PPL Act). Section 307A of the PPL Act includes the following requirements:

- 1) The Minister must cause a comprehensive review of the general operation of this Act to be begun by 31 January 2013.
- 2) The review must consider the following matters:
 - a) the amount of time off work that primary carers are taking to care for newborn or newly adopted children
 - b) the availability and amount of leave and payments provided by employers in relation to the birth or adoption of a child, and the interaction of those entitlements with parental leave pay provided under the Act
 - c) the operation of the work test
 - d) whether primary claimants' partners should be paid parental leave pay separately from, or in addition to, primary claimants
 - e) whether employers should make superannuation contributions in relation to parental leave pay
 - f) the results of any evaluations conducted in relation to the operation of the Act
 - g) the administration of the Act
 - h) any other matter relevant to the general operation of the Act.
- 3) The Minister must ensure that public submissions are sought in relation to the review.
- 4) The Minister must cause a copy of a written report of the review to be tabled in each House of Parliament within 15 sitting days of the day on which the Minister receives the report.

The former Minister for Families, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP, directed the former Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) to conduct the review of the PPL scheme.

The former Minister appointed an expert Steering Group to oversee the review. The Steering Group includes representation from employee groups, employer groups, women's and community groups, the Australian Human Rights Commission, independent academic researchers and relevant Government departments.

As Dad and Partner Pay only recently commenced (on 1 January 2013) it has not been considered in the review, except to the extent that it interacts with the rest of the PPL scheme. Dad and Partner Pay is being evaluated as part of the PPL evaluation.

In addition to the review, the Government has commissioned an external evaluation of the PPL scheme, including its implementation, its immediate outcomes, and the extent to which the scheme is likely to meet its longer-term objectives. The evaluation is based on parent and employer surveys and interviews conducted between 2010-2013. While the final PPL evaluation report is not yet complete findings from the evaluation are used to inform the review.

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1. Executive summary

A review of the current Australian Government Paid Parental Leave (PPL) scheme is required under the *Paid Parental Leave Act 2010* (PPL Act), which sets out the matters that must be considered.

The PPL scheme provides Parental Leave Pay (PLP) to eligible primary carers of newborn and recently adopted children. Eligible families receive up to 18 weeks payment at the national minimum wage. On 1 January 2013 the scheme was extended to include Dad and Partner Pay (DAPP) for eligible fathers or partners. As DAPP was not in operation prior to 2013, it was not considered in this review except to the extent that it interacts with PLP.

This report presents the findings of the review in relation to matters raised which were relevant to the operation of the scheme, including the following:

- (a) The amount of time off work that primary carers are taking to care for newborn or newly adopted children
- (b) The availability and amount of parental leave and payments provided by employers in relation to the birth or adoption of a child
 - i. The interaction of PLP with employer provided parental leave entitlements
 - ii. Employer obligations to provide their own schemes in addition to PLP
- (c) Eligibility for the scheme
 - i. Work test
 - ii. Income test
 - iii. Residency requirements
 - iv. Backdating of payments
 - v. Eligibility of secondary claimants
- (d) Whether primary claimants' partners should be paid parental leave pay separately from, or in addition to, primary claimants
- (e) Whether employers should make superannuation contributions in relation to PLP
- (f) The results of the PPL evaluation
- (g) the administration of the PPL Act, and
- (h) Any other matter relevant to the general operation of the PPL Act
 - i. Interaction of the PPL scheme with other provisions
 - ii. Keeping in Touch provision
 - iii. Children under a permanent care order
 - iv. Payment design
 - v. The employer role



Detailed findings from the review can be found at Appendix D.

An evaluation of the PPL scheme was conducted between 2010 and 2014. The evaluation was carried out by independent researchers and is separate to the review. Although the PPL evaluation findings are covered separately in part 1.f, results have been used to support and supplement the review findings throughout the report.

The PPL review commenced on 31 January 2013. It was conducted by the Department of Social Services (DSS) and overseen by an independent Steering Group which included representatives from employee groups, employer groups, women's and community groups, the Australian Human Rights Commission, independent research institutions and relevant Government departments.

The PPL review draws on several sources of evidence including public submissions, consultations with key stakeholders, administrative data and available evidence from the PPL evaluation.

Below is an overview of the findings of the review.

1.a The amount of time off work that primary carers are taking to care for newborn or newly adopted children

One of the key findings from the PPL evaluation (forthcoming) was that PPL had a clear effect of delaying mothers' return to work up to about 6 months after the birth of their baby, and then slightly increasing their probability of returning to work before the baby's first birthday. An indication of the size of the effect is provided by estimates of the proportion of mothers who had returned to work in matched pre- and post-PPL survey samples of mothers. These estimates indicate that:

- By 18 weeks following the birth of their child 85 per cent of post-PPL mothers had **not** returned to work, compared to 78 per cent of pre-PPL mothers.
- By 26 weeks (six months) following the birth of their child 64 per cent of mothers in both pre-PPL and post-PPL samples had **not** returned to work.
- By 52 weeks post-birth (one year), 27 per cent of post-PPL mothers had **not** returned to work, compared to 31 per cent of pre-PPL mothers.

The impact of PPL in extending the amount of leave taken was most pronounced amongst mothers on lower incomes, mothers with lower formal education, and mothers who had been employed on casual contracts before the birth of their baby. One explanation for this finding is that PLP represents a larger proportion of their earnings for low income mothers than for those on higher



incomes and because low income mothers (particularly those on casual contracts) were least likely to have access to any employer paid parental leave prior to the introduction of the PPL scheme.

The scheme also had a particularly strong impact in delaying the return to work of mothers who had been self-employed before the birth. Before the introduction of the PPL scheme, self-employed mothers tended to return to work particularly early compared to other mothers, and PPL significantly increased their time at home, although they still continued to return to work earlier than other mothers.

1.b The availability and amount of leave and payments provided by employers in relation to the birth or adoption of a child

1.b.i The interaction of PLP with employer provided parental leave entitlements

Several stakeholders raised concerns about parents who may not be able to access some or all of their PLP because they are unable to access unpaid parental leave. Employee, women's and other groups and individuals proposed that all parents who have an entitlement to PLP be given an entitlement to unpaid parental leave to enable them to take the payment. In contrast, an employer group called for the current arrangements to be maintained and for the PPL scheme not to cross the line into industrial law.

In order to be eligible for PLP a parent must be on leave or not working from the time they become their child's primary carer until the end of the PPL period. Parents who have worked for their employer for 12 months or more have a minimum entitlement to up to 12 months unpaid parental leave under the National Employment Standards (NES) in the *Fair Work Act 2009* (the Fair Work Act). Employees who have not worked for their employer for at least 12 months may negotiate unpaid leave with their employer.

As parents can meet the PPL work test by counting work from more than one employer it is possible for them to be eligible for PPL but not be entitled to unpaid parental leave under the NES because they have not worked for their current employer for more than 12 months.

Forthcoming results from the PPL evaluation however suggest that this was not an issue for many parents, with four per cent of mothers in the survey sample appearing to be ineligible for statutory unpaid leave. Amongst this small group, nearly half (47 per cent) resigned from their jobs when their baby was born, about one quarter (23 per cent) said that they took leave from their jobs, presumably under an ad hoc arrangement with their employer and five per cent of the mothers said that were dismissed or made redundant at the time of the birth.



1.b.ii Employer obligations to provide their own schemes in addition to PLP

Under the PPL Act employers are required to meet their current legal obligations in relation to employee entitlements such as paid maternity and parental leave in addition to their employees receiving payments under the PPL scheme. Stakeholders concerned about employers withdrawing their own entitlements because of the PPL scheme have called for the legislation to be amended to ensure employers do not withdraw entitlements in the future, for example by changing legislation or by renegotiating industrial instruments such as enterprise agreements or contracts of employment. Feedback received from stakeholders and PPL evaluation findings indicate that relatively few employers have withdrawn or reduced their provisions. The 2012 survey of employers in the PPL evaluation found that most employers (83 per cent) made no changes to their maternity/paternity/parental leave policies following the introduction of PPL. Of those that made changes to their policies, a very small percentage reduced or removed some of their parental leave entitlements but none removed their scheme entirely.

Some employers have chosen to integrate their own paid parental leave schemes with PLP. Feedback on integration from review submissions was mixed. Some groups identified that integration was too complex and/or that employer schemes should be kept separate. Employee groups advised that PLP provided a base for employers to add to and that this is a more realistic option for many employers than providing their own stand-alone schemes. This is supported by the PPL evaluation which showed the most common adjustments made by the small proportion of employers who changed their pre-existing paid maternity or parental leave policy were to combine their policies with the PPL scheme (76 per cent of the employers who had made changes) and/or introduce an entitlement that topped up PLP to match an employee's salary (49 per cent of the employers who made changes).

1.c Eligibility for the scheme

1.c.i Work test

Several stakeholders raised concerns about the PPL work test which requires that a parent not have had more than an eight week gap between consecutive working days in the work test period. This requirement limits some parents' access to the scheme including casual teachers who systematically have breaks of more than eight weeks each year in conjunction with a long work history. Some stakeholders called for the break between consecutive working days to be extended from eight to 12 weeks.

A small number of stakeholders argued that a scholarship received by a full-time PhD student and the study undertaken by the student should count as paid work towards the PPL work test.



Some stakeholders expressed concerns that women who have their children close together would have difficulty meeting the PPL work test for a subsequent child. Review submissions by employee organisations called for paid and unpaid parental leave from work to count as work towards the work test for a subsequent child. In a change to the PPL work test that took effect from 1 March 2014, a PPL period for a previous child that occurs in the 13 month work test period for a subsequent claim for PLP, will count as paid work towards the work test for the new claim.

Employee organisations, women's groups and some parents suggested in their submissions to the review that there should be an exception to the PPL work test for women who have their employment terminated due to pregnancy discrimination, and for women who are unable to work because there are no 'safe' duties they can perform while pregnant. In contrast, an employer group submitted there should be no lessening of the work test while employers make payments on behalf of the Government.

1.c.ii Income test

Some women's groups and some individuals suggested in their submissions to the review that the PPL income test should be abolished as they considered it discriminates against women with high incomes, including those who are the main or sole breadwinner, and those who do not have access to employer-provided paid parental leave. In addition, some stakeholders called for the income test to be changed from an individual pre-birth test to a post-birth individual, family or partner income test, to enable families with mothers on higher incomes to be eligible for the scheme.

1.c.iii Residency requirements

An issue was identified through feedback received by DSS and Centrelink for a small group of PLP recipients for whom the residency test results in them losing eligibility for some or all of their PLP. This group of mothers are temporary visa holders who leave Australia temporarily before the end of their PPL period. Often these mothers wish to introduce their baby to their families overseas. The rules relating to temporary absences from Australia for PLP recipients who are temporary visa holders mimic those that apply to temporary visa holders in receipt of Special Benefit. Special Benefit recipients who are temporary visa holders have very restricted overseas absence rules because they are expected to remain in Australia and seek employment. However, unlike for Special Benefits payments, where a temporary visa holder may requalify for the payment on their return to Australia, PLP cannot restart once it has stopped.

1.c.iv Backdating of payments

Under the rules relating to backdating of claims, a parent who lodges a claim more than 28 days after the birth of their child may not be able to receive the full 18 weeks of PLP, for instance if



they return to work soon after making the claim. If a parent lodges a claim more than 28 days after the birth and has already returned to work they will not be eligible for PLP at all. DSS and Centrelink have received complaints since the start of the scheme from parents affected by these rules.

1.c.v Eligibility of secondary claimants

Some stakeholders were concerned about the claim hierarchy that requires a birth mother to first be eligible for PLP before being able to transfer unused PLP to an eligible secondary claimant who becomes the primary carer, usually the father. This issue was of particular interest to families where the mother was excluded from eligibility only because of the income test and the father had income below the limit.

1.d Whether primary claimants' partners should be paid Parental Leave Pay separately from, or in addition to, primary claimants

By the time of this review a separate entitlement for eligible fathers or partners was introduced therefore superseding this part of the review.

DAPP was introduced from 1 January 2013 and provides two weeks of pay at the national minimum wage to eligible working fathers or partners of mothers following the birth or adoption of a child.

In the first financial year of operation (1 January 2013 – 30 June 2013), 27,240 dads and partners accessed DAPP, taking an average of 13.80 days.

1.e Whether employers should make superannuation contributions in relation to Parental Leave Pay

The 2009 report by the Productivity Commission which informed the design of the PPL scheme recommended that employers provide superannuation contributions on PLP, but that the implementation of this component of the PPL scheme be deferred for at least three years and be considered as part of the PPL review.

In submissions to the review stakeholders who commented on the issue were divided about whether superannuation contributions should be made on PLP. Among those who thought the PPL scheme should include superannuation contributions, views were mixed about whether contributions should be funded by employers or the Government.



1.f The results of the Paid Parental Leave evaluation

In 2010, DSS commissioned the Institute for Social Science Research (ISSR) at the University of Queensland to undertake a comprehensive evaluation of the PPL scheme. In 2012 the evaluation was extended to include an evaluation of DAPP.

The evaluation was conducted across four phases, utilising surveys and interviews with parents and employers to assess the outcomes of the scheme, including progress towards the main policy objectives. The results from phases 1 and 2 of the evaluation have been published as stand-alone reports on the DSS website. The reports on phases 3 and 4 will be available later in 2014.

The PPL evaluation found:

- the introduction of PPL delayed mothers' return to work during the first 6 months following a birth, so that more mothers stayed at home for at least 18 weeks after the birth of their baby, and slightly increased mothers' tendency to return to work in the longer-term, so that more mothers had returned to work by 12 months after the birth of their baby
- this effect was particularly strong for mothers with lower incomes and those who had been employed casually before the birth, strongly supporting the view that the period of predictable income provided by PPL allowed some mothers to remain at home with their babies longer than they otherwise would have
- PPL had a large effect in extending self-employed mothers' time off work during the first 6 months
- PPL increased employers' retention of mothers when they returned to work
- PPL is associated with a reduction in mothers' feeling rushed and pressed for time, thus enhancing their work-life balance as a result of the additional time and income security provided by PPL
- PPL is associated with a small improvement in mothers' perceptions of their career prospects on return to work, and
- an improvement in mothers' and babies' health and wellbeing and work-life balance particularly amongst those for whom PPL made the most difference – mothers least likely to have access to employer funded parental leave, and those with least financial security due to precarious employment.

Relevant findings from the PPL evaluation are presented in this report.



1.g The administration of the Paid Parental Leave Act

The PPL evaluation found the PPL scheme was implemented on schedule and claims, payments and the employer role were largely implemented as intended.

Awareness of the scheme among parents is very high and is almost universal among mothers eligible for the scheme.

Awareness among employers also appears to be high. The PPL evaluation reported 83 per cent of employers agreed or strongly agreed that it was easy to get information about PPL and 89 per cent said that the information was accurate and helpful.

Some individuals, groups representing employees, women and parents, and a few employers expressed concerns in their submissions to the review about the timeliness of first payments of PLP reaching the parent. This is consistent with other feedback received by DSS and Centrelink.

Among PLP recipients surveyed for the PPL evaluation in 2011, 33 per cent reported not receiving one or more payments on time. Payment delays can be caused by a range of factors including claim processing delays, late lodgement of claims and/or proof of birth, incorrect or missing information in claims, and delays in employers responding when they had a role in making payments.

A number of submissions to the review and participants in the PPL evaluation expressed concerns about the length and complexity of the claim form for payment. There were also concerns about some of the information required of a claimant, the duplication of questions in the claim for payment and proof of birth forms, and the difficulties associated with having to attend a Centrelink office with a new baby. In contrast, some parents had positive feedback on claim and payment processes and the helpfulness of Centrelink staff.

1.h Any other matter relevant to the general operation of the Paid Parental Leave Act

1.i.i Interaction of the Paid Parental Leave scheme with other provisions

At the time of consultations for the review the Baby Bonus payment was also available to eligible families of newborn or recently adopted children. Parents who met the eligibility criteria for both PLP and the Baby Bonus could take either but not both payments and could choose which payment they wished to receive.



The Baby Bonus has undergone a number of policy changes since the start of the PPL scheme. From 1 March 2014 the Baby Bonus was replaced by an increased rate of Family Tax Benefit Part A for eligible families with a newborn or recently adopted child.

Some stakeholders expressed concerns in their submissions to the PPL review about the changes to the Baby Bonus and the impact on families who are not eligible for PLP or who may have wished to take the Baby Bonus so they could return to work more quickly.

1.h.ii Keeping in Touch provisions

The Keeping in Touch (KIT) provisions in the PPL Act allow parents to keep in touch with their workplace by participating in paid work activities for up to 10 days between becoming their child's primary carer and the end of their PPL period. The purpose of this provision is to help parents to remain attached to their workplace and to facilitate their return to work. Self-employed parents may oversee their business and perform occasional administrative tasks.

Stakeholder feedback on the KIT provisions was limited and only one submission raised concerns, which included administrative difficulties for employers. The PPL evaluation findings indicate that around half of PPL employers and close to 60 per cent of PLP recipients were not aware of the KIT provisions. Reported use of the provisions by employers and parents was relatively low. However, the PPL evaluation also indicates the majority (75 per cent) of employers who had used KIT provisions felt it benefited their organisation.

1.h.iii Children under a permanent care order

Under the PPL scheme guidelines, carers looking after children under a care order are ineligible for PLP. Some stakeholders called for parents who have a child enter their care under a permanent care order or similar arrangement to be eligible for PLP in the same way as parents who have a child enter their care as part of the process of adoption.

1.h.iv Payment design

Under the current PPL scheme PLP is payable for up to 18 weeks at the rate of the national minimum wage.

Of the submissions to the review that dealt with payment rate, many called for the rate to be increased to replacement wage or a percentage thereof, and for the Government to fund the increase. Employee organisations called for the rate to be increased to average weekly earnings, with Government to continue to fund the national minimum wage component and employers to fund the balance.



In their submissions to the review many stakeholders called for the payment duration to be extended from 18 to 26 weeks. A few of the submissions that dealt with duration included a proposal that the payment duration be extended to one year.

Some stakeholders considered the payment should be made more flexible by allowing it to be paid at half pay over a longer period, and for the payment to be available up to six weeks prior to birth.

A minority of stakeholders expressed concerns about the requirement for a PLP recipient to not work before the end of their PPL period.

1.h.v The employer role

Under the current PPL scheme employers are required to provide PLP to their eligible long-term employees. Employers may also opt-in to provide PLP to non-mandatory employees.

In 2012-13 around 74 per cent of PLP recipients received their payments from their employer, and around 12 per cent of employers who provided PLP in that year were registered to provide the pay on a voluntary basis.

In their submissions to the review employer groups and their members generally were opposed to the mandatory employer role in the PPL scheme. Concerns related to the administrative burden that would be experienced by employers, and that employers should not be involved in administering what they considered to be a Government welfare payment.

In general employee, women's and community groups supported the employer role as increasing the attachment of new parents to their workplace. Groups that represented both employers and employees recognised both the benefits and the burden of the employer role.

The PPL evaluation found the majority (around three quarters or more) of employers surveyed responded positively to questions around the ease of registration and ease of making payments. In the scheme's first year of operation, the PPL evaluation found 79 per cent of employers found organising PLP easy, although 41 per cent of employers found their role time-consuming. Overall 74 per cent of employers found the PPL scheme was easy to implement however they continued to have mixed views about the benefits for their organisation.

The PPL evaluation found that around one third of employers reported they incurred additional costs in administering the scheme. Around 45 per cent reported the cost to be less than \$250 and around 20 per cent reported the cost as more than \$1,000.



2. Introduction

The Australian Government's current Paid Parental Leave (PPL) scheme started on 1 January 2011. The scheme is designed to provide financial support to eligible working parents to take time off work to care for a newborn or recently adopted child.

The Australian Government provides two payments under the PPL scheme:

- Parental Leave Pay (PLP) which provides up to 18 weeks' pay at the rate of the national minimum wage to eligible primary carers since 1 January 2011.
- Dad and Partner Pay (DAPP) which provides up to two weeks' pay at the rate of the national minimum wage to eligible dads or partners caring for a child born or adopted since 1 January 2013.

The legislated PPL review is a review of the current PPL scheme. The review commenced in January 2013 and the public consultation phase of the review ended in June 2013.

At the time this review of the current PPL scheme was completed, a new national PPL scheme is being developed for implementation in 2015.

The body of this report outlines the scope of the review and gives an overview of the review methodology.

Supporting information is included in the following appendices to the report:

- Appendix A: Development of the current PPL scheme
- Appendix B: Overview of the current PPL scheme
- Appendix C: Current PPL scheme administrative data
- Appendix D: Detailed PPL review findings
- Appendix E: PPL review discussion paper
- Appendix F: PPL review submissions and consultations

The review report and appendices describe issues relevant to the current PPL scheme, but do not pre-empt possible future Government decisions by including recommendations.



3 Review of the current Paid Parental Leave scheme

A review of the current Australian Government PPL scheme is required under the *Paid Parental Leave Act 2010* (PPL Act).

3.a Legislated requirements of the Paid Parental Leave review

Section 307A of the PPL Act provides that:

1. The Minister must cause a comprehensive review of the general operation of this Act to be begun by 31 January 2013.
2. The review must consider the following matters:
 - a. the amount of time off work that primary carers are taking to care for newborn or newly adopted children;
 - b. the availability and amount of leave and payments provided by employers in relation to the birth or adoption of a child, and the interaction of those entitlements with parental leave pay provided under this Act;
 - c. the operation of the work test;
 - d. whether primary claimants' partners should be paid parental leave pay separately from, or in addition to, primary claimants;
 - e. whether employers should make superannuation contributions in relation to parental leave pay;
 - f. the results of any evaluations conducted in relation to the operation of this Act;
 - g. the administration of this Act;
 - h. any other matter relevant to the general operation of this Act.
3. The Minister must ensure that public submissions are sought in relation to the review.
4. The Minister must cause a copy of a written report of the review to be tabled in each House of the Parliament within 15 sitting days of the day on which the Minister receives the report.

3.b Paid Parental Leave review Terms of Reference

An excerpt from the PPL review Terms of Reference are provided at the start of this report.

3.c Scope of the review

The PPL review was designed to be comprehensive. The legislation (section 307A of the PPL Act) and the review Terms of Reference allowed for this by specifying particular matters and including that the review may consider any other matter relevant to the general operation of the PPL Act.



The review did not consider DAPP except to the extent it interacts with PLP. DAPP was excluded because the payment had only just become available (from 1 January 2013) at the time the public consultation phase of the PPL review occurred from early to mid-2013.

Section 307A(2)(d) of the PPL Act requires the review to consider whether primary claimants' partners should be paid PLP separately from, or in addition to, primary claimants. This requirement of the review has been superseded by the introduction of DAPP from the start of 2013. DAPP is a separate entitlement for eligible fathers or partners and is not linked to eligibility for PLP.

Some of the matters raised in submissions to the review were out of scope because they did not relate to the operation of the PPL Act or had no other connection to PLP.

Examples include:

- proposed industrial relations changes such as:
 - legislative amendments to require the transfer of pregnant employees to safe work if necessary
 - the removal of exclusions to the matters about which the Fair Work Commission may arbitrate
 - legislative amendments to require employers to genuinely consider employee concerns about roster changes, and to make reasonable efforts to accommodate the needs of employees
 - the inclusion in legislation of paid antenatal leave, paid breastfeeding breaks, and appropriate breastfeeding facilities in workplaces
 - protection from discrimination for employees applying for or taking parental leave
- child care matters, and
- superannuation taxation concessions.

3.d Review methodology

The review was conducted by the Department of Social Services (DSS)¹ and was overseen by an independent Steering Group. In consultation with the Steering Group DSS drew on independent

¹ Prior to Machinery of Government changes in September 2013, the PPL review was undertaken by the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). Parts of FaHCSIA and other departments were formed into the new Department of Social Services (DSS). The Department is referred to as DSS throughout this report except where contemporaneous documents refer to FaHCSIA.



sources of evidence to analyse the matters relevant to the operation of the scheme, including matters raised by stakeholders through public submissions and consultations.

3.d.i PPL review Steering Group

A Steering Group was appointed to oversee the PPL review. The Steering Group included representatives from employee and employer groups, women's and community groups, the Sex Discrimination Commissioner, independent academic researchers and relevant Government departments.

The role of the Steering Group was to provide advice to DSS on how to conduct the review including the public consultation process, analysis of evidence arising from the review and the final report to Government. The Steering Group also promoted the review, encouraged stakeholder participation, and communicated to Government the views of key stakeholders.

Members of the Steering Group included:

- the Australian Chamber of Commerce and Industry
- the Australian Industry Group
- the Australian Council of Trade Unions
- the Council of Small Businesses of Australia
- the National Foundation for Australian Women
- the Shop Distributive and Allied Employees' Association
- the Sex Discrimination Commissioner
- Unions NSW
- Professor Bill Martin, University of Queensland
- Professor Marian Baird, University of Sydney
- the Department of Social Services
- the Department of Employment
- the Department of Human Services (Centrelink)

3.d.ii Public submissions and consultations

The public submission phase of the review commenced on 8 March 2013 and closed on 14 June 2013. A PPL review discussion paper supported this phase of the review. Sixty three public submissions were made to the review, and 19 consultations were conducted with key stakeholders. **Appendix E** to this report contains the PPL review discussion paper and **Appendix F** includes a summary of the PPL review submissions and consultations.



3.d.iii Data analysis

In consultation with the PPL Review Steering Group DSS undertook analysis of the review issues using the following data sources:

- issues raised and supporting data provided in public submissions to the review
- consultations with key stakeholders
- matters raised by parents and other stakeholders since the start of the scheme, and issues that have emerged in the day to day program management of the payment
- PPL evaluation findings
- PLP administrative data
- Australian Government data sources such as the Australian Bureau of Statistics
- international data sources, and
- academic papers.



Appendix A – Development of the current Paid Parental Leave scheme

This Appendix summarises the development and implementation of the current Paid Parental Leave (PPL) scheme from the commissioning of the Productivity Commission inquiry in early 2008 until the first payments of Parental Leave Pay (PLP) were made from 1 January 2011.

A.1 Productivity Commission Inquiry report

Following an election commitment made during the 2007 Federal election campaign (Plibersek, Gillard & Macklin 2007), in February 2008 the Australian Government provided the Productivity Commission with terms of reference to examine ways the Government could provide support to parents with newborn children (Macklin, Swan & Gillard 2008).

The Commission released an Issues Paper in April 2008 and invited public submissions. In mid-2008 the Commission undertook a first round of public hearings in most state and territory capital cities, and took part in other community consultations. In September 2008 the Commission released a draft Inquiry Report, and undertook a second round of public hearings. The Commission provided its final Inquiry Report *Paid Parental Leave: Support for Parents with Newborn Children*, to Government in February 2009 (Productivity Commission, 2009). Throughout this process the Commission received 416 public submissions and of these, 163 were provided following the release of the draft report.

The final Inquiry Report included 15 recommendations for the design and implementation of the first national paid parental leave scheme. A copy of the report, including the recommendations, can be found on the Productivity Commission website. The Commission concluded that a paid parental leave scheme such as the one it recommended would:

- improve child development outcomes, enhance support for breastfeeding and provide a reasonable period of leave for maternal recovery from childbirth by increasing the time parents take away from work, thereby giving many more families increased capacity to provide exclusive parental care for children for six to nine months
- promote some important, publicly supported social goals, and in particular, that having a child and taking time out for family reasons is viewed by the community as part of the usual course of work and life for parents in the paid workforce
- encourage increased workforce participation by women prior to having children and between pregnancies, and



- increase retention rates for business.

The Government announced in the May 2009 Budget that it would implement a government-funded PPL scheme closely based on the recommendations of the Productivity Commission, with the scheme to start in January 2011 when the economy was expected to be recovering and the economic outlook improved (Macklin, 2009). A policy statement released in May 2009 (Australian Government 2009) outlined the Government's policy including two key changes to the scheme recommended by the Productivity Commission. The first was the deferral of a two-week paternity leave payment and the second was the inclusion of an income test to limit eligibility to those with an individual income of \$150,000 or less in the previous financial year.

A.2 Governance of the implementation

Department of Social Services (DSS) was given responsibility for the implementation of the scheme, and work commenced on the implementation shortly after the Budget announcement.

An Interdepartmental Committee (IDC), chaired by DSS, was established in July 2009 to govern the implementation and provide strategic direction to micropolicy development. Other members of the IDC included the:

- (then) Department of Education, Employment and Workplace Relations (DEEWR)²
- Department of Human Services (Centrelink)³
- Department of Prime Minister and Cabinet
- Treasury
- (then) Department of Finance and Deregulation⁴
- Australian Taxation Office
- Attorney-General's Department
- Department of Veterans' Affairs
- Australian Public Service Commission, and
- (then) Department of Innovation, Industry, Science and Resources.

Four working groups were established under the IDC, with responsibility for micropolicy development and implementation in the key areas of policy and legislation, the Centrelink

² Now the Department of Employment

³ The Australian Government Department of Human Services has responsibility for the delivery of Centrelink payments and services including the PPL scheme. 'Centrelink' is used in this report.

⁴ Now the Department of Finance



implementation of systems and business arrangements for claims and payments, the employer role, and communications. In addition, a PPL Evaluation Reference Group was established to assist the development of the PPL evaluation plan.

The implementation of the PPL scheme was subject to a Department of Finance Gateway review process. This involved a team of independent reviewers undertaking short, intensive reviews at critical points in the project lifecycle. The first PPL implementation Gateway review occurred in June-July 2009 and the fifth and final review occurred in September 2012. The implementation successfully passed all five Gateway reviews.

A.3 Implementation consultations

In 2009 DSS in conjunction with the Department of Employment and Centrelink conducted consultations about the implementation of the scheme with a range of key stakeholders including major employee and employer peak bodies, representatives of small business, family and community stakeholder groups, and tax professionals, payroll specialists and payroll software developers. Between July and November 2009, 32 consultation meetings and teleconferences were conducted with over 200 representatives of these stakeholder groups. DSS also received 16 written submissions on the implementation of the scheme.

DSS and Centrelink continued to consult with payroll software developers, tax practitioners and employers during 2010 and the first half of 2011 in the lead-up to the full implementation of the employer role in the scheme from 1 July 2011.

A.4 Implementation of the scheme

Developmental research to inform the need for a PPL communication campaign commenced in December 2009. The research found that a campaign was required to inform parents, potential parents and employers about the scheme and to encourage them to seek additional information about the eligibility criteria for parents, and the employer role. The campaign, including a mix of advertising, public relations and information materials, was due to start in July 2010, but was generally deferred until October 2010 due to the federal election. The campaign ran until the end of June 2011, with the focus in the final months on the role of employers in the scheme in the lead-up to the full phase in of the employer role from July 2011.

Following extensive micropolicy and legislation development, in May 2010 the Government released an exposure draft of the Paid Parental Leave Bill 2010 (PPL Bill), and two policy statements which provided further detail about the scheme for parents and employers (Australian Government 2010a, 2010b). The booklets provided an overview of the policy and arrangements



included in the PPL Bill, and advised the features of the scheme that had been amended or developed as a result of the 2009 PPL consultations. The most significant of these changes was deferral of the full implementation of the employer role until July 2011, although employers who wished to could opt in to voluntarily provide PLP to their eligible employees from the start of the scheme.

The PPL Bill was tabled in Parliament in May 2010, was passed in June, and the *Paid Parental Leave Act 2010* (PPL Act) received Royal Assent in July 2010.

In May 2010 a PPL Implementation Group was established to help finalise the details of the scheme. The group was made up of key employee and employer groups, community groups, employers, the Federal Sex Discrimination Commissioner and key government departments. The Group continued to meet as required into 2012.

New systems and business processes were built and parent and employer communication products were developed by Centrelink in consultation with DSS to enable the first claims for payment to be lodged from 1 October 2010. Employers who wished to provide PLP on a voluntary basis were also able to register for the scheme from that time. The PPL Comparison Estimator became available on the Centrelink website to help those parents eligible for both PLP and Baby Bonus to make a choice about which payment was the best financial decision for them.

The Paid Parental Leave Guide was released on the DSS website in October 2010 to coincide with the first pre-birth claims for payment being lodged from October 2010.

Surveys and in-depth interviews for Phase 1 of the PPL evaluation commenced in November 2010. (Surveys and interviews for Phase 2 commenced in October 2011, and for Phase 3 they commenced in May and October 2012.)

The Paid Parental Leave Rules 2010 (an instrument to legislate matters not included in the PPL Act) were registered and came into effect on 25 December 2010 in time for the first payments from 1 January 2011.

The full phase in of the employer role in the current scheme occurred from 1 July 2011 for payments in respect of children born or adopted from that date. Since that time employers have been required to provide PLP to their eligible long-term employees.

An outline of the policy changes to the scheme since it started is included in Appendix B.4.



Appendix B: Overview of the current Paid Parental Leave scheme

This Appendix provides a high level overview of the *Paid Parental Leave Act 2010* (PPL Act), the current scheme and payment objectives, key features of Parental Leave Pay (PLP), and policy developments since the start of the current scheme.

B.1. Paid Parental Leave legislation and policy

The PPL Act is the legislation that sets out the design and operation of the Paid Parental Leave (PPL) scheme. The Act specifies the scheme objectives, eligibility and payability criteria, payment rates, payment arrangements including the role of Centrelink and employers, compliance, review and appeal arrangements, and information gathering and use. The Act also provides that Rules may be made for matters not included in the Act.

Additional matters relating to the operation of the scheme are provided for under the Paid Parental Leave Rules 2010 (the PPL Rules). The Rules augment the provisions of the PPL Act by providing for matters that were not included in the Act. The Rules cover the exceptional circumstances in which a person may be eligible for PLP, some information provision arrangements, record keeping, definitions of paid work and paid leave for PPL purposes, and provide that parents who do not meet the common definition of an employee are able to receive the payment from their employer, such as defence force personnel and law enforcement officers.

The Paid Parental Leave Guide explains the provisions in the PPL Act and the PPL Rules. It also explains policy not included in legislation, and includes practical examples to help clarify policy. The Guide is available on the Department of Social Services (DSS) website for use by Centrelink staff and the general public.

The PPL Act interacts with a number of other Australian Government laws. These interactions are discussed in Appendix D.5.

B.2. Paid Parental Leave scheme and payment objectives

The objectives of the PPL scheme, set out in Section 3A of the PPL Act, are to:

- a) signal that taking time out of the paid workforce to care for a child is part of the usual course of life and work for both parents, and





- b) promote equality between men and women and balance between work and family life.

The objective of PLP is to provide financial support to primary carers (mainly birth mothers) of newborn and newly adopted children, in order to:

- a) allow those carers to take time off work to care for the child after the child's birth or adoption
- b) enhance the health and development of birth mothers and children, and
- c) encourage women to continue to participate in the workforce.

The objective of Dad and Partner Pay (DAPP) is to provide financial support to fathers and partners caring for newborn or newly adopted children, in order to:

- a) increase the time that fathers and partners take off work around the time of birth or adoption
- b) create further opportunities for fathers and partners to bond with the child, and
- c) allow fathers and partners to take a greater share of caring responsibilities and to support mothers and partners from the beginning.

The financial support provided by payments under the scheme is intended to complement and supplement existing entitlements to employer-provided paid and unpaid leave in connection with the birth or adoption of a child.

B.3. Parental Leave Pay

PLP is a payment of up to 18 weeks at the rate of the national minimum wage that is payable to eligible working parents (usually birth mothers).

To be eligible for PLP a parent must:

- be the primary carer of a newborn or recently adopted child
- meet the residency requirements from the time they become the child's primary carer to the end of their PPL period
- meet the PPL work test, i.e.
 - have worked for at least 10 of the 13 months prior to the birth or adoption of the child
 - have worked for at least 330 hours in that 10 month period (just over one day a week), and
 - have had no more than an eight week gap between two consecutive working days



- have an individual adjusted taxable income of \$150,000 or less in the previous financial year, and
- be on leave or not working from the time they become their child's primary carer until the end of their PPL period.

Full-time, part-time, casual, seasonal, contract and self-employed workers may be eligible for PLP. Unless there are exceptional circumstances, a birth mother must meet the eligibility requirements for the scheme. She may then take the payment herself or may if she wishes, transfer some or all of her payments to an eligible partner.

Government-funded PLP is provided by employers to their eligible employees who meet all of the following:

- have a newborn or recently adopted child
- have worked in the business for at least 12 months prior to the expected date of birth or adoption – consistent with the eligibility requirements for unpaid parental leave under the National Employment Standards (NES) in the *Fair Work Act 2009* (Fair Work Act)
- will be an employee of the business for their PPL period
- are an Australian-based employee, and
- are expected to receive at least eight weeks of PLP.

Employers can also opt to provide PLP to employees they are not required to pay, with the agreement of the employee. Payments are made by employers to their eligible employees in accordance with their usual pay cycle.

Eligible parents who do not receive PLP from their employer, or who do not have an employer (e.g. short-term employees and self-employed workers) receive their payments from Centrelink.

B.4. Policy developments since the start of the scheme

Since the PPL Act received Royal Assent in July 2010 there have been changes to scheme legislation. Some of these have resulted from changes to overarching legislation such as the *Acts Interpretation Act 1901*. These consequential changes, and other PPL-specific changes that are technical in nature and do not affect scheme policy, are not discussed further here.

The changes to the PPL Act that affect scheme policy have occurred either directly as a result of refining PPL scheme policy or as a result of broader changes to payment arrangements, such as systemic changes to payment portability arrangements for income support and family and parental



payments, and indexation pauses to income limits for all key family assistance and parental payments. These changes are summarised below.

The indexation of the PPL income test limit of \$150,000 a year was paused from the start of the scheme until 1 July 2014 (*Family Assistance and Other Legislation Amendment Act 2011*). The change took effect from 1 July 2011.

The time allowed for a temporary absence from Australia by the holders of certain temporary visa types before their payment is stopped, was reduced from 13 weeks to six weeks. In addition, for all payment recipients who are temporarily absent from Australia, the time allowed for a temporary return to Australia to restart the count of the total allowable temporary absence period of three years, was also reduced from 13 weeks to six weeks. The changes took effect from 1 January 2013 (*Social Security and Other Legislation Amendment (2012 Budget and Other Measures) Act 2012*).

The PPL Act was changed extensively to introduce DAPP to the scheme with effect from 1 October 2012, when the first (pre-birth) claims for payment could be made and assessed, and to allow for payments to be made from 1 January 2013 (*Social Security and Other Legislation Amendment (2012 Budget and Other Measures) Act 2012*).

The PPL work test was amended to enable a birth mother to satisfy the work test if she would have met the test but for a premature birth or pregnancy-related complications or illness. This change was backdated to the commencement of the PPL Act on 1 October 2010 (*Paid Parental Leave and Other Legislation Amendment (Dad and Partner Pay and Other Measures) Act 2012*).

Changes were made to the Keeping in Touch (KIT) provisions in the PPL Act to extend the period following the birth or adoption during which an employer may not ask a parent to participate in a KIT day, from two weeks to six weeks after the birth or adoption. Notes were also included in the PPL Act to refer to the KIT and prohibition on coercion provisions in the Fair Work Act, and to employer obligations to pay an employee for work performed on a KIT day. These changes took effect from the day after Royal Assent, on 23 July 2011. Changes were also made to the Fair Work Act to include KIT provisions in relation to unpaid parental leave under the NES (*Paid Parental Leave and Other Legislation Amendment (Dad and Partner Pay and Other Measures) Act 2012*).

The PPL Act provides that an adoptive parent may be eligible for PLP for a child entrusted to their care by an authorised party as part of the process of adoption. A new definition of 'becomes entrusted to care' was inserted into the Act to clarify that entrustment to care as part of the process of adoption (and the associated 12 month payment claim period) is a once only event.

The amendment puts beyond doubt that the PPL provisions for adoptive parents do not apply in



situations where a child is entrusted to the care of a person and at the time of entrustment to care an adoption is not in train or is not intended in the future. The change took effect from 28 June 2013, the day after Royal Assent (*Family Assistance and other Legislation Amendment Act 2013*).

Changes have also been made to the PPL Rules since they came into effect on 25 December 2010. The changes that affect policy are detailed below.

The Rules were amended with effect from 1 July 2011 to allow employers to provide PLP to certain classes of parents who do not meet the usual definition of employee, including law enforcement officers and defence force personnel (Paid Parental Leave Amendment Rules 2011 (no. 1)).

The Rules were amended with effect from 18 October 2012 to allow a birth mother or a claimant in exceptional circumstances to work between becoming a child's primary carer and the start of their PPL period, if the child remains in hospital or is hospitalised because of premature birth or complications or illness associated with their birth or gestation period, or contracted following the birth (Paid Parental Leave Amendment Rules 2012 (No. 1)). This arrangement allows a parent to work while their baby is in hospital, without losing their eligibility for payment, and thereby maximise the time spent away from work with their baby when the baby goes home. The work cannot continue when the baby has been discharged from hospital.

The Rules were again amended with effect from 1 January 2013 to extend the Rules to cater for DAPP, including claims for payment in exceptional circumstances (Paid Parental Leave Amendment Rules 2012 (no. 2)).

B.5. Dad and Partner Pay

One of the key changes the Government made to the PPL scheme recommended by the Productivity Commission was the announcement in May 2009 that the introduction of the two week paternity leave payment would be deferred to reduce the cost of the scheme to Government and employers. In the 2010 election campaign the Government announced the two week paternity leave payment would be introduced from 1 July 2012, and in the May 2011 Budget the Government announced the implementation of the new payment would be deferred by six months to 1 January 2013. At the time the original scheme was legislated in mid-2010, the decision to implement DAPP had not been made, and the legislated review of the scheme therefore does not include the new payment. In addition, DAPP had only been in operation for a month at the time the PPL review commenced. The following description of DAPP is provided for information.



DAPP provides financial support to fathers or partners (including adoptive parents and same-sex partners) caring for a child born or adopted from 1 January 2013. Working fathers or partners can receive up to two weeks of government-funded pay at the rate of the national minimum wage.

Full-time, part-time, casual, seasonal, contract and self-employed fathers or partners may be eligible if they:

- are caring for a child born or adopted from 1 January 2013
- meet the PPL residency requirements
- meet the PPL work test, i.e.
 - have worked for at least 10 of the 13 months prior to the start of the DAPP period
 - have worked for at least 330 hours in that 10 month period (just over one day a week), and
 - have had no more than an eight week gap between two consecutive working days
- have an individual adjusted taxable income of \$150,000 or less in the previous financial year, and
- are on unpaid leave or not working during the DAPP period.

DAPP is a payment for eligible fathers or partners. The payment cannot be shared with or transferred to another person. Birth mothers are not eligible to receive DAPP

For fathers or partners who are employees, DAPP must be taken at the same time as unpaid leave. It cannot be taken at the same time as paid leave. DAPP complements unpaid parental leave under the NES in the Fair Work Act. A parent who has worked for their employer for at least 12 months is entitled to the minimum standard of 12 months unpaid parental leave. If both members of a couple are eligible for unpaid parental leave under the NES, eight weeks of the unpaid parental leave can be taken at the same time, generally in the period immediately after the birth or adoption.

Fathers or partners, who are not entitled to unpaid parental leave from their employer may be able to negotiate unpaid leave with their employer.

Self-employed fathers or partners and those who do not have ongoing employment (e.g. because they are between ongoing jobs at the time) must not work during their DAPP period.

B.6. Future changes to the current Paid Parental Leave scheme

The PPL work test has been amended to make it easier for working parents with children born close together to qualify for the PPL scheme for subsequent children. Parents can now count a



period of PPL that occurs within the 13 month work test period as ‘work’ towards a subsequent claim. This change applies to families with children born or adopted from 1 March 2014 (*Family Assistance and other Legislation Amendment Act 2013*).

Subject to the passage of legislation, the mandatory employer role in the current scheme will be removed for all employers from 1 July 2014. From that date employers who wish to will still be able to opt in to provide PLP on a voluntary basis.

From 1 July 2014 the length of time that a family can be temporarily absent from Australia and continue to receive family payments will reduce from three years to one year. Families living temporarily overseas for more than one year, and who are expecting their child to be born or adopted on or after 1 July 2014, will no longer be eligible for PPL and DAPP if their temporary absence exceeds one year before the date of birth or adoption. Families who are temporarily absent from Australia can become eligible for payments again if they return to Australia for six weeks or more. Families whose PPL period or DAPP period ends after their temporary absence will not be eligible to receive the remainder of their payments.

The new PPL scheme to be introduced on 1 July 2015 is still under Government consideration.



Appendix C – Scheme administrative data

This Appendix reports on the administrative data produced by Centrelink in relation to Parental Leave Pay (PLP) recipients and employers registered for the scheme and those providing PLP to their eligible employees. This Chapter also provides early administrative data on Dad and Partner Pay (DAPP) recipients, and reports on the cost of the scheme in 2012-13.

C.1 Parent demographics – Parental Leave Pay recipients

Claims for PLP may be lodged up to three months prior to the expected date of birth or adoption. The first ever claims for payment could be lodged from 1 October 2010, and the first ever payments under the scheme were made from 1 January 2011 for children born or adopted from that date.

From the start of the Paid Parental Leave (PPL) scheme until 30 June 2013, 318,147 parents had applied for PLP. Of these, 299,459 parents had either finished or were currently receiving their payment, and the remainder were awaiting their start date or for their claim to be assessed.

The data in section C.1 generally relate to payments of PLP that commenced in a particular financial year, to avoid double counting where the PPL period (up to 18 weeks) occurs across two financial years. However, in some cases due to the nature of the data, it may relate to all parents who received at least one payment in a financial year including those whose PPL period started or finished in another financial year. For this reason total numbers may vary. Total recipients and relevant time periods are clearly labelled.

C.1.a Number of PLP recipients

In 2012-13, 131,307 parents started receiving PLP. In comparison, the number who started receiving payments in 2011-12 was 125,177. These results are consistent with the estimated take-up of the payment, including that around 85 per cent of parents eligible for PLP would choose to receive it. The other 15 per cent eligible for PLP were expected to choose to receive the Baby Bonus instead because that payment was the best financial decision for their family. These estimates of take-up were based on Baby Bonus at the rate of \$5,000 per child and the reporting periods are prior to the 1 July 2013 change that has resulted in Baby Bonus being payable at the rate of \$3,000 for second and subsequent children. Baby Bonus has since been abolished (for births and adoptions from 1 March 2014) and replaced with the Newborn Supplement, payable to families' eligible for Family Tax Benefit Part A, at a rate of \$2,000 for first births and \$1,000 for subsequent births.



Mothers who started receiving PLP in 2012-13 made up 45.3 per cent of all mothers in that year. The number of mothers is based on Series B estimates from the Australian Bureau of Statistics (ABS) publication, 3220.0 *Population Projections Australia, 2006 to 2101*, published in 2008. This is an increase over 2011-12, when mothers who started receiving PLP in that year made up 43.5 per cent of all mothers, using Series B estimates. These results reflect the fact that of all new mothers, there is still a sizeable proportion of mothers who are ineligible for PLP, and the majority of these mothers would be eligible for the Baby Bonus.

C.1.b Payment transfers and relationship to child

More than 99 per cent of all PLP recipients in 2012-13 were female.

There were 540 transfers of PLP to secondary claimants in 2012-13. This represents 0.3 per cent of all payment recipients in 2012-13.

Of those who finished receiving their payment in 2012-13, 97.7 per cent received the payment for the full 18 weeks. In addition to the transfer of a part-period of PLP to an eligible partner, other reasons for a parent not receiving the full 18 weeks of payment could include:

- the PPL period has not ended before the first anniversary of the child’s birth or adoption (e.g. because the parent claimed more than 34 weeks after the birth)
- the recipient’s permanent departure from Australia
- the temporary departure overseas of a payment recipient who is the holder of a specified temporary visa (see section 3.d of Appendix D)
- the payment recipient is no longer the primary carer of the child, and
- the payment recipient returns to work before the end of their PPL period (see section 4.c of Appendix D).

Table 1 reports on the relationship of the payment recipient to the child for all payment recipients in 2012-13.

Table 1 PLP Recipient relationship to child, 2012-13

Relationship to child	Female recipients	Male recipients	Total	Percentage
Birth Mother	166,713	0	166,713	99.4%
Partner of Birth Mother	15	674	689	0.4%
Adoptive Parent	97	4	101	0.1%



Relationship to child	Female recipients	Male recipients	Total	Percentage
Partner of Adoptive Parent	1	0	1	0.0%
Legal Parent	27	128	155	0.1%
Partner of Legal Parent	1	4	5	0.0%
None of the Above	9	2	11	0.0%
Total	166,863	812	167,675	100.0%

Source: Centrelink administrative data

C.1.c PLP recipient characteristics

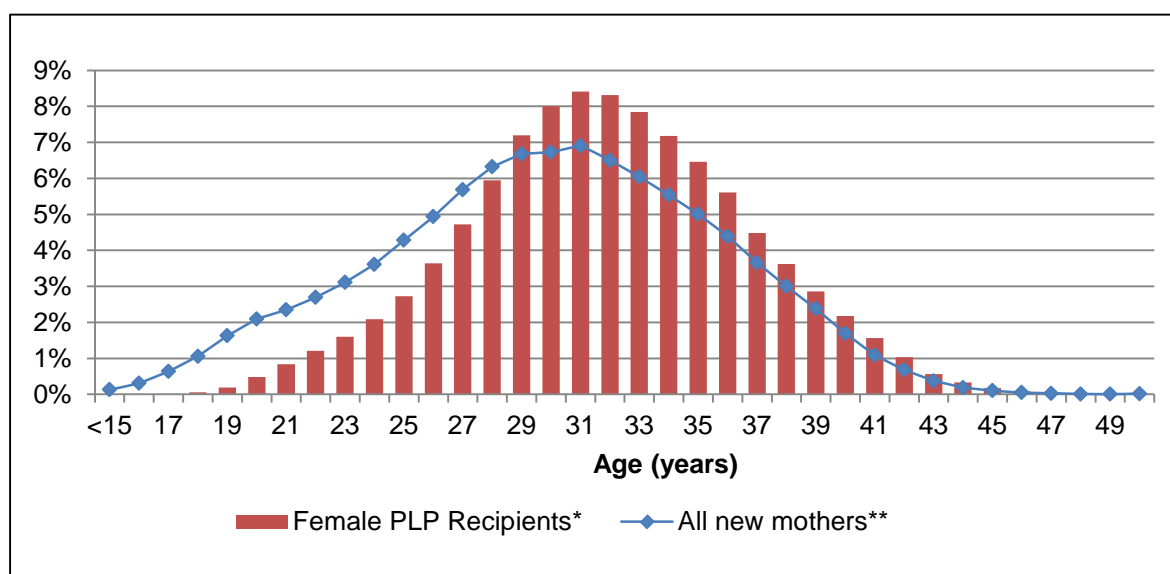
The median age of all payment recipients in 2012-13 was 32.0 years, and the average age was 31.9 years.

Chart 1 shows the age of PLP recipients in 2012-13, compared to the age of all new mothers in Australia. The age profile of PLP recipients is slightly older than that of all mothers. This is expected as older mothers have greater workforce attachment.

Of all parents who received PLP in 2012-13, 94.8 per cent were partnered.



Chart 1 Age of female PLP recipients compared with age of all new mothers, 2012-13



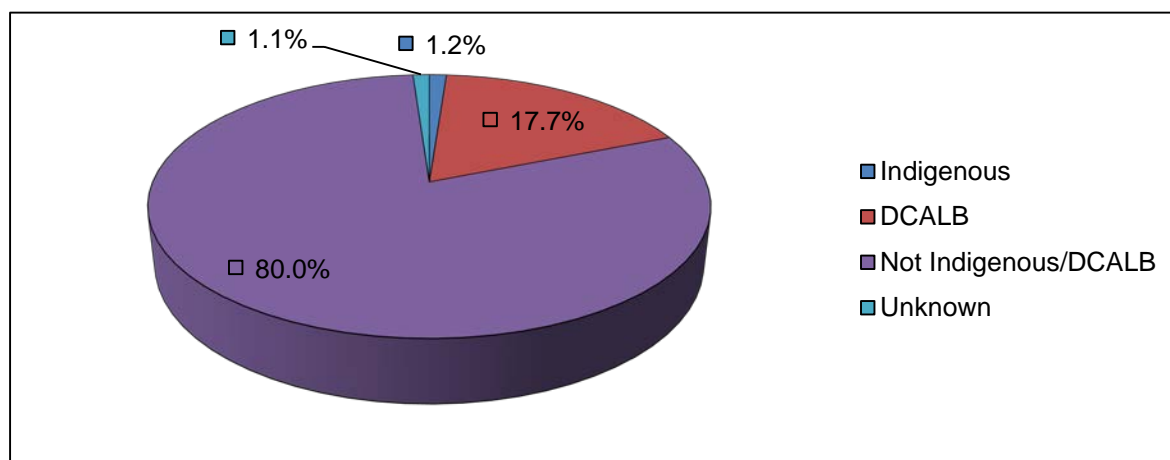
Source: *Centrelink administrative data

**ABS, cat. No. 3301.0 (2011), Table 7.1, Births, Australia, 2011

Long description of Chart 1: Chart 1 represents the age distribution of female PLP recipients in 2012-13 in comparison with the age distribution of all new mothers. Less than one per cent of new mothers and female PLP recipients are aged under 18 years. New mothers in the under 30 age categories represent a greater share of all new mothers compared to female PLP recipients. For example, new mothers aged 25 represented 4.3 per cent of all new mothers; in comparison female PLP recipients aged 25 represented 2.7 per cent of all female PLP recipients. Thirty one years was the peak age category for all new mothers and female PLP recipients. Female PLP recipients aged 32 years and over represent a larger share of all female PLP recipients compared with all new mothers. For example, 6.5 per cent of female PLP recipients were aged 35 years, compared with 5.0 per cent of all new mothers. Proportions of mothers over 42 years of age are very small among both female PLP recipients and all new mothers - they represented 1.0 per cent or less of mothers in each single year of age category.



Chart 2 Cultural background of PLP recipients, 2012-13



Source: Centrelink administrative data

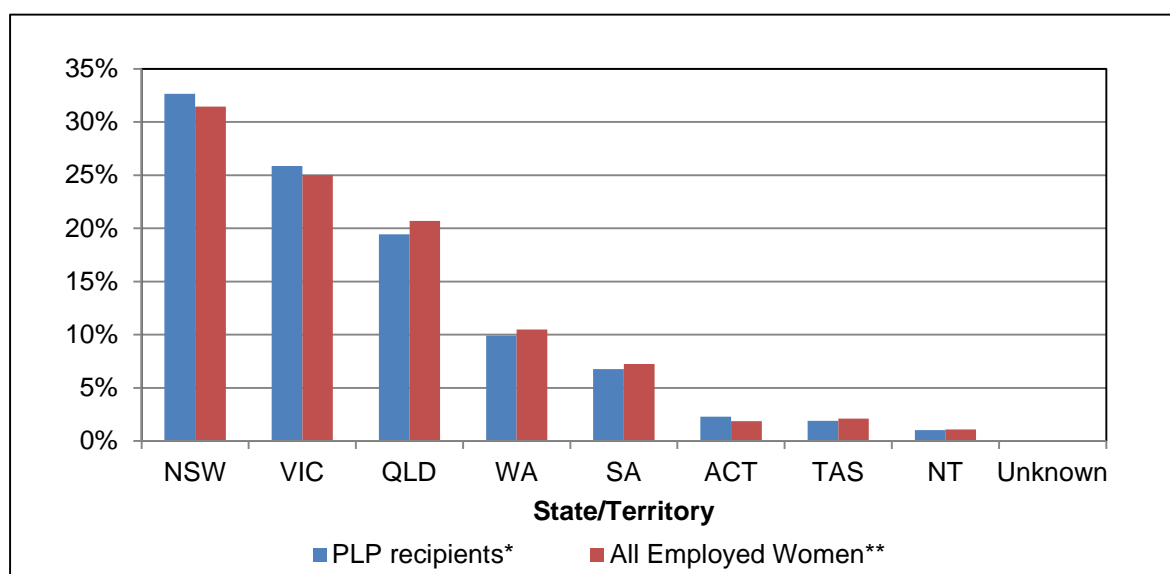
Long description of Chart 2: In 2012-13, 1.2 per cent of PLP recipients identified as Indigenous; 17.7 per cent identified as having a diverse cultural and linguistic background; 80.0 per cent did not identify as Indigenous or from a diverse cultural and linguistic background; and 1.1 per cent did not identify a cultural background.

In comparison with the PLP population shown in Chart 2 the proportion of the Australian population estimated to be Indigenous is 2.5 per cent (ABS, 2011), and the proportion estimated to be from a diverse cultural and linguistic background (DCALB) is around 18 per cent (Australian Institute of Health and Welfare, 2013).

Chart 3 shows the distribution of PLP recipients by state. This distribution matches very closely to the distribution of employed women by state and territory.



Chart 3 PLP recipients and all employed women, by state and territory, 2012-13



Source: *Centrelink administrative data

**ABS, cat. No. 6359.0 (2011), Forms of Employment, Australia, November 2011

Long description of Chart 3: Thirty two point seven per cent of PLP recipients and 31.4 per cent of employed women lived in New South Wales; 25.9 per cent of PLP recipients and 25.0 per cent of employed women lived in Victoria; 19.4 per cent of PLP recipients and 20.4 per cent of employed women lived in Queensland; 9.9 per cent of PLP recipients and 11.0 per cent of employed women lived in Western Australia ; 6.8 per cent of PLP recipients and 7.2 per cent of employed women lived in South Australia; 2.3 per cent of PLP recipients and 1.9 per cent of employed women lived in the Australian Capital Territory; 1.9 per cent of PLP recipients and 2.0 per cent of employed women lived in Tasmania; 1.0 per cent of PLP recipients and 1.1 per cent of employed women lived in the Northern Territory; for 0.1 per cent of PLP recipients, the state of address was unknown.

C.1.d Recipient income

To be eligible for PLP, a parent must have an adjusted taxable income (ATI) of \$150,000 or less in the previous financial year. Table 2 indicates that the ATI of the majority of PLP recipients is well below the payment's income limit. For example, half of payment recipients in 2012-13 have an income of less than \$47,000 a year.

Table 2 also shows that each year, around one quarter of recipients receiving payment in the year have an income below the rate of the national minimum wage.



Table 2 Adjusted taxable income of PLP recipients

	2011-12	2012-13	Scheme to date (to 30 June 2013)
Average ATI	\$48,572	\$51,188	\$49,782
Median ATI	\$44,350	\$47,000	\$45,250
Recipients whose ATI is less than the National Minimum Wage	42,083 (26.9%)	41,636 (24.8%)	-

Source: Centrelink administrative data

Table 3 provides a breakdown of ATI in \$10,000 income ranges for PLP recipients who started payment in the 2012-13 financial year. This table shows that in the income reference year (the financial year prior to the earlier of the date of birth or claim), around 54 per cent of recipients who started payment in 2012-13 had an income of \$50,000 or less, 40 per cent had an income between \$50,001 and \$100,000, and around six per cent had an income above \$100,000.

It should be noted that it is possible for a payment recipient to have zero income. Under the PPL work test, a parent may still meet the work test even though their business is not yet generating any income, as long as they are undertaking the work for financial reward or gain. Examples could include micro-business owner whose business is not yet making a profit, and a parent whose farming enterprise does not make a profit in the income test reference year.

Table 3 Adjusted taxable income in \$10,000 income ranges of PLP recipients who started payment in 2012-13

Adjusted Taxable Income	Recipients	Percentage
\$0 - \$10,000	3,772	2.87%
\$10,001 - \$20,000	9,984	7.60%
\$20,001 - \$30,000	15,607	11.89%
\$30,001 - \$40,000	21,055	16.03%
\$40,001 - \$50,000	20,722	15.78%
\$50,001 - \$60,000	16,869	12.85%
\$60,001 - \$70,000	13,668	10.41%
\$70,001 - \$80,000	10,447	7.96%
\$80,001 - \$90,000	7,101	5.41%
\$90,001 - \$100,000	4,427	3.37%



\$100,001 - \$110,000	2,746	2.09%
\$110,001 - \$120,000	1,839	1.40%
\$120,001 - \$130,000	1,312	1.00%
\$130,001 - \$140,000	985	0.75%
\$140,001 - \$150,000	773	0.59%
Total	131,307	100.00%

Source: Centrelink administrative data

C.1.e Timing of claims and PPL period start dates

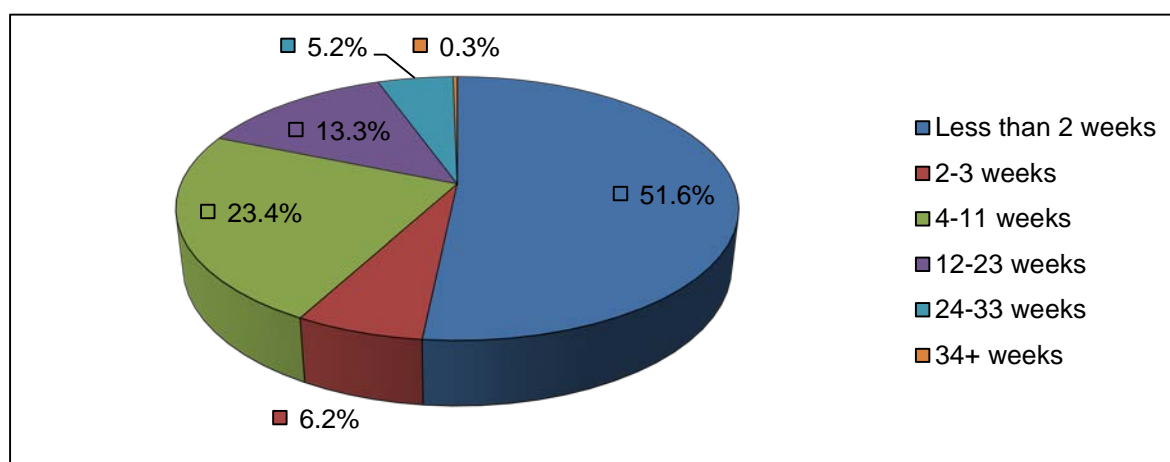
Since the start of the scheme, 53.5 per cent of claimants lodged a pre-birth claim for PLP. This result has been very stable, and has not been affected by communication efforts to increase the proportion of pre-birth claims to help improve payment timeliness. Claim processes are detailed at Section 6.d of Appendix D.

Chart 4 indicates that 57.8 per cent of parents started their PPL period less than four weeks after the date of birth (or adoption). The majority of this group is likely to have had little or no employer-provided paid leave, while a small proportion may have decided to take PLP at the same time as their paid leave entitlements because, for example, they wished to return to work after the end of their PPL period.

Another 23.4 per cent of parents started their PPL period between four and less than 12 weeks following the date of birth, and the remaining 18.8 per cent started their PPL period 12 weeks or more after the date of birth.



Chart 4 Time between child's date of birth and PPL period start date, scheme to date (30 June 2013)



Source: Centrelink administrative data

Long description of Chart 4: From the start of the scheme on 1 January 2011 until 30 June 2013, 51.6 per cent of PLP recipients started their PPL period less than two weeks after their child's date of birth; 6.2 per cent started their PPL period two to three weeks after their child's date of birth; 23.4 per cent started their PPL period four to 11 weeks after their child's date of birth; 13.3 per cent started their PPL period 12 to 23 weeks after their child's date of birth; 5.2 per cent started their PPL period 24 to 33 weeks after their child's date of birth; and 0.3 per cent started their PPL period 34 weeks or more after their child's date of birth.

C.2 Employer demographics

C.2.a Number of employers providing PLP

In 2012-13, 33,609 employers provided PLP to their eligible long-term employees, or employees the employer had opted in to provide the payment to on a voluntary basis.

Of all the parents who received PLP in 2012-13, 73.7 per cent (123,502) had the Government-funded payments provided by their employer. The remainder received their payments from Centrelink.

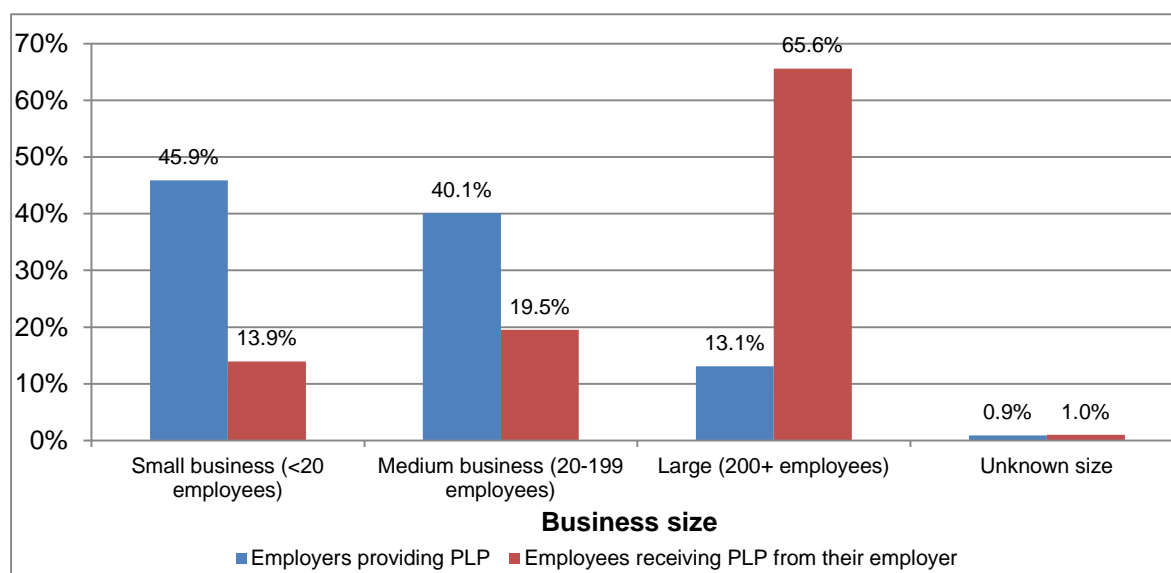
C.2.b Employers providing PLP by business size

Chart 5 shows that while large businesses represented only around 13 per cent of all businesses providing PLP in 2012-13, they provided the payments to around two-thirds of those parents who received the payments from their employer. In contrast, small businesses represented almost half



of all businesses that provided the payment in 2012-13, and they provided PLP to around 14 per cent of parents who received the payment from their employer.

Chart 5 Employers providing (and employees receiving) PLP, by business size, 2012-13



Source: Centrelink administrative data

Long description of Chart 5: In 2012-13, 45.9 per cent of businesses providing PLP to their employees were small businesses (less than 20 employees), 40.1 per cent were medium businesses (20-199 employees) and 13.1 per cent were large businesses (200 or more employees). Of all employees receiving PLP from their employer in 2012-13, 13.9 per cent received payment from a small business, 19.5 per cent received payment from a medium business and 65.6 per cent received payment from a large business.

C.2.c Employers providing PLP by industry

Among those employers who provided PLP in 2012-13, close to one-third reported being in either the Professional, Scientific and Technical Services category, or the Health Care and Social Assistance category (Table 4).

While employers in the Health Care and Social Assistance category made up around 14 per cent of employers who provided PLP in 2012-13, they provided the payment to around 20 per cent of employees (the highest category of employees receiving PLP from their employer). Similarly, employers in the Financial and Insurance Services category made up five per cent of employers who provide the payment, but they provided it to around 10 per cent of employees. Finally,



2.5 per cent of employers were in the Public Administration and Safety category, and they provided the payment to around 16 per cent of employees.

Table 4 Employers providing (and employees receiving) PLP, by industry, 2012-13

Industry	Percentage of employers providing PLP in 2012-13	Percentage of employees receiving PLP from their employer in 2012-13
Professional, Scientific and Technical Services	15.3	8.8
Health Care and Social Assistance	14.1	19.9
Retail Trade	9.6	8.1
Wholesale Trade	6.5	4.0
Manufacturing	6.4	4.1
Other Services	6.3	3.5
Administrative and Support Services	6.2	5.1
Education and Training	5.6	5.9
Accommodation and Food Services	5.4	2.7
Financial and Insurance Services	5.0	8.9%
Construction	4.3	1.9
Rental, Hiring and Real Estate Services	4.1	1.8
Public Administration and Safety	2.5	16.1%
Transport, Postal and Warehousing	2.3	2.4
Other (Not in ANZSIC)	1.8	2.2
Arts and Recreation Services	1.4	1.0
Information Media and Telecommunications	1.3	1.6
Agriculture, Forestry and Fishing	0.9	0.4
Mining	0.9	0.9
Electricity, Gas, Water and Waste Services	0.5	0.8
Unknown	0.0	0.0
Total	100.0	100.0



Note: Industry is classified according to ANZSIC division; ABS, cat. No. 1292.0 (2006), Australian and New Zealand Standard Industrial Classification (ANZSIC) 2006 (Revision 2.0)

Source: Centrelink administrative data

C.2.d Employers who opt in to the scheme

Employers who register for the PPL scheme can decide, from the following categories, which employees they will provide PLP to, over and above their mandatory employees:

- mandatory employees only
- all their employees who are eligible for PLP
- mandatory employees and other employees who have more than six months tenure
- mandatory employees and others who are permanent employees, or
- mandatory employees and other employees who are permanent and have more than six months tenure.

Of those employers who provided PLP in 2012-13, the majority (around 88 per cent) chose to provide the Government-funded payment only to those employees they are required to pay under the PPL Act. The remainder (around 12 per cent) of employers opted in to also provide the payment to employees they were not required to pay. Table 5 provides a breakdown of employers providing PLP by opt-in category and business size.

Table 5 Employers by opt-in category, by business size, 2012-13

Business size	Deliver PLP to mandatory employees only	Voluntary opt in to deliver PLP to all employees	Voluntary opt in to deliver PLP to all employees with >=6 months tenure	Voluntary opt in to deliver PLP to all permanent employees	Voluntary opt in to deliver PLP to all permanent employees with >=6 months tenure	Total
Small (<20 employees)	93.3%	4.6%	0.3%	0.9%	0.9%	15,419
Medium (20-199 employees)	87.6%	10.1%	0.4%	0.8%	1.0%	13,491
Large (200+ employees)	72.3%	25.9%	0.6%	0.6%	0.6%	4,389



Business size	Deliver PLP to mandatory employees only	Voluntary opt in to deliver PLP to all employees	Voluntary opt in to deliver PLP to all employees with >=6 months tenure	Voluntary opt in to deliver PLP to all permanent employees	Voluntary opt in to deliver PLP to all permanent employees with >=6 months tenure	Total
Unknown size	90.3%	9.4%	0.0%	0.3%	0.0%	310
Total	88.3%	9.6%	0.4%	0.8%	0.9%	33,609

Source: Centrelink administrative data

C.3 Dad and Partner Pay

DAPP commenced with first claims able to be lodged from 1 October 2012, and first payments made from 1 January 2013 in respect of children born or adopted from that date. While this payment is not part of the PPL review, the following data is provided for information.

In the first nine months of claims being able to be lodged, 35,695 fathers or partners had either successfully claimed the payment, or were waiting for their claim to be assessed (Table 6).

Table 6 DAPP claimants, 2012-13

Awaiting Assessment	Approved & Awaiting	Finished Payment	Total
2,253	6,202	27,240	35,695

Note: Data as at 30/6/2013

Source: Centrelink administrative data

In the first six months during which payments have been made, more than 27,000 fathers or partners received their payment. Table 7 gives a breakdown of the basic demographic and behavioural characteristics of DAPP recipients.

Table 7 DAPP recipient demographics and behaviour, 2012-13

DAPP recipient demographics and behaviour	
Average ATI of recipients:	\$58,069



Median ATI of recipients:	\$54,222
Average age of recipients:	32.7 years
Median age of recipients:	32.0 years
Percentage of recipients who are culturally and linguistically diverse:	18.7%
Percentage of recipients who are Indigenous:	1.5%
Percentage of recipients who are partnered:	98.3%
Percentage of recipients who are in a same sex relationship:	0.3%
Percentage whose partner has received or been approved to receive PLP for the relevant child:	69.8%
Percentage whose family was granted Baby Bonus for the relevant child:	12.3%
Average number of days in DAPP period (of a possible maximum of 14 days):	13.8 days

Note: Data as at 28/6/2013

Source: Centrelink administrative data

C.4 The cost of Parental Leave Pay

Prior to the start of the current PPL scheme, it was estimated that in a year PLP would have a net cost of around \$270 million, with the gross cost of payment outlays being offset by:

- taxation returns, because PLP is taxable
- a reduction in Baby Bonus outlays, because the majority of parents eligible for both payments would choose to receive PLP, and
- a reduction Family Tax Benefit Part A and Part B outlays, because PLP counts as income for Family Tax Benefit purposes, and because Family Tax Benefit Part B cannot be received during the PPL period.

In 2012-13 the gross cost of PLP (payment outlays with no offsets) was \$1,380 million.



Appendix D – Detailed Paid Parental Leave review findings

Appendix D reports on the matters specified in the legislation to be considered by the Paid Parental Leave (PPL) review, other matters relevant to the scope of the review that were raised in submissions and during the PPL review consultations, and issues which have arisen for Department of Social Services (DSS) and Centrelink during the administration of the scheme.

As discussed in the Introduction, the report and appendices describe issues relevant to the current PPL scheme, but do not pre-empt possible future Government decisions by including recommendations.

D.1 The amount of time off work primary carers take to care for their newborn or recently adopted children

The PPL evaluation, which commenced in 2010, found that prior to the introduction of PPL the average age of babies when their mothers returned to work was 6.7 months.

In-depth interviews with mothers showed that women took as much paid leave as they possibly could after childbirth, regardless of education, professional or occupational status, income, or attitudes and most women who had returned to work at the time of interview would have taken longer had this been financially possible. Additionally the overwhelming majority (95 per cent) of women who had access to employer-paid maternity leave took it at the time of birth.

Following the introduction of PPL, there was only a marginal increase in the average age of babies when their mothers returned to work. However, analysing the impact of PPL on an average duration does not reflect the true effect PPL had on mothers return to work behaviour.

A comparison of the proportion of mothers who would be expected to have returned to work in matched pre- and post- PPL samples of mothers indicate that:

- by 13 weeks after the birth, 92 per cent of post-PPL mothers had **not** returned to work, compared to 84 per cent of pre-PPL mothers
- by 18 weeks after birth, 85 per cent of post-PPL mothers had **not** returned to work, compared to 78 per cent of pre-PPL mothers
- by 26 weeks after birth (six months), 64 per cent of mothers in both pre-PPL and post-PPL samples had **not** returned to work, and



- by 52 weeks after birth (one year), 73 per cent of post-PPL mothers had returned to work, compared to 69 per cent of pre-PPL mothers (Martin et al, forthcoming).

When comparing subgroups of mothers the impact of PPL on changing return to work behaviour was more evident among low-income mothers, mothers without a tertiary qualification and mothers employed on a casual contract. This could be as a result of the effect of the relative lower replacement wage rate for these mothers and lack of access to employer paid maternity leave.

This effect for mothers on lower incomes (mothers earning an income within the bottom third percentile) is as follows:

- At 13 weeks after the birth, 90 per cent of post-PPL low income mothers had **not** returned to work compared to 80 per cent of pre-PPL mothers (a 10 percentage point increase). This compares to a four percentage point increase for high income mothers, a difference of six percentage points.
- At 18 weeks this difference was 6.3 percentage points compared to 4.8 percentage points, a 1.5 percentage point difference between low and high income earners.
- By 52 weeks after the birth the probability of a mother on a lower income having returned to work increased by seven percentage points, this compared with mothers on higher incomes being two percentage points more likely to have returned to work.

The effect for mothers employed on casual contracts prior to the birth of their child is as follows:

- At 13 weeks after the birth, 79 per cent of post-PPL mothers, on casual contracts had **not** returned to work compared to 90 per cent of pre-PPL mothers (an 11 percentage point increase). This compares to an eight percentage point increase for mothers not employed casually, a difference of three percentage points.
- At 18 weeks after the birth, 71 per cent of post-PPL mothers, on casual contracts had **not** returned to work compared to 80 per cent of pre-PPL mothers (a nine percentage point increase). This compares to a seven percentage point increase for mothers not employed on a casual contract, a difference of two percentage points.

The scheme also had a particularly strong impact in delaying the return to work of mothers who had been self-employed before the birth. There was a considerable difference in likelihood of remaining on leave and not returning to work after birth for self employed mothers. This effect was noticeable at 13 and 18 weeks but was completely absent by 26 weeks. Pre-PPL, these mothers tended to return to work particularly early compared to other mothers, and although they still return to work much sooner than other mothers their return has been delayed.



- By 13 weeks after birth 66 per cent of post-PPL mothers who were self-employed had not returned to work compared to 43 per cent of pre-PPL mothers, a difference of 23 percentage points. This compares to an eight percentage point increase in non-self-employed mothers.
- By 18 weeks after birth 54 per cent of post-PPL mothers had not returned to work compared to 36 per cent of pre-PPL mothers, an 18 percentage point difference. This compares with only a seven percentage point difference for non self employed mothers.

D.2 The availability and amount of parental leave and payments provided by employers

The PPL scheme interacts with some industrial relations arrangements, and with employer-provided paid and unpaid leave. Matters of interest identified by stakeholders in the PPL review include differences in eligibility rules for PLP and unpaid parental leave under the National Employment Standards (NES) in the *Fair Work Act 2009* (Fair Work Act) and the obligations of employers to provide existing entitlements in addition to PLP.

This section discusses these issues and reports on PPL evaluation findings about the leave entitlements provided by employers, changes to employer entitlements following the introduction of the PPL scheme, and the integration of employer-provided entitlements with the PPL scheme.

D.2.a PLP and unpaid parental leave under the NES

Under the Fair Work Act, the NES provide as a minimum, that employees are eligible for 12 months unpaid parental leave if they have completed at least 12 months of continuous service with their employer immediately before the birth or adoption of their child. This includes casual employees if they have been employed by the employer on a regular and systematic basis for at least 12 months, and but for the birth or adoption would have had a reasonable expectation of continuing employment with the employer. If the employee is pregnant, the leave may start up to six weeks before the expected date of birth.

The NES unpaid parental leave provisions include a right to request up to an additional 12 months unpaid leave, and a return to work guarantee. The NES also include a right for certain employees, including parents with caring responsibilities, to request flexible working arrangements (such as changes in hours of work) from their employer.

To meet the work test for PLP, a person must have worked approximately 10 of the 13 months prior to the expected date of birth or adoption and have completed at least 330 hours of work in the 10 month period (just over one day per week), and had no more than an eight week gap between consecutive working days. The work does not have to all be with the same employer.





Work from any number of different jobs including self-employment, can contribute to the work test. (See Box D.1. for more detail on the PPL work test.)

PLP is a payment related to employment, but it does not include an entitlement to leave. This means some employees will have an entitlement to PLP, but no entitlement to unpaid parental leave under the NES.

The Productivity Commission rejected the idea of lowering the NES eligibility requirements to provide all employees who are eligible for PLP with an entitlement to unpaid parental leave under the NES. The Commission found that 12 continuous months with a single employer has been accepted as a reasonable qualifying period for unpaid parental leave to balance the burden on the employer to provide a significant period of leave and return to work guarantee. The Commission also recognised that employees who do not qualify for unpaid parental leave under the NES are able to negotiate directly with their employer for unpaid leave and a return to work guarantee, even though the employer is not obliged to agree to the employee's proposal.

The Australian Council of Trade Unions (ACTU) and unions recommended in their submissions that the Fair Work Act be amended to provide unpaid parental leave for the PPL period to employees with less than 12 months service who receive PLP.

Around 23 per cent or 2.2 million workers do not have secure employment. One fifth work in casual employment (Australian Council of Trade Unions 2013, p. 3). The majority of these employees are women, many working in multiple casual or insecure jobs in order to balance work and caring responsibilities. The definition of continuous service in the PPL legislation was based on the findings of the Productivity Commission's Inquiry which reflected the fact that many women demonstrate attachment to the workforce despite not being employed continuously with one employer. Consequently, a small but significant number of parents are eligible for PPL but not eligible for unpaid parental leave. These employees will receive 18 weeks paid leave but do not have a right to return to their job. This undermines the PPL legislation's objective to facilitate labour market retention of parents. The NES eligibility criteria for unpaid parental leave should be amended to ensure that those who are entitled to PPL are also entitled to unpaid leave for that period to ensure they have a job to return to. (Submission 43, p. 9)

Several other groups and individuals felt the eligibility criteria for both unpaid parental leave and PLP should be uniform. For example, the Women's Electoral Lobby Australia wrote:

The Paid Parental Leave Act provides a payment but does not include a right for parents to take leave from employment. According to the Productivity Commission, while all employees are covered by unpaid parental leave legislation, not all employees meet the



eligibility criteria. The Commission reports around 17 per cent of employee mothers and 15 per cent of employee fathers fall into this group (2009, p. 3.1). This is simply anomalous and should be corrected. If the Government believes that a group of employees should be entitled to payments, it should ensure that they have an entitlement to take at least a corresponding amount of parental leave. (Submission 58, p. 5)

Ms Samone McCurdy noted in her submission:

With differing eligibility criteria (FWA 12 months of service and PPL Act 10 months of service), it is possible that employees are entitled to a paid leave payment under the PPL Act but are not eligible for the job protected leave under the FWA Act. As other scholars have aptly noted, the FWA covers the right to return to the pre-birth position and request flexible work practices upon return. This omission leaves a proportion of workers vulnerable when transitioning back from leave to paid employment and weakens the workforce attachment gains that the PPL policy hoped to provide (Baird & Whitehouse, 2012; Bromhill & Sharp, 2012). (Submission 30, p. 6)

In contrast, the Australian Industry Group argued that:

The interaction between the PPL scheme and the NES entitlements involves a careful balance between keeping true to the PPL scheme's objective of providing financial support to working parents and not crossing the line into areas of industrial law regulated by the Fair Work Act. The existing balance is appropriate and should not be disturbed. (Submission 54, p. 3)

There were instances of confusion between the NES entitlements and PPL scheme eligibility criteria highlighted in submissions. For example, the Women Lawyers Association of New South Wales Inc advised that in one company there was:

... confusion within the firm's management team over the difference between unpaid parental leave rights under the Fair Work Act, the work test under the PLP and the subtle distinction between parental leave and PLP. (Submission 27, p. 3)

In an example of how NES entitlements and PLP interacted with other workplace entitlements, the Australian Education Union wrote that:

In Victoria, employees have the right to immediate return following the 14 weeks of employer paid maternity leave. The AEU Victorian Branch report that when their members are seeking to access the government's PPL following their employer paid maternity leave they are losing their right to immediate return. (Submission 40, p. 5)



Administrative data shows that of parents who received PLP in 2012-13, around 74 per cent received the payment from their employer. As employers are only required to provide PLP to those employees who have worked with them for 12 months or more prior to the birth or adoption, and who will continue to be their employee at least until the end of the PPL period, it would suggest that the majority of employees who receive PLP from their employer are expected to be eligible for unpaid parental leave under the NES. This group would also include some employees who may not have 12 months or more service with their employer, but they receive PLP from their employer because the employer has opted in to provide the pay on a voluntary basis, and the employee has indicated they want to receive the pay from their employer. In these circumstances it is highly unlikely the employer would refuse to grant the parent unpaid parental leave.

Of the employers who provided PLP in 2012-13, 88 per cent were registered to provide PLP only for those employees they were required to pay, and 12 per cent had opted in to provide PLP to employees on a voluntary basis.

The 25 per cent of parents who receive their PLP from Centrelink include parents who have chosen to resign from employment before the end of their PPL period, self-employed parents, and contract and seasonal workers who do not have an ongoing attachment to an employer. Also included would be short-term and casual employees who have been able to negotiate unpaid parental leave with their employer but who will receive PLP from Centrelink because, for example, their employer has not opted in to provide PLP voluntarily. A further subset of the group paid through Centrelink would include parents who have resigned or otherwise severed their employment relationship to take PLP, because they were unable to negotiate unpaid parental leave with their employer. There is no data currently available on the actual circumstances of parents who receive PLP from Centrelink.

Phase 1 of the PPL evaluation found that of mothers who would have been eligible for PLP had it been introduced at the time, 71 per cent thought they would be eligible for unpaid parental leave from work, when in fact 95 per cent would have actually been eligible. The results from Phase 3 of the evaluation were similar in relation to perceived eligibility. Following the introduction of the PPL scheme 73 per cent of PLP eligible mothers thought they would be eligible for unpaid leave. Phase 3 of the evaluation did not examine actual eligibility (Martin *et al* 2012, p. 17, forthcoming).

Phase 3 of the evaluation does show however that the proportion of mothers taking unpaid maternity or paternity leave following the introduction of the PPL rose from 60 per cent in 2010 to 64 per cent in 2012.



D.2.b Employer obligations to provide their own schemes in addition to PLP

Concerns were raised by some participants in the Productivity Commission's inquiry into paid parental leave that the introduction of a government-funded scheme would result in some employers winding back their own paid parental leave schemes. The Commission considered whether the PPL scheme should have a 'no disadvantage' test. It decided that, in addition to such a test being potentially difficult to administer, most employers would not withdraw or reduce their own schemes because they would wish to preserve their status as an 'employer of choice'.

Following the release of the Commission's report and during development of the Government's scheme, some stakeholders continued to express concerns with this issue. In response, the Government decided to include a clause in the *Paid Parental Leave Act 2010* (PPL Act) (section 99A) to ensure that an employer's obligation to provide PLP to an eligible employee is in addition to any other obligation the employer may have in relation to the employee.

The separate obligations an employer would have to their employee include paid parental leave provisions included in a Commonwealth, State or Territory law, or an industrial instrument such as an enterprise agreement or a contract of employment. The legislation applies to current laws and industrial instruments and does not affect changes to laws or newly-negotiated industrial instruments or new employment contracts made after the life of the current agreements. In addition, section 99A of the PPL Act does not apply to paid leave and other provisions included in company policies.

In their submissions to the PPL review the ACTU and unions recommended the PPL Act be amended to ensure employers cannot reduce future enterprise agreements and workplace policies as a result of the introduction of the PPL scheme. The ACTU advises it is:

... aware of a small number of employers who have rescinded employee entitlements since the introduction of the government PPL scheme. ... There have also been instances where employers have incorrectly sought employees to use all available paid leave options prior to taking PPL. Further education, monitoring and enforcement of employer rights and obligations under the PPL Act is required. (Submission 43, p. 17)

The Independent Education Union of Australia:

... strongly believes that existing employer funded paid parental leave entitlements must be protected by legislation from erosion by employer intransigence. It is too often the case that an employer will seek to remove current entitlements citing the existence of the Paid Parental Leave scheme as a reason. Members who are eligible for the Paid Parental Leave



scheme must also be able to continue to access employer-funded leave around the time of the birth or adoption of a child. This includes employer funded paid parental leave and annual leave. (Submission 36, p. 2)

A submission from an individual with an income just above the PPL income test limit advised:

When the paid parental leave scheme commenced, my employer cancelled its paid maternity leave program (even though most women in the workplace don't qualify for the government payment) so rather than being of assistance to mothers, the scheme ended up leaving the mothers worse off and creating a windfall cost-saving for my employer, an extremely wealthy corporation. ((Confidential) Submission 22)

The Women in Mining Network noted in its submission with the Australasian Institute of Mining and Metallurgy, that:

WIMnet members also advise that in some cases companies have withdrawn or reduced pre-existing workplace parental leave and pay conditions using the 'justification' of the introduction of a government funded scheme. (Submission 38, p. 1)

The Australian Industry Group advised that in its experience:

... where an employer had a company-specific paid parental leave scheme before the PPL Act came into operation, the employer has typically maintained its scheme. (Submission 54, p. 4)

Diversity Council Australia reported its:

... members provide an average of 14 weeks' PPL. This is generally in addition to the Government-provided PPL. As many DCA members already had well established PPL schemes in place when the national scheme was introduced, they have retained, and in some cases, enhanced, their existing schemes as well as administering the Government scheme. (Submission 24, p. 4)

The PPL evaluation showed that at the time PPL was introduced 36 per cent of surveyed employers offered some type of formally arranged paid parental leave. Following the introduction of PPL, 20 per cent of these employers made changes to their paid parental leave policies and of these 20 per cent, 11 per cent withdrew this entitlement. Overall about three per cent of employers who provided paid leave entitlements prior to the introduction of the PPL scheme reduced or withdrew existing entitlements.



A further survey of employers one year after the introduction of PPL showed that there had been no significant changes in the rate at which employers had changed their policies. The survey also showed none of the employers who made changes to their existing parental leave policies had fully reduced or withdrawn those entitlements.

D.2.c Integration of PLP and employer-provided paid parental leave

The PPL scheme is designed to provide flat-rate taxpayer-funded payments to new parents who meet the eligibility requirements. If an employer is required to provide PLP to an eligible employee, the employer will do so in accordance with the employee's usual pay cycle, and over the PPL period of up to 18 weeks. Employees can choose to receive PLP before, after or at the same time as employer-provided paid and/or unpaid leave.

Employers may choose to keep their own paid leave scheme separate from the PLP they provide to an eligible employee, or they can choose to integrate the two by using PLP as a foundation on which employer-provided entitlements can be added, for example, by providing top-ups to replacement wage.

The Productivity Commission considered that employers would keep their own schemes by either maintaining their current paid leave arrangements (the most likely outcome) or by reconfiguring the package of employee benefits in a different way (such as introducing other family-friendly policies or higher wages), while preserving the value of that package.

Feedback to the PPL review on views about interactions was mixed. For example, in its submission the ACTU advised:

We believe the scheme is ready to be built on further, in particular by requiring greater contribution by employers who do not already supplement the basic government payment with additional paid leave, top up to full wage and contributions to employees' superannuation. (Submission 43, p. 18)

Similarly, the Shop Distributive and Allied Employees' Association took the view that:

In companies which do not provide company funded Paid Parental Leave, the government scheme has provided a minimum entitlement which has made providing additional leave or top up to full wages, a more realistic option, should they choose to do this in the future. (Submission 45, p. 10)

The Australian Federation of Employers and Industries (AFEI) reported in its submission:



The number of AFEI members who have contacted us about PPL and have made changes to their existing practices and policies because of the scheme is negligible. They view the scheme as a welfare or health benefit, unrelated to both their operating environment, business needs and their conditions of employment. This is unsurprising given the objectives of the legislation. They are opposed to any moves to entwine PPL with any other legislative obligations, awards/agreements or company instigated schemes and policies. Employers who provide paid parental leave do so where they judge it to be in their interests and do not welcome government intervention in deciding what are the appropriate settings for their organisation. (Submission 52, p. 5)

Although the majority of feedback provided to AFEI by its members about the PPL scheme was negative, one employer provided the following positive feedback about the interaction of the PPL scheme and employer-provided paid leave:

Our workforce is predominantly women. Since the introduction of PPL we have seen an increase in employees who are pregnant. Also these employees seem to be less stressed about their financial circumstances during this time. PPL is a very beneficial scheme and should be increased. (Submission 52, p. 13)

Ms Samone McCurdy advised:

... employer-provided leave remains an integral part of the work and family policy regime in Australia – especially for workers who earn above minimum wage. This is because the majority of employer funded policies are paid at replacement rates of pay. (Submission 30, p. 5)

Some submissions to the review have highlighted some practical difficulties with integrating PLP and existing employer-provided paid leave. Women Lawyers of NSW Inc included the following example:

One member firm decided to introduce a modest employer paid parental leave scheme to complement PLP. The initial intention was to top up the Government's payment to full replacement wage up to a total employer contribution of a set number of weeks' salary. In the end, it got too confusing for the payroll person to administer, with the PPL being taxable but not superable, while the employer payment was to include superannuation. The employer provided paid parental leave separately to the PLP, and at the end of the PLP period, as managing any interaction was too administratively difficult. (Submission 27, p. 3)



Thoughtworks described its own experience with integration as follows:

At Thoughtworks we first tried to cover the difference between our employee's regular salary and the gov't PPL (i.e. minimum salary). This proved to be a complex process, in both management and calculation. We have since changed the policy to keep the gov't PPL and Thoughtworks provided paid parental leave separate from each other. (Submission 32, p. 2)

Women Lawyers of NSW Inc was of the view that case studies should be developed and communicated to employers:

... showing how employers could develop their own paid leave schemes to sit with the PLP ..., with as many options illustrated, such as – topping up PLP to replacement wages, paying super on PLP and employer paid parental leave, showing how other forms of leave could be utilised as well in the unpaid parental leave period. (Submission 27, p. 4)

The Workplace Gender Equality Agency included information on options for the integration of the PPL scheme and employer-provided paid leave in its *The 'how to' guide to employer-provided paid parental leave* (Workplace Gender Equality Agency 2013).

D.3 Eligibility for Parental Leave Pay

To receive PLP the parent of a newborn or recently adopted child must meet a number of eligibility and payability criteria. They must:

- lodge a claim for payment
- satisfy the PPL work, income and residency tests
- be the primary carer of their newborn or recently adopted child from the day they become the primary carer until the end of their PPL period
- verify the child's birth or entry into care, and
- not work between becoming the primary carer of their child and the end of their PPL period.

The initial primary carer of an adopted child is treated in the same way as a birth mother under the PPL Act. References to birth mothers and births in this section may be taken to apply to adoptive parents who are the initial primary carers of their child, and the entry of the child into the adoptive parent's care.



A birth mother is assumed to be the primary carer of a newborn child. This is consistent with the objectives of the scheme relating to enhancing maternal and child health and development, and increasing women's workforce participation.

A birth mother or adoptive parent may receive the pay themselves or they may transfer some or all of it to their partner, if their partner claims the unused PLP and meets the scheme's eligibility criteria in their own right. In a separated family, the child's other legal parent or their partner may, if eligible, receive PLP transferred from the birth mother.

A person other than a birth mother or adoptive parent may claim the payment in some exceptional circumstances, for example where another family member takes on the care of the child because neither the birth mother or father is able to care for the child for at least 26 weeks, and the change in care occurs within the first year after the birth.

The following sections consider issues relating to the work, income and residency tests, the requirement that a birth mother must first be eligible for the scheme as a primary claimant before transferring her unused PLP to an eligible partner (the secondary claimant), and access to the scheme for certain groups of non-parent carers.

D.3.a Primary and secondary claimant hierarchy

The PPL Act establishes a hierarchy of claimants for PLP. The eligibility of secondary claimants is dependent on a primary claimant first being found eligible for payment.

Only the birth mother may be the primary claimant for PLP in ordinary circumstances. The following people may be a secondary claimant in ordinary circumstances (that is, they have become the primary carer, usually because the birth mother has returned to work):

- the birth mother's partner (e.g. the birth father), or
- the child's other legal parent where the birth parents are not a couple, or
- the partner of the child's other legal parent.

The birth mother's partner may be eligible as a primary claimant only in exceptional circumstances, e.g. where the birth mother is incapable of caring for the child for at least 26 weeks (such as in the case of death or severe illness), and the change in care occurs in the first 12 months following the birth, and the partner meets the scheme's eligibility requirements including the work, income, residency and primary carer tests.



Birth mothers are given priority as the primary claimant to support the objectives of PLP, including to enhance the health and development of birth mothers and children, and to encourage women's workforce participation.

The Productivity Commission recommended that PLP be initially granted to an eligible mother because of the unique capacity of the mother to breastfeed her baby, with the health and other benefits this has for the mother and baby. The Commission also noted that granting initial eligibility to birth mothers enables them to choose how to use their entitlements, and whether to share PLP with their partner.

The Commission proposed that an eligible father not have access to PLP if the mother is ineligible, because granting initial eligibility to fathers would result in fathers receiving PLP despite the birth mother not meeting the work test and also being more likely to be the primary carer of the child.

D.3.a.i High income mothers who are the main or only breadwinner

The PPL individual income limit of \$150,000 or less in conjunction with the claim hierarchy described above means that if a birth mother has income over \$150,000, the family cannot access PLP. If a birth mother and her partner both have income of \$150,000 or less and both meet the other eligibility requirements, the mother may take the payment herself or transfer some or all of the payment to her eligible partner. If an eligible birth mother's partner has income over \$150,000, the birth mother can take the payment herself but cannot transfer unused PLP to her partner.

A submission to the PPL review from an individual and correspondence received about the PPL scheme indicates that some parents consider the PPL claim hierarchy to be discriminatory.

.... the paid Parental Leave Act is discriminatory. I think it is inequitable that my husband (with a previous year income of \$70K) and I (with a previous year income of \$155K) were not eligible for PPL in the first instance, as the income of the mother is used to determine eligibility. A couple in otherwise identical circumstances, where the man earned \$154K and the woman \$70K, would have been eligible. (Submission 20, p. 5)

In drafting the PPL legislation, the Australian Government considered whether the PPL claim hierarchy would contravene the *Sex Discrimination Act 1984*. As the circumstances of the father and mother of a newborn child are not the same, it was found that differential treatment is not discriminatory. The birth mother of the child, having given birth, requires a certain period of rest and recovery following the birth along with an appropriate period of time to establish breastfeeding.



From January 2013 eligible working fathers or partners (including adoptive parents and same-sex partners) may receive up to two weeks of DAPP at the rate of the national minimum wage. Fathers or partners may be eligible for this payment regardless of the mother's eligibility for PLP or other family assistance, or her previous workforce history. The payment is exclusive to fathers or partners, and birth mothers are not eligible for DAPP.

See also the discussion under subsection D.3.c Operation of the PPL income test.

D.3.b Operation of the PPL work test

To meet the work test for PLP a parent who is a primary claimant must have:

- worked for at least 10 of the 13 months (295 days in a 392 day period) prior to the birth or adoption of their child
- worked for at least 330 hours in that 10 month period (at least 7.6 hours a week on average), and
- had no more than an eight week gap between two consecutive working days.

The work test period for a secondary claimant or a claimant in exceptional circumstances is the 13 months prior to the person becoming the child's primary carer.

Box D.1 Features of the PPL work test

- The hours of work performed do not have to be with the same employer.
- Periods of paid leave taken in the 13 month work test period before the birth or adoption count as work for the PPL work test.
- Periods of unpaid leave or voluntary work do not count as work.
- A working day is a day on which a person has worked or taken paid leave for at least one hour.
- Full-time, part-time, casual, seasonal, contract and self-employed workers may be eligible.

The work test is designed to both require a genuine attachment to the workforce prior to birth, and to be generous to ensure the majority of working women can meet it.

There is flexibility in the work test to cater for premature births, to allow for some breaks in employment and to enable employees with more interrupted patterns of work, such as casuals, to qualify. The number of hours required to be worked in the 10 month period takes account of working women who already have children and who are more likely to work part-time hours.



D.3.b.i The eight week gap between consecutive working days

The Productivity Commission proposed a work test that would ensure the payment assisted parents with an ongoing attachment to the workforce, while allowing flexibility so that working parents who are between jobs or who otherwise have some unpaid breaks between working days can still be eligible. For this reason, the work test allows a parent to have up to eight weeks' (56 days) break between two consecutive working days.

While there may also be workers in other sectors affected by the eight week gap rule, since the start of the scheme concerns have been raised about the impact of this rule on casual school teachers.

It is possible for a casual school teacher to have a long work history but each year during the Christmas holiday break to have a gap of more than eight weeks between two consecutive working days. In addition to the six week school holidays, casual teachers often are not employed late in the final term and early in the first term.

Submissions to the PPL Review from the ACTU and unions, and in particular from education unions, dealt with this issue in detail.

In its submissions to the PPL Review the ACTU recommended:

The grace period of eight weeks in the work test for eligibility for PPL pay should be extended to 12 weeks. In addition, or in the alternative, the eligibility criteria should be amended to acknowledge the workforce attachment of employees working regularly and systematically in industries where breaks in service are integral to the employment conditions of the sector in which they are employed. (Submission 43, p. 5)

The Australian Education Union wrote that many employees working in education are:

.... able to demonstrate an established work pattern of ongoing work with their employer, and indeed satisfy all other aspects of the eligibility test but for the clause regarding the 8 week break.. For these employees, their history of employment may be via short term contracts, however in some circumstances these may be for years on end. They would be clearly able to demonstrate a connection to regular (albeit) casual employment and make evident an identified work pattern connection. (Submission 40, p. 5)

Tertiary teachers may also have systematic long breaks in the academic year. In its submission to the PPL review the National Tertiary Education Union gave the example of:



An academic teacher employed for over 20 years within a university but working 24 weeks of each year and incurring 2 breaks of 14 weeks each during the year – this is the seasonal nature of their employment. (Submission 57, p. 2)

The Women’s Electoral Lobby submission also recommended flexibility.

WELA is also concerned that the eligibility requirement for the PPL scheme specifying that there should be no more than an eight week gap between two consecutive working days may unduly prejudice casual and contract workers in particular industries such as teachers. While WELA believes that a work test for employees should enhance a genuine labour attachment and set a reasonable minimum for coverage for the scheme, it believes that an extension may be warranted for certain sectors to truly encompass the extent of people’s long-term workforce participation. (Submission 58, p. 5)

A casual or other type of employee who routinely has more than an eight week gap between two consecutive working days and who would otherwise meet the PPL work test, could work for as little as one hour on one day to avoid exceeding an eight week gap. For example, a casual teacher may be able to do some tutoring work during a long break.

Box D.2 Flexibility in the eight week gap rule

A parent who has a break between consecutive working days of more than eight weeks (56 days) towards the start or the end of their 13 month (392 day) work test period, should test their eligibility for payment. It is possible to have more than an eight week gap in the 13 month work test period and still have worked for a qualifying period of at least 10 months (295 days) in that period.

Example: At the start of her 13 month (392 day) work test period Yasmina is between jobs and does not work for a period of 16 weeks, 10 weeks (70 days) of which are in the work test period. Yasmina then starts work for three days a week and works each week until she has her baby on her due date. Yasmina has therefore worked for a period of 322 days (392 – 70 days) with no more than an eight week gap between consecutive working days. This is more than the minimum requirement of 10 months (295 days).

A parent who has more than an eight week gap between consecutive working days at a time in the work test period that interrupts the 10 month (295 day) period, will be unable to meet the work test.



Example: At the start of her 13 month (392 day) work test period Anneke works each week for four months (122 days). She then takes leave without pay for 10 weeks (70 days) to travel overseas. After the 10 week break Anneke returns to work and works each week until the expected date of birth. This period of work is for 200 days (392-(122 + 70) days). Anneke has not worked for a period of at least 10 months (295 days) in the 13 month work test period with no more than an eight week gap between consecutive working days.

D.3.b.ii PhD students

Under the PPL work test a person performs paid work on a day, if for at least one hour on that day they undertake work for pay or other financial benefit. The work can be for an employer or for a person's own business. Hours worked can contribute to the PPL work test even if the business is not yet generating an income, as long as the work is being undertaken with the aim of generating an income.

An activity that is not done for financial reward or gain, including study, does not meet the definition of paid work under the PPL work test. The exclusion of study from eligibility for the PPL work test is supported by the Productivity Commission's view that a critical prerequisite for PLP eligibility is a genuine attachment to the labour market prior to the birth. As such, receipt of a scholarship by a PhD student does not currently count as paid work for the purposes of PLP.

A PhD student who does undertake work in addition to their studies, such as tutoring at a university, may have this work count towards the PPL work test. However, there are limits on the amount of paid work a full-time PhD student may undertake. For example, the University of Melbourne does not stipulate the maximum number of hours that may be worked by a full-time PhD student, but recommends as a guide that more than six hours per week across the year during normal working hours, would be undesirable. The PPL work test requires a parent to work at least 330 hours (an average of 7.6 hours a week) across 10 of the 13 months prior to the birth.

In correspondence and other feedback received about the scheme and submissions to the PPL review, stakeholders have indicated that a scholarship received by a full-time PhD student and the study undertaken by the student should count as paid work under the PPL work test.

The following features help to illustrate the similarities and differences between PhD scholarships and paid work.

- PhD scholarships (awarded to students of exceptional research potential undertaking a higher degree by research in Australia) are provided to assist with students' general living costs.



- Scholarships are paid as a stipend in the same way as a salary, e.g. fortnightly into the student's bank account.
- In the same way as employees, students in receipt of PhD scholarships may be entitled to paid annual leave, sick leave and maternity leave.
 - For example, under an Australian Postgraduate Award (APA) a student receives 20 days paid recreation leave and 10 days paid sick leave for each year of their APA, with access to an additional 12 weeks' paid sick leave over the duration of the APA.
 - A student who has completed 12 months of their APA is entitled to up to 12 weeks' paid maternity leave.
- A PhD student conducts original research which has a value to the higher education provider and more broadly.
- A PhD student's higher education provider is required to ensure that adequate facilities and appropriate supervision are available.
- Culturally, a PhD student can be regarded as a colleague and they often undertake activities with their colleagues who are employees, eg. they co-author papers.
- A PhD is a strong predictor of ongoing workforce participation, and is the only pathway to employment for certain academic positions.
- PhD students do not pay tax on their stipend.
- The stipend resembles a grant more than a contract for services.
- The 'work' of a PhD student is linked to their stipend, but not in a daily way as would be the case with paid work.

D.3.b.iii Short birth spacing

The PPL work test is designed to be flexible and to maximise the number of working women who are able to qualify for PLP, including those working mothers who wish to qualify for their second or subsequent children.

The Productivity Commission gave the issue of close birth spacing substantial consideration in making its final recommendation on the design of the work test. In particular, the Commission considered how the work test could support a mother to qualify for PLP for her next child after taking off six months off to care for her first child. The Commission focussed on six months' absence after finding compelling evidence of child and maternal health and welfare benefits from a period of absence from work for the primary caregiver of around six months. The evidence is inconclusive for exclusive parental care from six to 12 months, and suggests positive effects from quality non-parental care from 12 months.

The Commission proposed that a 10 month work test period (10 of the 13 months prior to the birth) would allow a mother who had her next child within 16 months, to still take the desired



26 weeks away from work with the first child. The Commission used data from the Longitudinal Study of Australian Children to find that of mothers who would have met a PPL work test, around six per cent had another child within 18 months of the previous child, and around 77 per cent had a subsequent child more than two years after their previous child (Productivity Commission 2009, Appendix J).

In choosing appropriate work test criteria the Commission took account of the scheme objective of providing PLP to those with a genuine attachment to paid work before the birth. The Commission also wished to avoid undesirable outcomes, including:

- women reducing their time away from work to less than six months to requalify, or working many hours in a short period of time in order to requalify
- women significantly delaying having further children to requalify, particularly women having children later in life, and
- a large group of mothers failing the work test because of short birth spacing.

From 1 March 2014, the PPL work test was amended to allow a PPL period that occurs in the 13 months work test period for a subsequent claim, to count towards the work test. The previous PPL period counts towards the requirement to have worked 10 of the 13 months before the birth or adoption, and to have worked 330 hours in the 10 month period. It also counts as qualifying work when assessing if there has been more than an eight week gap between consecutive working days. The change to the PPL work test will benefit mothers who have received PPL for a previous child.

Submissions to the PPL Review from the ACTU, unions and individuals acknowledged the 1 March 2014 change to the PPL work test as an improvement, but a number of stakeholders indicated they do not believe the change goes far enough because it may not help mothers who choose to take longer periods of time on leave or out of the workforce, and in particular mothers who unexpectedly fall pregnant with a subsequent child. A respondent to a Unions NSW PPL survey wrote:

The system failed me. I have been working since I was of legal age and had only taken 12 months off to have a baby in August 2010 and returned to work full time August 2011 however fell pregnant again and had to take maternity leave again so did not qualify for the paid parental leave due to not enough time in paid work between children. (Submission 49, p. 13)

The ACTU and unions advised they consider the work test change should be expanded to allow unpaid parental leave to count towards the PPL work test. Unions NSW reported in its submission



that of the primary carers who take time off work after the birth or adoption of a child, around 48 per cent take at least one year off. (Submission 49, p. 13)

The Shop, Distributive and Allied Employees' Association suggested that:

Primary carers should determine what is the appropriate amount of time away from work that they need, taking into account their individual circumstances, their own health, and the health and development of their child. In practice, the family's financial circumstances and the woman's industrial entitlements are also important factors. Government payments should not provide any financial incentive or disincentive in regard to the spacing of children within families. The scheme should provide that the whole of any parental leave period, whether paid or unpaid, should be counted for the work test. (Submission 45, p. 7)

Box D.3 How the 2013-14 Budget change to the PPL work test can help a PPL recipient to requalify for a subsequent child

A previous PPL period that occurs in the work test period for a subsequent claim can count as paid work for PPL work test purposes.

Example

Rebecca gives birth to her first child, Jacob, on 1 June 2014. Rebecca wants to have 10 months at home with Jacob, and return to work on 30 March 2015. Rebecca will be away from work for 43 weeks. She takes 13 weeks paid leave from her employer (maternity and annual leave), followed by six weeks leave without pay, 18 weeks Parental Leave Pay, and then another six weeks leave without pay. Rebecca returns to work when she is three months pregnant, and works for the next six months until shortly before she is due to give birth on 1 October, when Jacob will be 16 months old. Rebecca is able to meet the PPL work test for her next baby because she can count her PPL period and her paid work from 30 March towards the work test.

By splitting her unpaid leave into two six week periods either side of her PPL period, Rebecca has ensured she has not had more than an eight week gap between two consecutive working days. If Rebecca had taken her paid leave followed immediately by 18 weeks Parental Leave Pay, and then 12 weeks unpaid leave, she would not have met the PPL work test for her subsequent child.

D.3.b.iv Other concerns with the PPL work test

In addition to the issues raised in relation to the eight week gap rule and casual teachers, and the proposal to count both paid and unpaid parental leave towards the PPL work test, the ACTU and unions had concerns about the inability of some women to meet the work test due to pregnancy



discrimination. They called for the work test to be amended to ensure employees who but for the discrimination of their employer would have met the work test, would be eligible for PLP. The ACTU noted that:

Discrimination law advocates report a significant number of cases where employees are terminated from employment, contracts not renewed or casual employees not provided with work upon notifying their employer of their pregnancy and/or intention to apply for PPL. (Submission 43, p. 18)

A number of unions recommended an exception to the PPL work test for women in situations where there is an inability to provide 'suitable duties' for pregnant women.

Concerns were raised about women whose type of employment prohibits them from working beyond a certain point in their pregnancy for safety reasons. It was suggested that there could be a change to the work test for women in these situations.

Several submissions, generally relating to individual circumstances, raised concerns about mothers who have a long work history but are ineligible for PLP due to an unexpected change in circumstances in the PPL work test period, such as a non-pregnancy related illness requiring more than eight weeks' unpaid sick leave. These submissions called for a change in the work test to take account of a longer work test period for parents who have otherwise had a consistent participation pattern in the years before the birth.

In its submission, Family Voice Australia raised concerns that the PPL work test results in a:

...disturbing division of mothers into two categories: those who meet the "work test" (set out in sections 32-36B) of the Act and qualify for PLP (PLP) and those who fail to meet this test and are therefore only eligible for the lesser support of the Baby Bonus (BB), or from 1 March 2014 when the Baby Bonus is to be abolished, the even lesser support of an additional Family Tax Benefit Part A. (Submission 37, p. 1)

The Australian Federation of Employers and Industries requested:

There should be no lessening of the work test while employers continue to make payments on behalf of the Government. Employer responses indicate this is an additional administrative and "red tape" burden which they can well do without. It should not be extended to a wider range of workers who have worked for lesser periods of time. Employers could readily face circumstances where they become liable for making payments to casual workers with only a few weeks of work with them and who they have



no intention of retaining, or to permanent workers with very short service who are then absent for the workplace for a lengthy period of time. (Submission 52, p. 6)

D.3.c Operation of the PPL income test

To be eligible under the PPL income test a parent must have an individual adjusted taxable income of \$150,000 or less in the financial year before the date of birth or date of claim, whichever is earlier.

The financial year used to assess income – the earlier of the year before the date of birth or date of claim – is flexible to ensure that parents who lodge a pre-birth claim before the end of a financial year and are found eligible, do not have to re-test their eligibility under the income test if their baby is then born after the end of the financial year in which they claimed.

D.3.c.i The PPL income test

While the Productivity Commission did not propose an income test for the scheme, the Government decided to include one to maintain fairness in the support the Government provides to families, and in recognition that high income women are in a strong position to obtain paid parental leave and other family friendly benefits as part of their conditions of employment (Australian Government 2009, p. 15).

The income test is designed to be generous to ensure the fewest number of working women are excluded from the scheme, but consistent with the principle of targeting Government support to those most in need.

Some stakeholders had a view that the PPL income test should be removed as they consider it discriminates against high income birth mothers, including single mothers and those who are the sole or major breadwinner in a couple. For example, a family where the mother earns \$160,000 a year and the father earns \$70,000 would not be eligible for PLP, whereas a family would be eligible if the mother earns \$70,000 and the father earns \$160,000.

The Women Lawyers Association of NSW said that removal of the income test:

... is consistent with the characterisation of [PLP] as a work-related entitlement rather than a welfare payment. We do not impose income tests on any other leave payments, yet the same arguments could be made that those earning at that level should be able to provide for their own paid holidays and sick leave. If we truly want to entrench the concept of paid parental leave as a work benefit then it should be on the same footing as other entitlements. (Submission 27, p. 5)



The Women in Mining Network and Australasian Institute of Mining and Metallurgy considered that:

A better approach would be to apply a means test to the family's income. That family means test should apply at an appropriate rate above the individual income test limit of \$150,000 in order to better assess the family's ability to self-fund parental leave. (Submission 38, p. 1)

High income women who are employees are generally in a stronger position to obtain paid parental leave and other family-friendly benefits as part of their conditions of employment. The same does not apply to high income women who are contractors or self-employed.

While there is no data available on birth mothers with income of more than \$150,000 a year, it is estimated the new mothers who would be ineligible for PLP due to the income test would be around one to three per cent of all new mothers in a year.

D.3.c.ii The PPL pre-birth individual income test

The PPL income test of \$150,000 a year or less is assessed on the individual adjusted taxable income of the parent who is claiming the payment.

The individual income test ensures that a mother cannot lose eligibility for the scheme based on her partner's income. If a partner's income were to be counted in the income test, either on its own or in a family income test, it is expected that a greater number of working women would be ineligible for PLP each year.

The mother's previous financial year income is used because the income test period, like the work test period, relates to the mother's employment before the birth of her child. The financial year is the most practical assessment period for income, and the vast majority of claimants are expected to know their actual income for the previous financial year at the time they lodge their claim for PLP.

If a mother wishes to transfer unused PLP to her partner, the mother must first meet the scheme's eligibility criteria including the individual income test. The mother's partner must also meet the eligibility criteria in their own right, including the individual income test.

A number of stakeholders have called for a change from the previous financial year individual income test to a post-birth family or partner income test.



Stakeholders concerned about high income women not being eligible for the scheme, suggest that it is unfair to take account of the mother's income before the birth, when the period in which she will need financial support is post-birth when she may have reduced or no income due to time away from the workforce.

Of particular concern to stakeholders are families who are more likely to experience financial stress in the post-birth period, including sole parent families and couple families where the mother is the sole or main breadwinner.

The Australian Government provides additional support to families with dependent children through the Family Tax Benefit payment. Family Tax Benefit is available to eligible families to help with the cost of raising children.

D.3.d Residency requirements

To be eligible for PLP a parent must satisfy the scheme's residency test from the day they become their child's primary carer (the date of birth for birth mothers) until the end of their PPL period.

Box D.4 The residency requirements for Parental Leave Pay

A parent satisfies the PPL residency test if they are:

1. an Australian resident (a person who resides in Australia and is an Australian citizen, or the holder of a permanent visa, or a special category visa (SCV) holder who is a protected SCV holder), or
2. a special category visa holder residing in Australia, or
3. a specified temporary visa holder who is in Australia or who is temporarily absent from Australia for not more than 6 weeks and the absence is an allowable absence for Special Benefit, as follows:
 - for an acute family crisis (e.g. to visit an immediate family member who is critically ill)
 - for humanitarian reasons (e.g. to adopt a child or attend custody proceedings), or
 - for eligible medical treatment that is not available in Australia.

The residency requirements for PLP are the same as the residency requirements for Family Tax Benefit under the *A New Tax System (Family Assistance) Act 1999*, to ensure consistency across family and parental payments. In turn, the Family Tax Benefit residency arrangements are based on the arrangements that apply under the *Social Security Act 1991*. In particular, the temporary visa subclasses and the allowable absence rules for PLP and Family Tax Benefit are the same as those that apply to Special Benefit recipients who are temporary visa holders.



A parent who is an Australian resident or a special category visa holder (criteria 1 and 2 in Box D.4) may leave Australia temporarily before the end of their PPL period and continue to be eligible for PLP.

A parent who is a temporary visa holder (criterion 3 in Box D.4) may only leave Australia temporarily in very limited circumstances without losing their eligibility for PLP.

Box D.5 Holders of the following specified temporary visa subclasses may be eligible for PLP

Category A

- subclass 820 - Extended eligibility (spouse)
- subclass 820 - Extended eligibility (partner)
- subclass 826 – Interdependency (provisional)
- subclass 309 – Spouse (provisional)
- subclass 309 – Partner (provisional)
- subclass 310 - Interdependency (provisional).

Category B

- subclass 785 - Temporary protection
- subclass 786 - Temporary (humanitarian concern)
- subclass 447 - Secondary movement offshore entry
- subclass 451 - Secondary movement relocation
- CJSV (9.2.14) - issued specifically for the purpose of assisting in the administration of criminal justice in relation to the offence of people trafficking, sexual servitude or deceptive recruiting
- subclass 695 - Return pending
- subclass 787 - Witness protection (trafficking)(temporary), and
- subclass 070 - Bridging (removal pending).

There are differences in the effect of a temporary absence on eligibility for PLP, depending on the type of visa subclass the parent holds.

A parent who has a temporary visa listed under Category A in Box D.5 may continue to hold their visa during temporary absences from Australia. However, they may only keep their eligibility for PLP in very limited circumstances when they leave Australia temporarily. In all cases apart from a



temporary absence of less than six weeks for an authorised absence reason (see Box D.4), payment of PLP will stop from the day the parent leaves Australia on a temporary absence.

A parent with a temporary visa listed under Category B in Box D.5 is assumed to have left Australia permanently if they leave the country at any time. This is because there is no right of return to Australia under these visa subclasses. If the holder of one of these types of temporary visa is receiving PLP and leaves Australia before the end of their PPL period, their payment will stop from the day they leave Australia.

Table 8 summarises the effect on PLP of an absence from Australia by a temporary visa holder.

Table 8 Effect on PLP of absences from Australia by temporary visa holders

Visa subclass category	Type of absence from Australia	Effect on PLP
Category A	Temporary – for an allowable absence of less than six weeks	Payment may continue
Category A	Temporary – for an allowable absence of more than six weeks	Payment will stop from the day the absence exceeds six weeks
Category A	Temporary – for a non-allowable absence	Payment will stop from the first day of the absence
Category A	Permanent	Payment will stop from the first day of the absence
Category B	Any absence	Payment will stop from the first day of the absence

D.3.d.i Travel overseas by mothers who are temporary visa holders

DSS is aware through correspondence received about the scheme and through requests for Act of Grace payments to Centrelink, that a number of new mothers with Category A temporary visas have travelled overseas to introduce their newborn to their family, and have lost eligibility for PLP as a result.

A submission to the PPL review from Grant Hall described a mother’s visit to her country of origin shortly after the birth of her baby as important:

... for both mother and baby to fulfil their cultural obligations that are customary within Vietnamese culture following the birth of a child, [and for the mother] to obtain multigenerational instructions on parenting from the women who live in her family’s household in Vietnam, in her own language. (Submission 10, page 4)





With an ongoing payment such as Special Benefit (or Family Tax Benefit), payments may stop due to loss of eligibility because of a temporary absence from Australia, but a temporary visa holder can on their return to Australia requalify and commence receiving payments again.

PLP is not an ongoing payment. It must be taken in one continuous block of up to 18 weeks. There can be no break in the payment. If a parent's PLP is stopped because they become ineligible before the end of their PPL period, the payment cannot start again. The Productivity Commission recommended this arrangement, in conjunction with the requirement that care be provided by the parent or parents from the date of birth until the end of the PPL period, to support a continuous period of parental care starting at birth.

The restriction on a specified temporary visa holder's access to Special Benefit when absent from Australia relates to that payment's objectives. To receive Special Benefit, a person must not be entitled to any other income support payment and they must be in financial hardship and be unable to earn a sufficient livelihood for themselves and their dependents due to reasons beyond their control. In addition, Special Benefit is generally designed to provide short-term income support assistance. Recipients are expected to remain in the country and seek employment so that they can move off the payment and support themselves and their family.

In contrast, eligibility for PLP relates to work completed before the birth. It is also a requirement for eligibility that recipients of PLP must not work between becoming their child's primary carer and the end of their PPL period.

There are indications that affected parents have a very low level of awareness of how their temporary absence from Australia will affect receipt of PLP. Often parents only become aware of the rules when their payment is stopped. This usually occurs as a result of Department of Immigration and Citizenship departures and arrivals data being automatically matched with payment recipient data held by Centrelink.

Administrative data indicates that in 2012-13, 111 parents had their PLP cancelled because they were not residentially qualified. The most likely reason for loss of residential qualification is expected to be a temporary absence overseas by a temporary visa holder.

D.3.e Eligibility for the full 18 weeks of PLP (the backdating rules)

To be eligible for PLP a parent must lodge a claim and meet the scheme's eligibility criteria. Before payments can start the parent must also lodge the birth verification form provided in hospital (or by the medical practitioner who attends a non-hospital birth).



The PPL period can start from the date of birth or a later date and all the payment must be taken before the claimant returns to work, and within a year of the birth. To receive the full 18 weeks of PLP, the PPL period must start at least 18 weeks before the parent intends to return to work **and** at least 18 weeks before the child turns one year old. The same arrangements apply for adoptions, with the point of reference being the date the child is placed in the parent's care as part of the process of adoption.

Claims for PLP may be lodged up to three months before the expected date of birth, or after the birth. Parents are encouraged to lodge their claim early so that they can find out if they are eligible for payment and plan their time away from work, and so that payment arrangements can be set up. Parents are also encouraged to lodge their birth verification form shortly after the birth, so that payments can start as close as possible to the PPL period start date for those who have requested a start date from the date of birth or shortly thereafter.

Parents who want their PPL period to start from the date of birth or within 28 days after the birth, must lodge both their claim and their birth verification form no later than 28 days after the birth. This is the only backdating provision for the PPL period start date. It allows flexibility for parents who want their payment to start early, by giving them up to 28 days following the birth to lodge the birth verification form, and have the PPL period start date backdated if they wish.

A parent who lodges their claim more than 28 days after the birth cannot have their PPL period start earlier than the date of claim. A claim that is lodged more than 28 days after the birth must have the birth verification form lodged at the same time.

The limited backdating arrangements were not intended to limit a parent's entitlement to PLP. The purpose of the arrangements is to avoid lump sum payments being made retrospectively, so that the scheme operates as intended by providing financial assistance to the parent over an 18 week period and while the parent is taking time out of the workforce to care for their child. For example, the backdating limit prevents a mother from lodging her claim six months after the birth and nominating the start date as the date of birth, and receiving the whole payment in one lump sum. It ensures that payments are made regularly in the same way wages are paid and with Pay As You Go tax deducted regularly.

An example of the effect of the backdating provisions on parents was described in the Shop, Distributive and Allied Employee's submission as follows:

Another member who had arranged to have 18 weeks off work (because that is the period of the PPL pay) suffered from post natal depression and [who] had another child at home, did not submit her birth verification form until 31 days after the birth. She was told that



this meant she would not be able to have the payment back paid to her baby's birth date because the form was submitted 3 days late. It then took over 4 weeks for the payments to start. She returned to work on her originally advised date and while still receiving PPL payments. This is in contravention of the legislation and so she was required to return over \$4,000 to Centrelink. (Submission 45, p. 21)

D.3.e.i Effect of an early return to work on eligibility and receipt of the full 18 weeks of payment

A parent who lodges their claim and birth verification less than 28 days after the birth, and after they have returned to work, may be eligible to receive PLP for the few days from the birth until their return to work. This is because the PPL period start date may be backdated to the date of birth only if the claim and birth verification are lodged within 28 days of the birth.

To receive PLP, a parent must not work between becoming their child's primary carer and the end of their PPL period. This rule in conjunction with the limited backdating rule means that a parent who lodges their claim and birth verification more than 28 days after the birth of their child **and** after they have returned to work, will not be eligible for PLP at all.

Since the start of the scheme DSS and the Centrelink have received complaints about these issues from affected parents. Centrelink communication products have been updated to make sure parents understand the arrangements, but some parents continue to be caught out because they return to work before lodging their claim for payment, or because they plan to or are required to return to work within 18 weeks of lodging their claim, and do not realise until they have claimed that the PPL period start date cannot be backdated.

If a parent affected by the backdating rules is able to receive some PLP, but not the full 18 weeks because they are returning to work, they may transfer unused PLP to an eligible partner, if their partner becomes the child's primary carer and is eligible for payment.

Administrative data indicates that less than half (around 46 per cent) of claims for PLP are lodged after the birth. Lodging a claim prior to the birth and lodging birth verification within 28 days of the birth helps a parent to have whatever PPL period start date they wish.

Fifty two per cent of parents have a PPL period start date of date of birth, and another six per cent have a start date within four weeks of the birth. This means that these parents have lodged their claim and birth verification in time to have the start date they want. Of the 42 per cent of parents who have a PPL period start date more than four weeks after the birth, it is not known what proportion did not get their preferred start date.



Of those who finished receiving their payment in 2012-13, 97.7 per cent of parents received the full 18 weeks of PLP, indicating the vast majority of parents have a PPL period start date early enough to allow them to take the full amount of payment.

Payment cancellation data in 2012-13 shows that of those parents who did not take the full 18 weeks, 65 per cent (1,949 parents) had their payment stopped due to a return to work.

D.3.f Permanent carers and foster carers

A primary claim for PLP by a birth mother or adoptive parent is considered to be a claim in ordinary circumstances. Such claims are assessed under the provisions of the PPL Act.

The Paid Parental Leave Rules 2010 (PPL Rules) support and complement the PPL Act. The PPL Rules deal with exceptional circumstances in which a claim for PLP can be made, and outline the eligibility criteria to be met by categories of exceptional circumstances claimants.

Certain non-parent carers may be able to receive PLP in exceptional circumstances if the parent is or parents are incapable of caring for a child for at least 26 weeks, and the change in care occurs in the first year after the birth or adoption, and the new carer meets the PPL eligibility criteria. If, for example, the parents of a child die before the child's first birthday, a grandparent or other relative who becomes the child's primary carer may be eligible to receive PLP as a primary claimant.

Non-parent carers who take on the care of a child under a foster care arrangement are specifically excluded from being eligible for PLP. This decision was based on the Productivity Commission's view that foster parents should not be eligible for PLP because they receive existing state and territory foster carer payments. The Commission noted that while such payments are below the level proposed for PLP, there are many considerations in deciding on the appropriate assistance levels provided to foster carers. As a result, it would be better for state and territory governments to determine the appropriate payment levels for fostering, in the broader context of their policies for fostering in general.

The decision to also exclude permanent carers from eligibility for PLP was based on a range of factors that, on balance, indicated that permanent carers are more similar to foster carers than adoptive parents. The factors taken into account include:

- permanent care arrangements are not consistent across Australia in the same way that adoption arrangements are
- unlike adoptions, a permanent care order transfers custody and guardianship to the permanent carer only until the child turns 18 years old



- a permanent care order does not require the consent of the birth parents
- a permanent care order can be revoked by the court, and
- unlike adoptive parents, permanent carers remain eligible for state financial assistance for a child who remains in their care, until the child is aged 18 years.

Examples of permanent care and similar arrangements include Long-term Guardianship Orders in Queensland, Enduring Parental Responsibility Orders in the Australian Capital Territory, and the Permanent Care Program in Victoria.

There are some similarities between permanent care order arrangements and adoption arrangements. For example, under the Victorian Permanent Care Program which has operated since 1992, there is an expectation that the primary carer will be out of the workforce for around 12 months to care exclusively for the child, although there may be some flexibility for children of school age. Supervision is provided for up to two years before a permanent care order is granted by the courts.

Victoria reported in 2011 that around 40 per cent of permanent care orders a year were for children whose placement with their new carer was under the Permanent Care Program. That is, it was known at the time of placement that provided the arrangement was found to be suitable, a permanent care order would be granted in the future. To be eligible for PLP for an adoption, the child must be placed in the care of the person as part of the process of adoption, which means that either an adoption has occurred at the time of placement, or it is intended at the time of placement that an adoption will occur in the future if the arrangement proves suitable.

Based on the recommendation of the Productivity Commission, PLP is not payable for known adoptions. Known adoptions occur where there was no intention to adopt a child at the time the child entered the person's care. Known adoptions usually involve a step-parent or foster carer deciding to adopt a child after the child has been in their care for some time. Known adoptions are similar to the 60 per cent of permanent care orders in Victoria a year that are granted to formalise long-term foster care arrangements.

The ACTU and union submissions to the PPL review included a recommendation that the PPL Act be amended so that legal carers with a permanent care order are eligible for PLP, with similar criteria that apply to adoptive parents. The Shop, Distributive and Allied Employees' Association submission argued that:

Permanent care parents, the legal carers of children with Permanent Care Orders, do very valuable work in our community. In some states they are required to take 12 months off work when the child is placed with them, to assist with bonding and settling the child in a



new family. This type of arrangement is akin to adoption, although not technically the same. (Submission 45, p. 10)

D.4 Parental Leave Pay

PLP is a taxpayer funded payment paid under the PPL Act to eligible working parents (usually birth mothers) of newborn or recently adopted children.

This chapter examines aspects of the payment itself including the rate of the payment, its duration, flexibility and the requirement to not work between becoming the child's primary carer and the end of the PPL period.

Box D.6 Key features of PLP

- An eligible primary carer receives up to 18 weeks pay at the rate of the national minimum wage (from 1 July 2013, around \$622 per week before tax).
- The payment must be claimed by the mother (unless there are exceptional circumstances), and the mother may if she wishes transfer some or all of her unused Parental Leave Pay to an eligible partner.
- It must be taken in one unbroken period, and can be taken at any time in the first year after the birth or adoption.
- It can be taken before, after or at the same time as employer-provided paid leave (such as maternity, annual or long service leave) and employer-provided unpaid leave such as unpaid parental leave.
- If eligibility for Parental Leave Pay is lost before the end of the PPL period, the payment will stop and cannot start again.
- Parental Leave Pay is taxable.
- It counts as income for family assistance payments, but not for income support payments.
- A family cannot receive Family Tax Benefit Part B or benefit from dependent spouse, child housekeeper and housekeeper tax offsets during the PPL period.
- It is a payment for the parent who is taking time away from work rather than a per child payment, and so is payable once for each birth event including multiple births.



D.4.a Payment amount

PLP is paid for up to 18 weeks at the rate of the national minimum wage, and from 1 July 2013 is \$622.10⁵ per week before tax. The payment is made for each week day (Monday to Friday) at \$124.42 per day.⁶ This is the level of payment recommended by the Productivity Commission and accepted by the Government when the scheme was established.

The Productivity Commission proposed payments at the national minimum wage rate. This rate of payment was an uncontroversial feature in all past proposals for a national PPL scheme. The Commission advised that most inquiry participants supported such a payment rate, and noted that it has the advantage that it is recognised as a wage, and has a strong precedent in many overseas schemes.

The Commission considered that using the national minimum wage rather than a non-wage rate of payment (such as a proportion of average weekly earnings indexed to movements in average weekly earnings) would clearly signal that PPL payments were a work-based entitlement rather than a welfare payment. The Commission considered that a national minimum wage rate would probably be less open to pressures to increase its value than an alternative based on a share of average weekly earnings.

The Commission said that payment at a flat rate would mean the labour supply effects would be greatest for lower income, less skilled women – precisely those who are most responsive to wage subsidies and who are least likely to have privately negotiated paid parental leave.

Many submissions to the review dealt with the rate of payment. The majority of these submissions proposed an increase to the rate of payment to help alleviate families' financial strain, to make the payment consistent with the rates applying to paid leave, to allow women to take more time off, and to promote gender equality and shared care. Some submissions suggested the rate of payment should remain at the current level to avoid increasing the burden on employers.

⁵ The Fair Work Commission Minimum Wage Panel sets the national minimum wage in an annual wage review. The resulting national minimum wage order comes into operation from the first full pay period on or after 1 July each year. The change in the rate of Parental Leave Pay takes effect from 1 July each year.

⁶ The Fair Work Commission Minimum Wage Panel sets the weekly amount of the national minimum wage, and derives the hourly rate by dividing the weekly rate by 38 (hours). The PPL Act sets the daily rate of Parental Leave Pay by multiplying the hourly rate of the national minimum wage by 7.6 (hours per day). A daily rate of Parental Leave Pay is essential for payments to be made in accordance with a parent's specific PPL period. The weekly rate of Parental Leave Pay is the daily rate multiplied by 5 (days). These different methodologies may in some years result in a difference in the two rates of 10 cents a week.



In their submissions to the review, the ACTU, unions and Women in Super called for legislation to oblige employers to top up the gap between PLP and employee's actual earnings, capped at the average earning rate of \$72,400. The ACTU and unions suggested that employers could voluntarily top up employee wages above this amount, i.e. to replacement wage. In its submission to the review, Unions NSW recommended:

...the Federal Government continue to fund the Federal Minimum Wage component of all Paid Parental Leave. The top up payments to the level of wage replacement to be funded by employers through a system to be developed in consultation with stakeholders. (Submission 49, p. 3)

Some organisations including the Newcastle Trades Hall Council supported the employer contribution proposed by the ACTU and unions via:

... an industry assistance scheme which charges a levy to top earning companies, to assist in topping up the minimum wage to meet salaries. (Submission 49, p. 4)

The Australian Chamber of Commerce and Industry (ACCI) called for the rate of PLP to remain at the rate of the national minimum wage. In relation to proposals to finance enhanced payments through a levy on businesses:

ACCI has repeatedly confirmed its support for a balanced PPL scheme, provided that it is government funded and administered, and is set at the level of the Federal Minimum Wage. However, if enacted, these particular proposed arrangements [full replacement wage financed through a levy on business] would exacerbate the already overwhelming compliance burden already shouldered by employers and SMEs in particular. (Submission 62, p. 9)

In its submission to the review, BPW Australia said:

... While BPW Australia appreciates the financial constraints faced by government, we believe considerations should be given to increasing the amount of the PPL payments over time to reduce the impact of loss of earnings: something in the order of 50% of wages such as is offered in other comparable countries such as Canada more clearly reflects the payment as a workplace entitlement. (Submission 31, p. 2)

Economic Security4Women proposed that:

As an equity mechanism, to ensure women are not penalised for taking time off work to have children, the PPL should reflect and attempt to replace loss of earnings. This could



be anything between 100 per cent and 50 per cent of their income, with a minimum of the current National Minimum Wage. ... Many higher income earners already have access to (employer provided) PPL schemes that do replace their loss of earnings, and many are able to extend their time off work with the Government scheme. (Submission 26, p. 2)

Family Voice Australia in its submission advised the view that the PPL scheme provides a benefit only to about half of the women who give birth each year, and should be replaced with an equitable proposal that treats all mothers fairly. Family Voice Australia recommended:

The Bill should be opposed in favour of an equitable scheme of giving all parents of new born children a benefit equivalent to about \$6,667. It could be paid either as a lump sum, as a fortnightly amount of about \$256 over a 12 month period, or as a tax credit on the family income. (Submission 37, p. 7)

The PPL scheme will provide some parents including low income women with access to payment while on parental leave for the first time, and for low income women it will provide 18 weeks of pay above or near replacement wage levels. Administrative data for 2012-13 indicate:

- 58 per cent of recipients have a PPL start date within four weeks of their child's birth, indicating they have little or no paid leave
- one quarter of PLP recipients reported an income that is less than the national minimum wage (\$32,354 a year), and
- half of all recipients report an annual income of less than \$47,000.

D.4.b Duration of PLP

PLP is payable for a maximum period of 18 weeks. It can be taken in conjunction with, or in addition to, employer provided paid and unpaid leave. PLP must all be taken within one year of the birth or adoption.

The Productivity Commission documented compelling evidence of benefits in child and maternal health and wellbeing when mothers can take at least six months off work to care for their newborns. The Commission found the evidence to support either exclusive parental care or quality child care when the child is aged six to 12 months, is inconclusive. It also found the evidence suggests positive effects from good quality child care when a child is aged between 12 and 18 months (Productivity Commission, 2009, p. 4.45).

The Productivity Commission estimated that an 18 week scheme would give the overwhelming majority of parents the option of taking at least 26 weeks of leave without undue financial stress.



The Commission argued that a taxpayer-funded paid parental leave scheme does not need to cover a six month period to achieve these benefits as parents already use many options to fund a period of leave from work to care for their children, and it is reasonable for parents to co-fund time away from work for this purpose.

The Commission concluded the effects of the PPL scheme on duration of leave would be greater for lower income, more financially constrained families. They are a particular target of the scheme since they often have low representation in privately negotiated paid parental leave schemes.

In submissions to the review many stakeholders called for the PPL scheme to be extended from 18 to 26 weeks. These stakeholders included the ACTU, unions, BPW Australia, Women in Super, the Commissioner for Children and Young People WA, and the Women's Electoral Lobby Australia, which said:

Clearly, an extended period of paid leave would enable eligible parents, most probably mothers, to remain with newborn or newly adopted children for longer periods, to breastfeed for the recommended WHO minimum period [of six months] if that is their decision, and to do so without increasing the strain on the stretched family finances of those using the scheme, whose median income is \$45,000. (Submission 58, p. 4)

Ms Kate Ravenscroft suggested in her submission that PLP be extended to 26 weeks to ensure that all eligible parents have access to a minimum of six months to care for their newborn, irrespective of access to employer-funded leave and entitlements. Further, the submission recommended:

This period should include six weeks of maternal and six weeks of paternal leave, on a non-transferrable use-it-or-lose-it basis, including an allowance for two weeks of overlap, to support combined parental bonding and caring for the newborn and gender equitable sharing of work/family responsibilities. The remaining fourteen weeks of leave should be parental leave, accessible to either parent, allowing families the flexibility to establish an arrangement that works for them and their families. (Submission 33, p. 7)

In her submission Ms Natalie Lees called for the scheme to provide a year off work. Ms Lees said:

I was very disappointed I couldn't take a whole year off work to spend with my baby though. I remember the time coming up when the paid parental leave would run out and being very upset that I had to leave my baby in day care when she was only 8 months old. I know some people leave babies younger than that but it was hard for me. I was just lucky that I was able to return part-time on flexible hours. Ideally I would like to see



Australia advance to the position of some European countries who provide at least a year of paid parental leave. (Submission 1, p. 1)

The Commissioner for Children and Young People WA, the Women's Electoral Lobby Australia and Early Childhood Australia (ECA) called for the scheme to be extended to one year over the longer term. ECA:

remains of the strong view that the period of paid leave should be no less than twelve months. We believe that the evidence in terms of child wellbeing, maternal health and a commitment to the principle of shared parental responsibility for children support this position. Long-term, PPL should be increased and extended to support parents to spend a full 12 months out of the workforce after giving birth or adopting one or more children. (Submission 55, p.2)

D.4.c Flexible payments

D.4.c.i PLP at half pay

PLP is payable in one continuous period of up to 18 weeks at the rate of the national minimum wage. There is currently no option to take the payment at half pay, as is possible for some employer-provided payments (such as paid maternity or parental leave) in some workplaces.

The Productivity Commission considered whether PLP should be available at half pay for twice the period (36 weeks). The Commission concluded that such an arrangement would complicate payments for government and for those employers who provide PLP to their employees. The Commission also identified as a lower risk that parents could use such an arrangement to reduce their tax obligations or maximise their receipt of family assistance payments (Productivity Commission, 2009, p. 2.48).

The Commission noted payments at half pay as a less desirable but possible future policy option that could be considered under the review of the scheme.

Providing PLP at half pay over a longer period could lead to some parents being disadvantaged by not receiving the full amount of payment because they claim late and reach the end of the 52 week time limit before the end of their PPL period, or because they need to return to work sooner than they had originally planned and before the end of their PPL period.

Submissions to the review from the Newcastle Trades Hall Council and the National Tertiary Education Union canvassed the idea of payments at half pay over a 36 week period. (Submissions 48, p. 3 and 57, p. 7)



D.4.c.ii Pre-birth payments of PLP

A PPL period may start from the date of birth (or adoption) or a later date. It cannot start earlier than the date of birth.

The Productivity Commission did consider whether the scheme should encompass a prenatal period, and decided it should not because:

- many pregnant women can safely work until shortly before the birth without risk
- there is no evidence of systemic problems with women taking short prenatal periods of time off work, and the NES provides unpaid parental leave up to six weeks prior to the expected date of birth
- it would reduce the amount of time off with pay after the birth, and
- a longer period of postnatal leave – where behaviour is more susceptible to change – would be preferred in terms of use of taxpayer funds, than a scheme that allocates a PPL period over both the pre and postnatal periods (Productivity Commission, 2009, pp 2.39 – 2.40).

The Commissioner for Children and Young People WA proposed in her submission that PLP be available up to two weeks before the expected date of birth (Submission 14, p. 4), and the Newcastle Trades Hall Council (NTHC) proposed the pay be available up to six weeks before the expected date of birth.

The NTHC is of the belief that there is a need to increase the amount of time offered along with an adjustment to the scheme to allow women more choice. We believe that women, at the least should have the choice to take the current 18 week pay at half pay over 36 weeks. On top of this, it is imperative that there be more flexibility, allowing women the opportunity to take paid leave before the birth of their child. Ideally, there should be an increase in the amount of leave allowed to 26 weeks, which is the average time women take to return to work. (Submission 48, p. 3)

D.4.c.iii Transfers of PLP to secondary claimants

There is some flexibility in the payment arrangements that allows a transfer of unused PLP from the primary claimant (usually the birth mother) to an eligible partner or other parent. The primary and secondary claim hierarchy and payment transfer arrangements are discussed at section 3.a of Appendix D.



D.4.c.iv Requirement to not return to work before the end of the PPL period

To be eligible for PLP a parent cannot work between becoming the primary carer and the end of their PPL period. Primary care starts from:

- the date of birth for the birth mother
- the date the child enters the claimant's care as part of the adoption process for the initial primary carer of an adopted child, or
- the date the child enters the claimant's primary care for a secondary claimant or a primary claimant in exceptional circumstances.

Once a parent returns to work, they are no longer eligible for PLP, and if the return to work occurs before the end of the PPL period, the payment will stop from that day. A return to work is regarded as performing one hour or more of paid work on a day, unless the paid work is for a permissible purpose under the PPL Act. Where a person performs work for a permissible purpose they are not considered to have returned to work. A permissible purpose includes where:

- a defence force member or a law enforcement officer is recalled for duty
- a child is required to remain in hospital or is admitted to hospital immediately after their birth because of a premature birth, or complications or illness associated with the child's birth – the parent may work until the child leaves hospital
- an employee performs paid work under the PPL KIT provisions, to facilitate their return to the workforce (see section D.9 of this Appendix), and
- a self-employed parent oversees their business and performs the occasional administrative task.

These arrangements provide some flexibility for parents, while in general supporting the Productivity Commission's recommendations relating to exclusive parental care from birth. The Commission considered that while there may be benefits from allowing parents to stop and then subsequently recommence their parental leave care to meet the needs of their small business, to study, or to strengthen links with the workplace, this could run against the child welfare benefits of continuous exclusive parental care.

In its submission to the review, BPW Australia noted:

Our concern is more with the requirement not to work for the duration of the Paid Parental Leave where your contribution and participation is vital to the maintenance of the business. (Submission 31, p. 2)



A Thoughtworks employee had the following view:

Some of the rules are silly and rigid, such as that for the purpose of getting gov't PPL, you cannot work at all during the 18 week period. This doesn't accommodate the situation of parents going back to work part time. It is an all-or-nothing situation, and doesn't encourage parents to go back to work earlier (which is good for the Gov't and with income tax and productivity gain. (Submission 32, p. 3)

Administrative data show that in 2012-13, 1,949 parents had their payments stopped because they returned to work before the end of their PPL period.

D.5 Interaction of the Paid Parental Leave scheme with other provisions

The PPL scheme interacts with Australian Government family assistance payments and in particular the former Baby Bonus payment. The matters of interest identified by stakeholders in the PPL review included the effect of recent and future changes to the Baby Bonus. This section discusses these issues, and then summarises the consequential amendments that have been made to other legislation as a result of the introduction of the current PPL scheme.

D.5.a The Baby Bonus

A parent could not receive both PLP and the Baby Bonus for the same child. While parents eligible for both payments could choose which payment was the best option for them, other parents were eligible only for one or the other of the payments, or neither payment. There was an exception for multiple births (and adoptions) where a family eligible for both payments could receive PLP in respect of one child and Baby Bonus in respect of the other child or children.

The Productivity Commission noted in discussing the key points of its proposed scheme that while PLP would be for those employed with a reasonable attachment to the workforce, those families not eligible for PLP would still be eligible for the Baby Bonus (\$5,000 at the time) and other financial support through the social transfer system.

The key differences between PLP and the Baby Bonus (with payment rates at the time the PPL scheme commenced), are summarised in Table 9.



Table 9 Comparison between PLP and Baby Bonus

Key feature	PLP	Baby Bonus
Income test	Individual income in the financial year prior to the birth (or claim) date	Family income in the six months following the birth
Work test	330 hours in 10 of the 13 months prior to the birth, with no more than a eight week gap between work days	No work test
Return to work	Must not have worked between becoming the primary carer and the end of the PPL period	Could return to work at any time
Taxable	Taxable, and counts as income for family assistance, but not income support payments	Non-taxable, and did not count as income for family assistance or income support payments
Payable	In accordance with usual pay cycle over 18 weeks if paid by employer, fortnightly over 18 weeks if paid by Centrelink	Fortnightly over 26 weeks
Rate	18 weeks at National Minimum Wage – total \$10,260 before tax*	\$5, 294 per eligible child*

* Rates applicable from 1 July 2010 to 30 June 2011.

The Baby Bonus underwent a number of policy changes since the start of the PPL scheme. These include:

- 1 July 2011 – the rate was increased through annual indexation to \$5,437 per child
- 1 July 2012 – indexation of the rate was frozen, and it remained at \$5,437 per child
- 1 September 2012 – the rate was reset to \$5,000 per child
- 1 July 2013 – the rate stayed at \$5,000 for first children and all children in multiple births, and became \$3,000 for second and subsequent children, and
- 1 March 2014 – Baby Bonus was replaced by an increased rate of Family Tax Benefit Part A for eligible families who do not receive PLP in respect of the child. The payment, worth \$2,000 for the first child and \$1,000 for subsequent children, is paid as an initial instalment of \$500, with the rest paid over a 13-week period.



Some submissions to the review noted the increasing divergence in value between PLP and the Baby Bonus due to recent Baby Bonus policy changes. In its submission, the Shop, Distributive and Allied Employees' Association noted they are:

... disappointed that from March 2014 the payment will be reduced to \$2,000 for first born babies and \$1,000 for subsequent children, which widens even further the gap between those receiving the government's PPL payment and those receiving the new payment replacing the Baby Bonus, which will be made through Family Tax Benefit A.
(Submission 45, p. 9)

The Commissioner for Children and Young People WA noted the PPL evaluation Phase 2 finding that for parents who took the Baby Bonus rather than PLP, the demographic data indicates that overall they had more precarious employment arrangements before the birth, and faced other disadvantages, compared to those who chose PLP. (Submission 14, p. 3)

At the start of the PPL scheme it was estimated around 15 per cent of families eligible for PLP would choose to receive the Baby Bonus instead. The financial decision to take the Baby Bonus over PLP would for some of these parents involve a comparison of Baby Bonus and related entitlements with the full 18 weeks of PLP. For other parents, the decision to take the Baby Bonus could be influenced by their desire or need to return to work early and so not take the full 18 weeks of PLP.

Phase 2 of the PPL evaluation compared mothers who chose to receive PLP (PPL mothers) with mothers who were likely to have been eligible for PLP but who chose the Baby Bonus (BB mothers). The evaluation found Baby Bonus mothers were more likely to:

- have much lower average annual income in their job prior to the birth (mean income of less than \$34,000 for BB mothers compared with \$50,000 for PPL mothers)
- have worked less hours (35 per cent of BB mothers worked less than 20 hours, compared with 10 per cent of PPL mothers)
- have worked in the private sector prior to the birth (76 per cent of BB mothers compared with 64 per cent of PPL mothers)
- not have a permanent or ongoing employment contract (49 per cent of BB mothers compared with 20 per cent of PPL mothers)
- be in casual employment (33 per cent of BB mothers, compared with 9 per cent of PPL mothers)
- have resigned from paid employment prior to the birth (21 per cent of BB mothers, compared with 6 per cent of PPL mothers)
- be having a second or subsequent child (67 per cent of BB mothers, compared with 42 per cent of PPL mothers), and



- be a single parent (13 per cent of BB mothers, compared with 3 per cent of PPL mothers) (Martin *et al* 2013, pp. 53-56).

Other factors could influence parents' decisions to take the Baby Bonus instead of PLP. As illustrated in Table 10, while the decision was a financial one for around half of mothers eligible for PLP but who took the Baby Bonus, another 20 per cent didn't want to take the amount of leave from work required to receive PLP, and 14 per cent considered they were ineligible for PLP. A small proportion of mothers were either confused about the two payments, or did not want to involve their employer (Martin *et al* 2013, p. 61).

Table 10 Baby Bonus mothers' main reason for applying for and choosing Baby Bonus rather than PLP

Reason for taking BB rather than PLP	Per cent
Better off financially with Baby Bonus	51
Didn't want to take leave	20
Believed ineligible	14
Confusion	8
Didn't want to involve employer	3
Other	4
TOTAL	100
N	97 ^a

^a 4 people had applied for PLP but were not eligible, so were not included in this question.

Source: MoPE, PPL evaluation Phase two report, Martin et.al.

Phase 3 of the PPL evaluation found that mothers eligible for PLP but who took the Baby Bonus were less likely to perceive they were eligible for virtually all kinds of paid and unpaid leave than those who chose to take PLP (Table 11).

Table 11 Proportion of PLP and Baby Bonus recipients with access to leave from their employer (perceived entitlement)

Leave Type	PLP mothers (per cent)	BB mothers (PLP eligible) (per cent)
Paid maternity or parental leave**	49.8	29.4



Leave Type	PLP mothers (per cent)	BB mothers (PLP eligible) (per cent)
Unpaid maternity or parental leave**	75.2	51.4
Other leave without pay	25.3	22.6
Paid holiday or annual leave**	69.0	42.6
Paid long service leave**	17.5	10.9
Paid sick leave**	43.0	29.0
Other paid leave	4.1	3.6
Unable to access any leave**	12.6	30.3
N	3,501	700

Source: FaWCS, wave 1 (Martin *et al*, forthcoming).

** chi-square tests (categorical measures) and f-tests (continuous measures) indicate that differences between PLP and BB mothers are significant at $p < .01$.

The Shop, Distributive and Allied Employees' Association (SDA) reported in its submission that the results of a survey it conducted show approximately one quarter of SDA members who took leave to have a baby, had returned to work within six weeks of the birth. (Submission 45, p. 9)

D.5.b Amendments to other legislation as a consequence of the Paid Parental Leave Act 2010

The PPL Act interacts with a range of other Australian Government legislation. At the time the legislation was enacted in mid-2010, the *Paid Parental Leave (Consequential Amendments) Act 2010* was also enacted to make consequential changes to other Acts, as summarised in Table 12.

Table 12 The Paid Parental Leave (Consequential Amendments) Act 2010 - summary of amendments to other legislation

Act	Summary of matters covered by amendments
<i>A New Tax System (Family Assistance) Act 1999</i>	<ul style="list-style-type: none"> Eligibility for either Baby Bonus or PLP for a child, and related changes. Preclusion of Family Tax Benefit Part B during the PPL period.
<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>	<ul style="list-style-type: none"> Changes to claim arrangements including pre-birth claims for family assistance payments. Debt recovery interactions.
<i>Child Support (Registration and Collection) Act 1988</i>	<ul style="list-style-type: none"> Deductions of child support from PLP.



Act	Summary of matters covered by amendments
<i>Data-matching Program (Assistance and Tax) Act 1990</i>	<ul style="list-style-type: none"> • Inclusion of PLP in the Data Matching Program.
<i>Fringe Benefits Tax Assessment Act 1986</i>	<ul style="list-style-type: none"> • Inclusion of PLP as salary and wages for salary sacrifice purposes.
<i>Income Tax Assessment Act 1936</i>	<ul style="list-style-type: none"> • The sharing of taxpayer information between departments. • Preclusion of some tax offsets during the PPL period.
<i>Income Tax Assessment Act 1997</i>	<ul style="list-style-type: none"> • Inclusion of PLP in the definitions section, used in the <i>Taxation Administration Act 1953</i>.
<i>Medicare Levy Act 1986</i>	<ul style="list-style-type: none"> • Amendments to reflect PPL Act amendments to the <i>Income Tax Assessment Act 1936</i>.
<i>Social Security Act 1991</i>	<ul style="list-style-type: none"> • PLP not to count as income for income support payments or income maintenance provisions. • PLP to count as income for health care card income test. • Debt recovery interactions.
<i>Taxation Administration Act 1953</i>	<ul style="list-style-type: none"> • The use and disclosure of Tax File Numbers for PLP. • Tax deductions. • Payment summaries. • Recovery of overpaid PAYG. • The sharing of taxpayer information between departments.
<i>Veterans' Entitlements Act 1986</i>	<ul style="list-style-type: none"> • Debt recovery interactions.

The Fair Work Act was amended in mid-2012 by the *Paid Parental Leave and Other Legislation Amendment (Dad and Partner Pay and Other Measures) Act 2012*. These amendments introduced KIT provisions to the Fair Work Act, and ensure that accessing a KIT day under the PPL Act will not affect a parent's ongoing eligibility for unpaid parental leave under the Fair Work Act. The KIT provisions are discussed in detail in section D.9.

D.6 Scheme administration

Phase 2 of the PPL evaluation focussed on the implementation of the scheme and its operation during the first 12 months. Phase 2 of the evaluation found that the scheme was implemented as intended, with the implementation of key deliverables (claims, payments and the employer role) being relatively unproblematic. Minor issues identified at that time (November 2011) related to eligibility and the work test, and the effect of the PPL KIT provisions on unpaid parental leave under the NES (prior to changes to the Fair Work Act in mid-2012). The evaluation report noted a number of aspects of the scheme that would warrant review and/or ongoing monitoring (Martin *et al* 2013, pp. 140-147). These issues included:



- payment timeliness and review of related issues including birth verification processes, possible payments from the expected date of birth, and prepayment to employers
- scheme take-up and functioning of the scheme in relation to the stated objectives, and
- choices of less advantaged mothers as they were more likely to choose Baby Bonus instead of PLP.

This section of the report includes the relatively limited feedback to the review on awareness of, and information about, the scheme. The section also discusses the more substantial feedback provided to the review about payment timeliness and payment application processes.

The majority of employer feedback about the operation of the scheme is included under the employer role section at D.7.

The implementation of the scheme is described in Appendix A.4.

D.6.a Awareness of the PPL scheme

In addition to the planned activities to promote the PPL scheme, ongoing media coverage of the development of the scheme helped to raise general community awareness. In particular, media coverage peaked with the May 2009 Budget announcement of the scheme and the May 2010 release of an Exposure Draft of the PPL Bill. To coincide with these events in May 2009 the Government released a booklet on the broad policy parameters of the scheme and the proposed PPL consultations (Australian Government, 2009). In May 2010 the Government released parent and employer booklets to advise the outcome of the PPL consultations and the details of the scheme to be included in legislation (Australian Government 2010a, 2010b).

A communication campaign to launch the start of the PPL scheme ran from early October 2010 to the end of June 2011. The campaign included television, radio, print and online advertising and public relations activities aimed at parents and employers. The final burst of advertising that occurred in 2011 focussed on employers in the lead-up to the full implementation of the employer role on 1 July 2011. The campaign focussed on the key scheme milestones of claims from 1 October 2010, payments from 1 January 2011, and the full phase in of the employer role from 1 July 2011. The objective of the communication campaign was to raise awareness among parents, expectant parents and employers, and encourage them to seek further information about the scheme, including the eligibility criteria for parents such as the pre-birth work test requirements, and the employer role.

The communication campaign was supported by general and detailed information on the Centrelink website, and hard copy information in Family Assistance (Centrelink) Offices.



Website information is updated on an ongoing basis to reflect scheme developments and parent and employer feedback.

In addition, the PPL Policy Guide on the DSS website provides a comprehensive explanation of legislation and policy for the scheme as a whole.

Feedback to the PPL review indicates that awareness of the scheme is generally very high, and it appears the scheme has become a part of the culture for Australian parents and employers.

Parents and potential parents appear to be aware of the eligibility requirements and what they need to do to meet them, including in particular the scheme work test which relates to parents' work before the birth or adoption. At around three years after the start of the scheme, parents appear to no longer relate to a time when the scheme did not exist, and instead focus on how it works in practice now, and on future developments.

Employers also appear to have a good awareness of the scheme and to understand the objectives of the employer role. Unions report the involvement of employers in the scheme has provided a platform for employers to focus on parental leave including employer-provided paid and unpaid parental leave. In addition, some employers and employees report that employers that have or plan to have their own schemes, do consider whether and how their own schemes could be integrated with the Government scheme.

Early Childhood Australia noted in its submission to the PPL review that the childcare sector as employers had a high awareness of the scheme but that early childhood services advised:

... they often see a lack of understanding amongst the general public with parents often unsure about how the scheme works and what they may be entitled to receive.
(Submission 55, p. 1)

Phase 3 of the PPL evaluation found that awareness of PPL is almost universal amongst mothers eligible for the scheme (Martin *et al*, forthcoming). This is consistent with the results in Phase 2 of the evaluation, where it was also found that government communication and information campaigns were central to the very high levels of awareness among mothers (Martin *et al* 2013, p. 57).



D.6.b Information about the scheme

As described above, general and detailed information about the PPL scheme for parents and employers is housed on the Centrelink website.

Parent resources

The specific information for parents from the start of the scheme included online and hard copy versions of brochures and fact sheets, the online PPL Comparison Estimator to help parents eligible for both payments to choose between PLP and Baby Bonus, and extensive online content including detailed descriptions of eligibility requirements and payments, and questions and answers. As the scheme has become more widely known and understood and as parents' method of accessing information has become more focussed on online content, information for parents about the PPL scheme is now focussed on this channel.

Overall, there was relatively little feedback provided to the review about information provision, and of those comments made, the focus was on information for parents. Some comments were positive or relatively positive. For example, Hayley Aked-Hurditch commented:

The Paid Parental Leave Scheme was all our family was entitled to. There is enough awareness of the scheme and how to go about applying for it. The application was all fairly straightforward. (Submission 51, p. 1)

Of the negative comments made, there were concerns raised by and for parents about telephone and Customer Service Office waiting times, about the provision of incorrect advice, about the difficulty in understanding from letters what action needed to be taken, and about a lack of detailed knowledge of the scheme among some Customer Service Office staff.

Employer resources

From the start of the scheme there has been a range of information resources and supports available to assist employers in their role in the scheme, including:

- general and detailed information is available on the Centrelink website
- if employers want one-on-one support with the scheme or registration there are dedicated PPL staff on the National Business Gateway (formerly the Centrelink Business Hotline) that provide telephone or online assistance, and
- the PPL Employer Toolkit, available on the Centrelink website, which provides a complete guide to the employer role in the PPL scheme.



Phase 2 of the PPL evaluation found (and Phase 3 has confirmed) the majority of employers reported positive experiences sourcing and relying on information about the scheme (Martin *et al* 2013, p. 106; Martin *et al*, forthcoming). The Phase 2 evaluation found that 83 per cent of employers felt it was easy to source information about the scheme, 92 per cent of employers agreed the information was accurate, and 89 per cent agreed the information was helpful (Martin *et al* 2013, p. 124). As illustrated in Table 13, there were some differences by business size, with results among small and medium businesses being in general less positive.

Table 13 Employer size and ease/difficulty in sourcing information, perceived helpfulness and accuracy of information

	Small employer (per cent)	Medium employer (per cent)	Large employer (per cent)	All employers (per cent)
It was easy to get information about the PPL scheme ^a				
Strongly agree or agree	77	83	89	83
Neither agree nor disagree	6	3	2	4
Disagree or strongly disagree	17	14	9	13
TOTAL	100	100	100	100
Information about the PPL scheme was accurate ^a				
Strongly agree or agree	86	95	93	92
Neither agree nor disagree	7	3	4	4
Disagree or strongly disagree	7	3	3	4
TOTAL	100	100	100	100
The information about the PPL scheme was helpful ^a				
Strongly agree or agree	82	89	95	89
Neither agree nor disagree	8	4	1	4
Disagree or strongly disagree	10	8	4	7
TOTAL	100	100 ^c	100	100
N ^b	145	172	166	483

^a Chi-square test indicates that this is significantly different across Employer Size at P<0.05.

^b 19 organisations were not asked this question as they answered that they did not know where they received information about PPL.

^c Percentage does not equal 100 due to rounding.



Note: Data weighted by employer size.
Source: Martin *et al* 2013, p. 107 (EIPE data, collected in 2011)

The main difference in employer information provision between the Phase 2 (2011) and Phase 3 (2012) of the PPL evaluation, is the way in which employers source their information. In 2012 employers were more likely to rely on Centrelink as a source of general information about the PPL scheme. Forty four per cent of employers sourced their PPL information from a Government website (eg. Human Services) in 2012, up from 39 per cent in 2011. Also in 2012, 32 per cent of employers sourced information from a Centrelink office (including letters and advices), in comparison with 22 per cent in 2011 (Martin *et al* 2013, p. 105; Martin *et al*, forthcoming).

D.6.c Payment timeliness

Parents may lodge a claim for PLP up to three months before the expected date of birth (or adoption). Claims may also be lodged post-birth.

A parent who lodges their claim prior to the birth may be assessed as initially eligible for payment, and a decision will be made at this time if the employer is to provide the pay. If so, the payment arrangements can be set up with the employer prior to the birth. Following the birth, the parent must lodge their birth verification form before payments can start. If the PPL period start date is in the past, e.g. because the parent wants their PPL period to start from the date of birth, the first payment will usually include a payment of arrears. If a parent lodges their claim following the birth of their child, it is likely the first payment will be delayed for longer than if they had lodged a pre-birth claim.

If a parent lodges their claim and birth verification within 28 days of the birth, they can still have their PPL period start from the date of birth if they wish.

A parent who lodges their claim and birth verification more than 28 days after the date of birth, cannot have their PPL period start any earlier than the date that their claim and birth verification form were lodged.

Since 2012 claims for PLP are processed by Centrelink as a priority. If all the information requested has been provided and is accurate, it is intended that claims will be finalised within a week of receipt.

From time to time unusual events such as natural disasters that involve emergency payment responses, may impact on usual claim processing arrangements. Other factors that can delay claim finalisation are claims lodged with missing or incorrect information, and delays in employer responses when the employer is required to provide PLP.



Once the first payment is made (usually with an arrears payment included), the subsequent payments are made on a regular basis for the remainder of the PPL period.

Some submissions to the review conveyed parents' concerns about payment delays, and this is consistent with feedback received by DSS and Centrelink, including through Ministerial correspondence. For example, the National Council of Women of Australia Ltd facilitated small focus groups in Victoria, the Australian Capital Territory and Western Australia to gain first-hand experience of the scheme from new mothers. A participant advised:

For example, in my case it took four weeks from when I first advised that my PPL application had been granted until I received the first payment. Given the initial processing delays my first payment was therefore a lump sum payment for 10 weeks PPL. The following fortnight there was no payment, as apparently Centrelink had not sent the payment to my employer in enough time for it to be included in the fortnightly pays. The delays that occurred because of the lengthy initial processing times and the need to transmit payments through my employer meant that the PPL ultimately didn't provide a reliable, regular fortnightly payment as it was originally intended to be. (Submission 29, p. 3)

The Shop, Distributive and Allied Employees' Association's submission included several examples of payment delays, such as:

Several SDA members have applied for the government PPL pay 3 months before the baby was due. Approximately 1 month before the baby was due they have received a phone call from Centrelink telling them that the payment would be late. They have not received their payment until their babies were 4-8 weeks old (on average 6 weeks after the birth). It doesn't seem to have made any difference if the payment was done online or not. (Submission 45, p. 20)

An employer, Childcare Property Development Services, advised in its submission that many of its employees were waiting up to six weeks following the birth of their child to receive their first payment. The employer considered that six weeks was a long time to wait, and reported:

... we are fielding unhappy calls from our employees demanding to know where their PPL is and when it will be paid to them. I feel that sometimes they just think we are stalling when we tell them we have not yet received their payment from the govt. (Submission 5, p. 1)



In contrast to concerns about payment delays, a Thoughtworks employee provided the following positive feedback:

My partner’s employer paid the parental leave benefit and claimed it back from the government. This arrangement was fantastic. Her leave, salary and benefit payments all flowed seamlessly and we experienced no confusion or inconvenience. (Submission 32, p. 3)

Fifty four per cent of mothers surveyed in the second half of 2011 for the Phase 2 PPL evaluation reported having no problems receiving their payments, and the remaining 46 per cent experienced one or more problems (Martin *et al* 2013, p. 69). The survey was conducted a few months after the full phase in of the employer role in July 2011. Respondents were asked if they had experienced any of the following problems: one or more payments skipped or not received at all; one or more payments not received on time; incorrect amount received; received less than you expected; received more than you expected. Mothers were more likely to have a problem or problems with their payments if they received them through their employer, as illustrated in Table 14.

Table 14 Total number of problems with payments, by payments made by employer or Centrelink

Number of problems	Received payment through employer (per cent)	Received payment through Centrelink (per cent)	All PLP recipients (per cent)
None	46	74	54
One	26	20	24
Two	21	4	16
Three	6	1	4
Four	2	1	2
Five	<1	0	<1
TOTAL	100	100	100
N ^a	469	195	664

^a Analysis was run with the exclusion of 9 respondents who indicated they either received payment through both Centrelink and Employer, or did not know who they received payment through. This left a further 40 respondents who replied “don’t know” to any of the five questions regarding problems with payments, and a further 87 who had



not yet received payment.

Source: Martin et al 2013, p. 70 (MoPE data)

D.6.d Application processes

D.6.d.i The combined claim form

The claim for payment is a combined claim form for PLP, Baby Bonus and Family Tax Benefit. It can be used by a family claiming one or two of these payments for a single child, and for families claiming all three payments, e.g. for a multiple birth the parent may claim PLP in respect of one child and the Baby Bonus in respect of the other/s, and Family Tax Benefit for all. Parents who wish to claim Family Tax Benefit for older siblings when they claim for a new child may also use the single claim form for all claims.

D.6.d.ii Pre-birth claims

As described in the section above, a parent may lodge their claim for PLP up to three months before the expected date of birth (or adoption). A pre-birth claim can be used to establish the parent's initial eligibility and set up the employer role before the birth, if the employer is to provide the pay.

The early assessment of eligibility for PLP gives parents some certainty when they are organising their leave from work and ensures payment arrangements are in place before the start of the PPL period. This is particularly important if the parent wants their PPL period to start from the date of birth or soon after the birth.

Administrative data show that around 54 per cent of parents lodge their claim for payment prior to the birth.

D.6.d.iii Post-birth claims

Alternatively, a parent may choose to lodge their online or hard copy claim form post-birth. As all the PLP must be taken within 12 months (around 52 weeks) of the birth, a person who wishes to receive the full 18 weeks of PLP must lodge their claim for payment no later than 34 weeks after the birth.

Step 1 – lodging the claim for payment

The first step in the claim process involves the parent completing an online claim or a hard copy claim form for payment. The online claim is more streamlined as the parent is able to automatically be skipped over the questions that are not relevant to their circumstances.



Step 2 – lodging the birth verification form

The second step in the claim process requires the parent to provide their birth verification form. This form is in hard copy only because it includes a signed and stamped certification of the birth. It is provided to new parents by the hospital or the medical practitioner attending a non-hospital birth. The form can either be taken into a Centrelink office or posted in the prepaid envelope provided with the form.

Both the claim form and the birth verification form must be lodged with Centrelink and processed before payments can start. There is some duplication in the two forms to allow parents to change their mind, for example change their PPL period start date, or to report a change in circumstances that occurs between lodgement of the claim form and the birth verification form.

Submissions to the review about the application processes for PLP were generally negative, with the majority of stakeholders who commented on this issue expressing concerns. The ACTU and unions commented on the complexity of the claims process, issues with parents not being able to access online claims, and the ongoing need for hard copy claim forms to be available and accepted by Centrelink. (Submission 43, pp. 16 and 17)

The National Council for Women of Australia Ltd (NCWA) provided the following insight:

It seems hard to believe that to apply for the benefit you need to read a 28 page instruction booklet and complete a 44 page application form. The mothers in one focus group were young and well educated and found the form incredibly complex. The need to fill in the form in hard copy and also on line seemed unnecessary. We can also relate that a bank manager and an accountant (both male) assisting their daughter/daughter-in-law, found it beyond their capabilities and gave up! (Submission 29, p. 1)

The following comments were provided by Thoughtworks employees:

The experience of applying for PPL is complicated, time consuming and painful. (Submission 32, p. 1)

I am pretty aware of the gov't PPL scheme. But the process for application was complicated and took too much time, long questionnaire and too many steps. (Submission 32, p. 1)

On a more positive note, in her submission to the review Ms Natalie Lees provided the following comment:



I think we got one of the family tax benefits as well [as PLP] ... They seemed to interact fine – we filled out one big Centrelink form in hospital which seemed to cover everything. (Submission 1, p. 1)

Administrative data show that since the start of the scheme more than 300,000 parents have successfully claimed PLP.

Phase 2 of the PPL evaluation examined mothers' views of the claim process based on qualitative interviews with a subset of the survey sample. Of those mothers who had concerns, they thought the claim form was very long, some of the data collected may not be relevant, there was duplication in the questions, Centrelink would already have some of the information, and some of the questions were hard to understand.

In relation to the claim process, mothers were concerned about the additional paperwork required to be completed following the birth. Around 15 per cent of mothers reported having to fill in the same form following the birth [the birth verification form] that they had filled in online prior to the birth [the claim for payment]. Some mothers expressed concern about the need to attend a Centrelink office, sometimes more than once, which required considerable effort when they had just given birth. A few mothers felt the timeframe for submitting their birth verification form (within 28 days of the birth to have the payment backdated to the date of birth) was too tight.

In relation to accessing help with their claim, some mothers noted that Centrelink and Medicare staff were very helpful, while others reported having to wait in a long queue when telephoning the helpline.

Some groups of mothers experienced particular issues in comparison with other groups. Some Aboriginal and Torres Strait Islander mothers had difficulty understanding claim form questions and in particular the terminology used for questions about finances. Some mothers from culturally and linguistically diverse backgrounds found the claim form difficult to understand. Some single mothers noted difficulty with managing the post-birth claim processes, including visits to Centrelink or Medicare offices, with a young baby (Martin *et al* 2013, pp. 66-67).

D.7 The employer role

Under the current PPL scheme, Centrelink funds employers to provide PLP to their eligible long-term employees. Employers may also opt in to provide PLP on a voluntary basis to employees they are not required to pay.



This section of the review report considers the rationale, development and design of the employer role and employer experiences with the scheme.

D.7.a Rationale for the employer role

The Productivity Commission recommended employers should participate in the PPL scheme by providing Government-funded PLP to their eligible long-term employees. The role of employers in the scheme was designed to benefit employers through improved retention rates, and to help change community attitudes by sending a strong signal that taking time away from work around the time of birth or adoption is seen as part of the normal course of work and life. Employers were also expected to benefit more generally, as was the broader economy, through the increased participation rates of women of child-bearing age that were expected to flow from the incentive provided by the PPL scheme's work test.

After considering various delivery options for providing PLP, the Commission concluded the employer role would strengthen the link between the employer and employee, leading to increased retention rates for the business and reduced training and recruitment costs, as well as higher workforce participation by women.

D.7.b Development of the employer role

Following the Government's announcement of the scheme in May 2009, throughout the second half of that year DSS in conjunction with other departments undertook consultations with a range of key stakeholders including major employee and employer peak bodies, representatives of small business, family, women's and community stakeholder groups, tax professionals, payroll specialists and payroll software developers and state and territory governments. Thirty-two consultation meetings and teleconferences were conducted with over 200 representatives of these stakeholder groups. Sixteen written submissions were also received. The main views expressed about the employer role included the following:

- employee, community and women's groups generally supported the role of employers in the scheme, and some stakeholders suggested employers who wish to stay connected with valued shorter-term employees should be able to 'opt-in' to the employer role
- many employers indicated they would prefer that Centrelink make all payments
- there were discussions around the implications of the proposed 1 January 2011 start date for adjustments to payroll and other systems half-way through a financial year, and managing the introduction of the paymaster function during the Christmas holiday period.

The 2009 PPL consultations led to five significant changes to the design of the scheme:



- a delay in the mandatory employer role until 1 July 2011, thereby allowing for a more gradual phasing in of the employer role and enabling the employer role to start from the beginning of a financial year
- employers being able to choose to receive three equal PPL funding amounts rather than fortnightly funding
- employers not having to provide PLP to employees receiving fewer than eight weeks of payments
- the requirement for mothers to still be an employee after the birth of their child being removed, and
- the development of a simple set of employer obligations.

In May 2010, to coincide with the release of the Exposure Draft of the PPL legislation, the then Minister for Families announced the establishment of a stakeholder implementation group to assist with the implementation of the PPL scheme. The PPL Implementation Group provided feedback on issues affecting parents and employers in the lead up to the full implementation of the scheme, and monitored the operation of the scheme from October 2010.

D.7.c Design of the employer role

It is up to parents including employees to claim PLP from Centrelink, and to separately negotiate leave from work with their employer. Employers do not need to be involved in the claim process or work out if their employee is eligible for the scheme. Centrelink decides if a claimant is eligible and contacts the employer if they are required to provide PLP.

Under the PPL Act employers must provide PLP to an eligible employee who:

- has a newborn or recently adopted child
- has worked for the employer for at least 12 months before the expected date of birth or adoption
- will be their employee until at least the end of their PPL period
- is Australian-based, and
- is expected to receive at least eight weeks of PLP.

These employees are referred to in the PPL scheme as mandatory employees. They can be permanent full-time, part-time or casual employees. Employers do not need to provide PLP to independent contractors, former employees and other employees who do not meet the criteria above.



However, if both an employer and employee agree, an employer can opt-in to provide PLP to employees they are not required to pay. Employers can opt-in for any one of the following groups of employees:

- all non-mandatory employees
- non-mandatory employees with at least six months tenure
- non-mandatory permanent employees, or
- non-mandatory permanent employees with at least six months tenure.

The PPL scheme has been designed to minimise the impact on employers required to provide PLP to eligible long-term employees, as follows:

- employers provide PLP to employees in the same way they provide pay or paid leave, with the usual tax withheld
- employers receive PPL funds in advance of being obliged to provide PLP to their employees
- employers are only required to provide PLP to eligible long-term employees who will be returning to work for them after their leave
- employers do not have to report to Government, no special bank accounts are required, no payroll tax, no increase in workers or accident compensation premiums, and no superannuation is payable
- employers are not required to take any action until they are contacted by Centrelink - registration takes about 10 minutes and employers can register online, and
- businesses do not need to be familiar with the scheme or register until they have an eligible employee.

PPL dispute resolution processes are in place to help employees and employers resolve disputes, and help employers fulfil their obligations under the scheme.

Employees who do not receive PLP from their employer and eligible parents who do not have an employer (e.g. self-employed parents) are paid directly by Centrelink.

D.7.d The employer role in practice

The role of employers in the PPL scheme was phased in over the first six months to help employers transition to the new arrangements. However employers could opt in to provide PLP to their employees from the commencement of the scheme in January 2011.

For children born or adopted prior to 1 July 2011, Centrelink provided PLP to eligible employees unless the employer had opted-in to do so and the employee agreed to their employer providing



the pay. For children born or adopted from 1 July 2011, under the current scheme employers are required to provide PLP to their eligible, long-term, continuing employees.

The phasing-in of the employer role gave employers sufficient time to establish appropriate mechanisms to provide PLP to their employees, including changes to payroll software, and to familiarise themselves with their rights and responsibilities.

Employer information resources and supports are described at section D.4.

D.7.d.i Feedback on the employer role

Submissions to the PPL review canvassed a range of issues relating to the rationale for and the operation of the employer role. A number of employer groups called for the removal of the employer role from the scheme. For example, the Australian Chamber of Commerce and Industry (ACCI) disagreed with the Productivity Commission's rationale for the employer role. In its submission:

ACCI submits that these 'paymaster' obligations are imbalanced, unjustifiably impose a significant compliance burden upon employers and are not supported by any proper policy basis. In other words, ACCI's unequivocal view, based on the evidence available, is that the 'paymaster' function does not give effect to the government's stated policy objectives and should be removed from the existing scheme. (Submission 62, p. 5)

Designating employers as the 'paymaster' would supposedly reinforce an employer-employee feeling of loyalty and workplace attachment. This would, in theory, increase employee retention rates. This proposition is a hypothesis and not borne out by the available data and direct feedback to ACCI. Based on ACCI's extensive consultations with its member industry associations and business organisations, there is no proper basis that would credibly support this hypothesis. (Submission 62, p. 8)

ACCI surveyed its members about the scheme:

According to the Pre-Election Survey, 84.3 per cent of businesses surveyed either agreed or strongly agreed with the statement that "the Government should not require employers to be the paymaster for the Paid Parental Leave scheme". Figure 1 below provides a breakdown of the responses.



Figure 1

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	N/A
The Government should not require employers to be the paymaster for the Paid Parental Leave scheme	64.7	19.6	11.8	1.9	0.9	1.1

(Source: ACCI, *ACCI Pre-Election Survey* (May 2013), p. 10)

(Submission 62, p. 5)

ACCI put forward the following option to exclude small and medium business from the scheme:

the Act should be amended to either:

- (a) allow employees to opt in to the scheme on a voluntary basis; or
- (b) create a “small-medium sized employer paymaster exemption”, based on either the annual turnover or the number of full-time equivalent employees.

(Submission 62, p. 8)

ACCI also noted in its submission that:

Feedback to ACCI suggests that the PPL scheme also needs to modify the level of complexity for employees also. Multiple examples provided to ACCI by its members include employers spending up to an hour helping employees complete the prescribed PPL documentation. Clearly, it is self-evident that this level of complexity embedded within the PPL system is not in the interest of employers or employees (Submission 62, p. 15).

At its PPL review consultation the Council of Small Business of Australia (COSBOA) continued to call for the removal of the employer role for small businesses, or at least that small businesses to be allowed to opt-in to the scheme rather than the mandatory role.

One employer, ThoughtWorks Australia, reported no problems with its role in the scheme:

Employees apply via Centrelink website for this benefit and Centrelink pay ThoughtWorks. We then pass it on to employees. Very simple and efficient. (Submission 32, p.1)



Economic Security4Women, which represents employers and employees, supported the employer role in principle, but noted the extra work this can create for smaller businesses:

We support in principle the payment through the employer to maintain the attachment but understand that this does create additional work and therefore requires additional resources for small to medium sized employers, many of whom do not have Human Resources or Pay Roll support.

The scheme appears to work differently according to the size of the employer's business. Many small businesses, especially those with 1 – 4 employees would find the added administrative requirements a burden in terms of additional time required and many might not realise the benefits of retaining the skills and experience of existing staff. The business case for retaining women in the workforce is yet to be fully understood across all sectors of business and industry.

From their existing PPL schemes and their willingness to extend the paid and unpaid time of leave, it is obvious that many large firms factor into their business model the benefit of retaining the skills and experience of their female staff.

We suggest more attention needs to be paid to the capacity of small business to access information about PPL and to their capacity to administer the payment of PPL offering them the option of payment through Centrelink or the Family Assistance Office as many parents access some form of family payment following birth of their baby. (Submission 26, pp. 1-2)

The Diversity Council of Australia (DCA) stated in its submission that:

Generally speaking, DCA members are of the view that the operation of the current Government PPL scheme works well. Payments and notifications have been found to be on time and the majority of employees are aware of what they need to do and when they can expect payment. Organisations have also commented that the helpline for any queries works very well.

While recognising the imposition on employers of administration for the PPL scheme, DCA is of the view that having the scheme tied to workplaces sends an important message that PPL is a workplace entitlement, and not a welfare payment to mothers. (Submission 24, p.30)

In their submissions to the review, the ACTU and unions supported the employer role for all business sizes, and proposed a range of scheme enhancements that require the employer role to



continue. They noted the provision of paid parental leave was the result of a long campaign over the past 30 years. They considered the employer role a key policy aspect of the scheme.

The ACTU and unions have consulted members about their experiences relating to the effectiveness of the administrative aspects of the scheme.

The role of the employer as paymaster of the scheme has been well-received, particularly for employees who receive a combined ‘package’ of government and employer provided PPL paid as per their normal pay cycle. (Submission 43, p.16)

Unions NSW noted in its submission that the administration of the scheme was operating well and was providing a base on which employers could build:

Unions NSW believes that payments under the Government’s PPL Scheme need to continue to be administered by the employer as this creates an attachment to the workplace and increases the likelihood of returning to work. Employer administration of the PPL payment also reaffirms the nature of the payment as an industrial entitlement. (Submission49, p.82)

Unions have found that employers have not had difficulty setting up the pay systems required to make the payments. It has also been observed that after setting up the administration of the scheme in their finance departments, some employers have given consideration to introducing employer provided top-ups or additional periods of leave. (Submission 49, p.82)

The evaluation of the PPL scheme has found the employer role is generally operating smoothly, with 74 per cent of Phase 2 employers and 81 per cent of Phase 3 employers reporting that the scheme had been easy to implement in their organisation. (Martin *et al* 2013, p. 122, Martin *et al*, forthcoming).

Among employers participating in the Phase 2 in-depth interview study (41 employers), attitudes to the employer role were mixed. Of the employers who voiced an opinion about the employer role, 14 were positive, 12 were negative, and 12 were neutral or ambivalent. Employers in medium size organisations expressed mostly positive attitudes to the employer role. Employers in large organisations were polarised and either strongly for or strongly against the employer role. Employers in small organisations tended to be mostly negative or ambivalent towards the employer role (Martin *et al* 2013, p. 114).

Most Phase 2 employers felt it was too early to see if the PPL scheme would lead to improved



rates of retention in the organisation following periods of parental leave (Martin *et al* 2013, p. 125).

The PPL evaluation Phases 2 and 3 findings do not indicate significant differences by business size. Phase 2 employer results show that in 2011 the majority of employers were positive about the employer role (generally more than three quarters):

- 83 per cent of organisations agreed that sourcing information about the PPL scheme was easy
- most organisations agreed that the information about the scheme was accurate (92 per cent) and helpful (89 per cent)
- 68 per cent of organisations agreed or strongly agreed that it was easy to register for the scheme
- 79 per cent of organisations, regardless of their business size, said it was easy to organise payments (Martin *et al* 2013, p. 124).

The preliminary results from Phase 3 of the evaluation indicate that in 2012 the majority of employers continue to be positive about the employer role:

- employers were almost twice as likely to rely on Centrelink as an initial source of awareness and information about the scheme in 2012 compared to 2011
- 75 per cent of employers reported it was easy to register for the PPL scheme
- 81 per cent of employers said organising payments was easy (Martin *et al*, forthcoming).

Since the start of the PPL scheme from 1 January 2011 to 30 June 2013:

- more than 125,000 employees had received PLP from their employer
- in 2012-13, 74 per cent of recipients were receiving their PLP from their employer
- more than one in ten businesses has opted in to provide PLP to non-mandatory employees (such as those who have less than 12 months tenure with their organisation).

The following tables show the number of employers providing PLP and the number of employees receiving the pay through their employer, by business size.

Table 15 Employers providing PLP, by business size, 2012-13

Employers providing PLP in 2012-13	
No. of employers who provided PLP to their employees	33,609



Percentage of employers by business size	
Small (<20 employees)	45.9% (15,419)
Medium (20-199 employees)	40.1% (13,491)
Large (200+ employees)	13.1% (4,389)
Unknown size	0.9% (310)

Source: Centrelink administrative data

Table 16 Employees receiving (and employers providing by business size) PLP, 2012-13

Employees receiving PLP from their employer in 2012-13	
No. of employees who received PLP from their employer	123,502
Percentage of employers by business size	
Small (<20 employees)	13.9% (17,191)
Medium (20-199 employees)	19.5% (24,082)
Large (200+ employees)	65.6% (81,017)
Unknown size	1.0% (1,212)

Source: Centrelink administrative data

D.7.d.ii The cost of the employer role

A Regulatory Impact Statement (RIS) was prepared in 2009 by DSS and the Department of Employment to assist the Government to make decisions on the development of the PPL scheme. The estimated costs to business of the employer role in the scheme were developed in the absence of evidence of likely employer behaviour, and at a time when final scheme policy had not yet been developed, including in relation to the employer role in the scheme. The RIS was published with the Explanatory Memorandum to the PPL Bill in 2010.

There was mixed feedback to the review on whether the costs involved in implementing the scheme were significant. In its submission, Business SA advised:



Business SA has previously raised concerns that the administration of the scheme should not be passed from Federal Government to business. The Federal Government should administer the payments, rather than the current system where the Federal Government pays the employer and the employer pays the employee. This process simply creates more work and red tape for business and business, particularly small business, cannot afford this extra cost.

Of the businesses surveyed, 86 per cent had administered payments to their employee on behalf of the Federal Government during the time their employee was on paid parental leave. 73 per cent of businesses indicated that this administration of the payments, such as payroll and general administration had resulted in additional costs to their businesses. (Submission 44, p. 1)

The Australian Federation of Employers and Industries stated in its submission:

Time management and diversion of resources imposed the greatest cost. Employers were clearly concerned by the amount of time they had to spend figuring out what was required, communicating with Centrelink and properly administering the payments.

Overall employers appear to have taken on the role without major financial cost increases. The PPL evaluation found most employers felt the costs of implementing the PPL scheme were minimal. Around 29 per cent of all employers reported additional costs in providing PLP. Medium-sized employers were less likely to report additional costs (23 per cent) than large employers (33 per cent) and small employers (32 per cent) (Martin *et al* 2013, pp. 119-120). Of those employers who reported additional costs involved in the implementation of the scheme, the overwhelming majority advised the costs arose from the extra workload taken on by themselves (94 per cent) and/or their staff (51 per cent) (Martin *et al* 2013, p. 119-120).

When asked to estimate the cost in dollars to their business of implementing the scheme, 45 per cent of all employers in the Phase 2 survey estimated the cost to the business was less than \$250, 21 per cent estimated the cost to be between \$250 and \$999, 20 per cent said the cost was greater than \$1,000, and 14 per cent said they did not know the cost. Large businesses were much less likely than small or medium businesses to say implementing the scheme cost less than \$250 (32 per cent of large employers, 54 per cent of medium employers, 51 per cent of small employers), and much more likely to say the cost was more than \$1,000 (31 per cent of large employers, 13 per cent of medium employers, 14 per cent of small employers) (Martin *et al* 2013, p. 121). Employers views about the dollar costs involved in implementing the scheme were very similar a year later in Phase 3 of the evaluation (Martin *et al*, forthcoming).



The PPL evaluation found that 41 per cent of employers reported organising PPL payments was time-consuming and 54 per cent reported that it was not time-consuming (Martin *et al* 2013, p. 111). When employers were asked in 2011 to consider the cost in terms of staff hours 29 per cent estimated up to two hours, 24 per cent said three to five hours, 14 per cent said 6 to 15 hours and 22 per cent said more than 15 hours (10 per cent did not know) (Martin *et al* 2013, p. 119- 20). In 2012 there had been a significant decrease in employers' perceived costs in terms of staff hours with 21 per cent of employers estimating up to two hours, 16 per cent reporting three to five hours, 15 per cent reporting 6 to 15 hours and 13 per cent reporting more than 15 hours (35 per cent did not know) (Martin *et al* forthcoming).

D.8 Superannuation

Australia's retirement income system is built on three pillars, the age pension, superannuation and private savings. Superannuation is money set aside by employers and employees over a person's working life to provide for their retirement.

Since the introduction of the compulsory Superannuation Guarantee (SG) in 1992, employers have been required to make compulsory contributions to superannuation on behalf of most of their employees. Employers do not have to pay SG contributions for employees who are earning less than \$450 in a calendar month or are under 18 years of age and working less than 30 hours a week. Employers are required to pay SG contributions for employees at work or on paid leave such as paid sick leave, annual leave and long service leave. Employer contributions are generally not required when an employee is away from work and not receiving pay, such as on unpaid parental leave or approved leave without pay.

The minimum SG contribution is currently 9.25 per cent of employees' ordinary time earnings.

The current PPL scheme and superannuation

In September 2008, the Productivity Commission released *Paid Parental Leave: Support for Parents with Newborn Children, Draft Inquiry Report*, which included as part of Draft Recommendation 2.1 that:

The Australian Government should introduce a statutory paid parental leave scheme that provides:

- superannuation entitlements calculated on the going wage of the employee or at the relevant capped amount, whichever is the smaller, but
 - this would only be available for employees who (a) have met the Commission's eligibility criteria for paid parental leave under draft



- recommendation 2.4; (b) were entitled to employer superannuation contributions in their jobs before taking paid parental leave; and (c) were entitled to unpaid parental leave under the National Employment Standards
- super contributions would be limited to the statutory 9 per cent rate
 - subject to its practical feasibility, including consideration of its compliance and administrative costs. (Productivity Commission, 2008, p. 2.8)

The Productivity Commission envisaged businesses providing superannuation contributions for employees for the period of leave taken, but only for those employees who were eligible for such benefits before taking leave and who were entitled to unpaid leave. Superannuation contributions would be capped at the employee's actual pre-leave wages or the adult minimum weekly wage, whichever is lower. The superannuation contribution rate would also be limited to the then statutory nine per cent even if the business usually paid more than this.

The Productivity Commission estimated that around 85 per cent of employees eligible for paid parental leave would be eligible to have superannuation paid while they were receiving paid parental leave. The Commission estimated the total cost to employers of paying the superannuation during periods of paid parental leave at around \$106 million per annum. This calculation was based on the then national minimum wage of \$543.78 per week and the then statutory contribution rate of nine per cent.

In the Productivity Commission's final report of February 2009, the recommendation that employers pay superannuation while eligible employees were receiving paid parental leave was still supported but deferred for at least three years subject to review.

Recommendation 2.4:

There is a prima facie case that employers should fund superannuation contributions during the paid parental and paternity leave period, with:

- superannuation entitlements calculated on the pre-birth (or pre-adoption) wage of the employee who is taking the leave, or at the federal minimum wage, whichever is the smaller
- superannuation payments made only to those employees who have (a) qualified for and chosen to take statutory paid parental leave; (b) were entitled to employer superannuation contributions in their jobs before taking leave; and (c) were entitled to unpaid parental leave under the National Employment Standards
 - If parental leave is transferred to an eligible partner, the partner may qualify for superannuation contributions, even if the original primary carer did not qualify.



Only one parent may receive superannuation contributions for statutory parental leave at any given time.

- mandated superannuation contributions under the scheme should be limited to the statutory rate (currently 9 per cent), but with no bar to privately negotiated higher rates.

The Australian Government should implement these employer contributions following a review of the statutory paid parental leave scheme three years after its inception (recommendation 2.14), subject to consideration of:

- the outcome of a final Australian Taxation Office ruling on the applicability of the superannuation guarantee to paid parental leave
- legal and other administrative issues for government
- any significant detrimental effects on business viability at that time or on compliance costs. (Productivity Commission, 2009, p. 2.21)

Australian Taxation Office ruling

The Australian Taxation Office (ATO) ruling referred to in Recommendation 2.4 of the Productivity Commission's final report, concerns the definition of 'ordinary time earnings' (OTE) and 'salary or wages' (SoW) under the *Superannuation Guarantee (Administration) Act 1992* (SGAA). Superannuation contributions are calculated according to OTE, rather than SoW, OTE [defined by section 6(1) of the SGAA] being all SoW [defined by s11 of the SGAA] earned in respect of ordinary hours of work.

Paid leave is considered to be a continuation of ordinary time pay and is therefore part of ordinary hours of work and counts as OTE, except where excluded by Regulation 7AD of the Superannuation Guarantee (Administration) Regulations 1993 (SGAR).

Salary or wages paid to an employee for a period of parental leave are excluded under SGAA by regulation 7AD of the SGAR.

Under regulation 7AD, parental leave is:

- (a) Maternity leave
- (b) Early paid leave for an expectant mother if the employer is unable to transfer her to a safe job
- (c) Paternity leave
- (d) Pre-adoption leave
- (e) Adoption leave





This means parental leave does not attract compulsory superannuation.

The draft ATO ruling was released in 2008. In that ruling, the ATO took the view that all leave payments, including any kind of parental leave, was both OTE and SoW:

273. Being a statute based right (reproduced in numerous awards) leave payments should not be differentiated on the basis of type. The entitlement to leave for all full time employees is the same for all types of leave, although different types of leave may be subject to particular tests of entitlement, for example, length of service tests, for maternity and parental leave and accrual of annual leave over a 12 month period.

In a compendium of comments on the draft ruling, the ATO said this in relation to leave:

The Commissioner acknowledges that different types of leave may be subject to particular tests of entitlement. However, the Commissioner is of the opinion that there is no basis for making any distinction between the differing types of paid leave for OTE purposes. The Commissioner's view, as expressed at paragraphs 235 and 236 in the final Ruling, is that all types of paid leave allow for an employee's salary or wages to continue to be paid while he or she is absent from work.

However, as paragraph 4 of the final Ruling explains, on 12 May 2009, the Government announced that it intends to clarify the superannuation guarantee status of certain kinds of leave payments. Accordingly, the Ruling does not deal with the status of payments made to employees who are on parental leave. The Ruling also does not deal with the status of payments made to employees who are on other ancillary kinds of leave, including 'top-up payments' (as described in paragraph 37 of the Ruling).

In 2009, between the release of the Productivity Commission's draft and the final report, the SGRA was amended by SLI 157, 2009, which inserted Regulation 7AD and specifically excluded parental leave. The current version of the final ruling omits now paragraph 4 entirely.

The SGAA and SGRA do not prevent employers making voluntary superannuation payments on parental leave. However, under the legislation, parental leave and top-ups paid on PLP cannot currently attract compulsory superannuation.

Stakeholder views

A number of the submissions to the PPL Review expressed views on superannuation.



The submission from the ACTU and unions supported legislating for employers to make superannuation guarantee contributions during the paid parental leave period. The ACTU advised:

Provision of minimum superannuation contributions by employers on periods of paid and unpaid parental leave is an important pay equity measure. Women have significantly less money saved for their retirement – half of women aged 45 to 59 have \$8,000 or less in their superannuation funds compared to \$31,000 for men.

Currently, the average superannuation payout for women is a third of the payout for men - \$37,000 compared with \$110,000. (Submission 43, p. 13)

The Women Lawyers Association, Business and Professional Women (BPW) Australia, the Diversity Council of Australia, Early Childhood Australia, Women in Super and Economic Security4Women all strongly supported superannuation being paid during paid parental leave. (Submissions 27, 31, 24, 55, 53 and 26)

Childcare Property Development Services Pty Ltd and ThoughtWorks Australia hold the view that superannuation should be funded by government, not the employer. (Submissions 5 and 32)

The Women's Electoral Lobby (WEL) believes that an outcome of the PPL review should be the Government broadening the current entitlement to superannuation benefits to cover statutory payments. (Submission 58, p. 7)

The National Council of Women of Australia Ltd notes:

Superannuation Guarantee Contributions (SGC) are a levy paid by the employer. We believe that any fundamental change to the arrangements for SGC should be clearly outlined and placed before the Australian people before changes are made. (Submission 29, p 2)

The Australian Federation of Employers and Industries (AFEI), the Australian Industry Group (AIG), the Real Estate Institute of Australia (REIA) and the Australian National Retailers Association (ANRA) all oppose employers being required to pay superannuation during periods of paid parental leave with the ANRA noting that this would result in a significant burden on this sector's employers. AFEI's view is that government should pay the superannuation contribution if it becomes compulsory. (Submissions 52, 54, 25 and 28)



Superannuation gender differences

Despite rising women's labour force participation there has been no closing of the gender wage gap, which is higher now than it was 10 years ago,⁷ and women still take on the greater share of unpaid work in Australia.⁸ This can compromise earnings and career progression, and place women at higher risk of hardship in retirement. In 2009-10, the average superannuation balance for all men was \$71,645, whereas the comparable figure for all women was \$40,475.⁹ Women are more likely to have no superannuation than men, with an estimated 38.5 per cent of all women and 31.6 per cent of all men having none.¹⁰

Analysis of data from the Household Income and Labour Dynamics of Australia (HILDA) survey shows that the gap between average superannuation balances of males and females increases with age. This is driven in large part by gender-related differences in labour force participation and incomes.¹¹

D.9 Keeping in Touch provisions

The Productivity Commission recommended the inclusion of a KIT provision in the PPL scheme to allow parents who receive PLP to undertake activities that 'maintain contact with the firm or that facilitate an orderly return'. The Productivity Commission concluded that:

A KIT provision would be likely to improve employee retention for businesses, decrease any productivity loss associated with a parent's absence from work, and enhance the career prospects of the relevant parent. This arrangement should also be extended to the self-employed employers so that they can maintain a degree of oversight of their business (Productivity Commission, 2009, pp. 2.51-2.52).

Under the PPL Act a parent must be on leave or not working from the time they become the primary carer of their child until the end of the Paid Parental Leave period. If a parent returns to work between becoming the primary carer and the end of their PPL period, their PLP will stop from that day, or will not be payable at all if the return to work occurs before the PPL period starts.

⁷ Australian Bureau of Statistics, *Average Weekly Earnings* (Cat. No. 6301.0), November 2012

⁸ Australian Human Rights Commission (2013) *Investing in care: Recognising and valuing those who care, Volume 1: Research Report*.

⁹ Clare, R. (2011) *Developments in the level and distribution of retirement savings*. The Association of Superannuation Funds of Australia Limited. September 2011.

¹⁰ *Ib id*

¹¹ Australian Centre for Financial Studies, *Superannuation over the past decade: Individual experiences*, March 2012



There is an exception to this rule that allows parents who are employees to participate in paid work activities for up to 10 days before the end of the PPL period, without losing their entitlements to PLP. The paid work activities must be for the purpose of ‘keeping in touch’ (KIT) with the workplace to assist the parent’s return to work. Paid work activities for the purpose of keeping in touch can include, but are not limited to, participating in meetings, training days or training courses, or performing on-the-job training to refresh skills.

A parent and their employer must both agree to a KIT day. A parent may arrange with their employer to have a KIT day as long as the day is not within two weeks after the birth or adoption. An employer may arrange a KIT day with their employee as long as the employer does not ask the employee to participate in a KIT day within six weeks of birth or adoption.

Under the PPL Act a self-employed parent may oversee their business and perform the occasional administrative task, without losing their entitlement to PLP. Types of activities may include paying an account, checking on delivery orders, organising a repair, recruitment requirements and maintaining basic levels of customer contact.

In 2012 KIT provisions were included in the *Fair Work Act 2009*. Prior to the change, unpaid parental leave under the National Employment Standards was required to be taken in one continuous period that was unbroken by a paid work activity. The 2012 change has ensured that a parent who accesses a KIT day under the PPL Act will not lose their entitlement to unpaid parental leave under the National Employment Standards.

Stakeholder views

In its submission to the PPL review, Business SA indicated that:

‘Keep in touch’ days are rarely used and when they are, they cause administrative difficulties. The [Business SA] survey results reported that these days have been used very infrequently, in fact, only 27 per cent reported that these days had been used. The survey results also informed us that when used these days caused additional cost to the business with regard to record keeping and administration, including payroll processing and leave accrual. (Submission 44, p. 3)

In its submission to the review, The Australian Council of Trade Unions expressed the following view:

The ACTU has expressed concern at the potential for abuse and lack of regulation of the KIT days. In particular, we voiced concerns in relation to the lack of requirement



on employers to record and confirm details of the KIT arrangement with employees. However, to the best of our knowledge, issues have not arisen as a consequence of this particular PPL policy. The ACTU and unions will continue to monitor the implementation of KIT days closely. (Submission 43, p. 15)

Phase 2 of the PPL Evaluation found that 42 per cent of mothers who received PLP in 2011, were aware of the ‘keeping in touch’ provisions. Just under one-third (29 per cent) of mothers who were aware of the KIT provisions had used them. Of the mothers who had used the KIT provisions, two thirds (67) per cent had used three days or less, and only 8 per cent have used the maximum allocation of 10 days (Martin *et al* 2013, pp. 77-78).

The employer survey in Phase 2 of the PPL evaluation found half of all employers providing PLP in 2011 were aware of the KIT provisions. Of these employers, 79 per cent said they intended to use the provisions (Martin *et al* 2013, p. 136). Of the employers that were aware of the KIT provisions, 51 per cent said their employees had used at least one KIT day. The number of employees that used the KIT provisions is generally low; of organisations that used the KIT provisions 58 per cent reported that only one employee had used the KIT provisions, and only 11 per cent reported that more than one employee had used the provisions. The remaining employers did not know how many employees had used the provisions (Martin *et al* 2013, p. 136).

Phase 3 of the PPL evaluation found there had been no significant change in the awareness, use of and expected use of the KIT provisions among employers since Phase 2 of the evaluation (Martin *et al* 2014, forthcoming).



Appendix E - Paid Parental Leave review Discussion Paper

E.1 Introduction

The Australian Government's Paid Parental Leave scheme started on 1 January 2011.

It is designed to provide financial support to working parents to take time off work when they have a baby or adopt a child.

The *Paid Parental Leave Act 2010* (the Act) is the legislation that sets out how the Paid Parental Leave scheme operates and the eligibility requirements.

The Act also specifies that a review of the Paid Parental Leave scheme must start by 31 January 2013. The Act sets out the issues to be considered as part of the review and requires the review to take account of public submissions and the emerging findings of the Paid Parental Leave evaluation.

In line with the legislation, in January 2013 the Minister for Families, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP, directed the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) to conduct the review of the Paid Parental Leave scheme. FaHCSIA has also established an expert Steering Group to oversee the review.

The full Terms of Reference for the review are available on the Paid Parental Leave review webpage at www.fahcsia.gov.au/pplreview.

The Australian Government welcomes public contributions to the review through submissions from interested individuals and organisations.

This discussion paper outlines:

- the scope of the review
- how the review will be conducted
- the public consultation process including how to make submissions and the review questions to be addressed in submissions
- relevant information about the Act and the Paid Parental Leave scheme.



E.2 Scope of the review

Section 307A of the Act requires the review to consider the following issues:

- a) the amount of time off work that primary carers are taking to care for newborn or newly adopted children
- b) the availability and amount of leave and payments provided by employers in relation to the birth or adoption of a child, and the interaction of those entitlements with PLP provided under the Act
- c) the operation of the work test
- d) whether primary claimants' partners should be paid PLP separately from, or in addition to, primary claimants
- e) whether employers should make superannuation contributions in relation to PLP
- f) the results of any evaluations conducted in relation to the operation of the Act
- g) the administration of the Act
- h) any other matter relevant to the general operation of the Act.

In taking account of these legislated matters the review will draw on public submissions, consultations, administrative data and the emerging findings of the Paid Parental Leave evaluation.

As DAPP only recently commenced (on 1 January 2013) it will not be considered in the review, except to the extent that it interacts with the rest of the Paid Parental Leave scheme. DAPP is being evaluated as part of the Paid Parental Leave evaluation.

E.3 The Paid Parental Leave evaluation

In addition to the review, the Government is conducting an evaluation of the Paid Parental Leave scheme, including its implementation, its immediate outcomes, and the extent to which the scheme is likely to meet its longer-term objectives.

The evaluation is based on parent and employer surveys conducted in three phases from 2010. Phase 1 of the evaluation has been completed and the findings from Phases 2 and 3 will be available later in 2013.

As required by the Act, the evaluation findings will be considered as part of the review.

The reports of the completed phases of the evaluation are available on the review webpage at www.fahcsia.gov.au/pplreview.



In addition, the findings of completed phases are summarised in the review fact sheet series, available on the same webpage.

E.4 The Paid Parental Leave review Steering Group

An expert Steering Group has been appointed to oversee the review. The Steering Group includes representatives from employee groups, employer groups, women’s and community groups, the Human Rights Commission, independent research institutions and relevant Government departments.

The Steering Group will meet regularly during the course of the review. It will provide advice to FaHCSIA on how to conduct the review, including the public consultation process, analysis of evidence and the report to Government. The Steering Group will provide expert input on policy issues that emerge from the review findings. Members of the Steering Group will also promote the review and encourage stakeholder participation.

E.5 How FaHCSIA will conduct the review

FaHCSIA will draw on the following sources of evidence:

- submissions received from individuals and organisations during the public consultation process
- discussions with key stakeholders to find out about employee and employer experiences with the Paid Parental Leave scheme
- available evidence from the evaluation of the Paid Parental Leave scheme.

FaHCSIA may also use data as appropriate from key government sources, including:

- the Department of Human Services (Centrelink)
- the Department of Education, Employment and Workplace Relations
- the Fair Work Ombudsman
- the Fair Work Commission
- the Australian Bureau of Statistics
- the Department of Industry, Innovation, Science, Research and Tertiary Education.

E.6 Timing of the review

Date	Action
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Date	Action
March – 31 May 2013	Public consultation period for written submissions and consultations.
June – October 2013	Analysis and assessment, including incorporating data from Phase 3 of the Paid Parental Leave evaluation, which are expected to be available in October 2013.
By 31 December 2013	FaHCSIA will provide the final report to the Minister and the Act specifies the Minister will table the report in Parliament within 15 sitting days of receiving the final report.

E.7 Review questions

Before making a submission to the review, you may wish to consider the following issues and respond to one or more of them.

- How the scheme works in practice for parents, including parents' awareness of the scheme and their experience of applying for, and receiving, PLP.
- How the scheme works in practice for employers, including employers' experience of receiving Paid Parental Leave funds and providing PLP to their employees.
- The amount of time that mothers and fathers (or other partners) are taking off work after the birth or adoption of a child – including with the Government's Paid Parental Leave and employer provided leave entitlements including paid and unpaid leave.
- The availability of other types of leave, including unpaid leave and any paid leave provided by employers, as well as other employer provided benefits.
- How employer-provided leave and other employer entitlements interact with the Government's Paid Parental Leave scheme.
- How the Paid Parental Leave work test operates. The work test is the set of rules about how much a parent must have worked before the birth of the child to be eligible for PLP.
- How fathers and other partners access payments under the Paid Parental Leave scheme including in the rules that set out how a mother can transfer unused PLP to her partner.



- Whether superannuation contributions should be made on top of PLP, and how superannuation contributions could work.

The legislation also sets out that the review can consider any other issues relevant to the Paid Parental Leave scheme. You should feel free to comment on other relevant issues even if not set out above.

E.8 How to make a submission to the review

The Australian Government welcomes written submissions from individuals and organisations.

The closing date for submissions is 5pm Friday 31 May 2013.

Submissions should be concise and supported by evidence, such as:

- real examples of how an individual, business or sector has experienced the scheme and the effects of those experiences for parents (including employees) or employers
- explanations about how aspects of the scheme seem to be effective or ineffective in practice
- specific and practical suggestions about how the scheme could be improved
- information from the resources provided on the Paid Parental Leave review website
- analysis of quantitative and/or qualitative data
- research evidence including academic literature.

Please visit the Paid Parental Leave review webpage at www.fahcsia.gov.au to upload your submission. If you have any issues using the website, please contact the FaHCSIA Paid Parental Leave review team at ppl@fahcsia.gov.au.

If you are unable to access the internet, you can post a copy of your submission to:

Paid Parental Leave review - FaHCSIA
AW3
PO Box 7576
CANBERRA BUSINESS CENTRE ACT 2610

Submissions will be analysed by FaHCSIA in consultation with the Paid Parental Leave review Steering Group. The results of the review will be published in the review report.

E.9 Privacy information

Submissions to the review will be analysed by policy and research officers in the Parental Payments and Family Research Branch in FaHCSIA. The analysis of submissions will be



published in a report to Government. Any personal information provided in submissions is protected by law, including the *Privacy Act 1988 (Cth)*.

We encourage you to allow your submission to be treated as public to promote discussion. This means your name would be included in the list of submissions received on this website, and provided to external parties on request.

If you make a submission to the review, parts of your submission may be used in the report. If you wish, we can do this in a way that does not identify you. If you prefer your name and submission to be confidential, you can specify this when you make your submission.

Further information about how submissions will be treated is provided on the Paid Parental Leave review webpage at www.fahcsia.gov.au/pplreview

E.10 More information

More information about the Paid Parental Leave scheme is available in the appendix of this discussion paper and fact sheets with more detailed information are available on the Paid Parental Leave review webpage at www.fahcsia.gov.au/pplreview

Enquiries about the review and the public consultation process can be directed to ppl@fahcsia.gov.au.

E.11 Appendix to PPL review Discussion Paper: Background information about the Paid Parental Leave scheme

E.11.a Overview of the Paid Parental Leave scheme

The Paid Parental Leave scheme demonstrates the Australian Government's ongoing commitment to supporting working families. The scheme provides PLP to eligible primary carers of newborn and recently adopted children.

Key features of PLP are:

- primary carers receive up to 18 weeks pay at the rate of the national minimum wage (currently around \$606 per week before tax)
- the payment must usually be claimed by the mother but can be transferred to the other parent if they are eligible
- it must be taken in one unbroken period anytime in the first year after the birth or adoption
- it can be taken before, after or at the same time as employer-provided paid or unpaid leave



- parents eligible for both payments can choose between the Baby Bonus and PLP
- most mothers receive government-funded PLP through their employers.

On 1 January 2013 the scheme was extended to include DAPP for eligible fathers or partners. As DAPP has not been in operation prior to 2013, it will not be considered in this review except to the extent that it interacts with PLP.

The Australian Government is committed to supporting mothers, whether they are in a paid job or at home. The Baby Bonus and Family Tax Benefit are still available for eligible families who are not eligible for PLP.

E.11.b Objectives of the scheme

The objectives of the Paid Parental Leave scheme and PLP are to:

- a) allow those carers to take time off work to care for the child after the child's birth or adoption
- b) enhance the health and development of birth mothers and children
- c) encourage women to continue to participate in the workforce
- d) signal that taking time out of the paid workforce to care for a child is part of the usual course of life and work for both parents
- e) promote equality between men and women and balance between work and family life.

E.11.c Who is eligible for Paid Parental Leave?

To be eligible for Paid Parental Leave a parent must:

- be the primary carer of a newborn or recently adopted child
- meet the residency requirements from the time they become the child's primary carer to the end of their Paid Parental Leave period
- meet the Paid Parental Leave work test, i.e.
 - have worked for at least 10 of the 13 months prior to the birth or adoption of the child
 - have worked for at least 330 hours in that 10 month period (just over one day a week), with no more than an eight week gap between two consecutive working days
- have an individual adjusted taxable income of \$150,000 or less in the previous financial year
- be on leave or not working from the time they become their child's primary carer until the end of their Paid Parental Leave period.



Many women, particularly those who are self-employed and those who work in part-time, casual, seasonal or contract work, now have access to paid parental leave entitlements for the first time.

E.11.d What is the Paid Parental Leave scheme based on?

The Paid Parental Leave scheme closely follows the scheme recommended in the Productivity Commission's 2009 Inquiry Report *Paid Parental Leave: Support for Parents with Newborn Children*.

The Productivity Commission inquiry involved an extensive public consultation process to inform the design of the proposed scheme. The Productivity Commission held two rounds of public hearings across Australia, took part in several community consultations convened by other organisations, and received over 400 written submissions.

The Productivity Commission anticipated the Paid Parental Leave scheme would:

- Increase the average length of leave taken by employed women after childbirth by around 10 weeks. Coupled with other leave arrangements, this is expected to allow most infants to be exclusively cared for by a parent for the first six months of life.
- Encourage increased workforce participation by women prior to having children and between pregnancies. The average Australian woman's lifetime period of employment may be extended by between two to six months.
- Change community attitudes by sending a strong signal that having a child and taking leave around the time of birth or adoption is part of the normal course of work and family life.

E.11.e What does the scheme cost?

In 2011-12, the gross cost of the Paid Parental Leave scheme was \$1.4 billion. When the offsets from tax, Family Tax Benefit and Baby Bonus are taken into account, the net cost is around \$270 million.

E.11.f Who has claimed the payment?

On 31 December 2012, 255,269 parents had claimed PLP since the start of the scheme.

In the 2011-12 financial year, just under half (44 per cent) of all new mothers in Australia received PLP.

At 31 December 2012, the majority (77 per cent) of recipients were receiving the payment through their employer.





Of the 255,269 parents who had claimed the payment at 31 December 2012:

- almost all recipients (99 per cent) took the full 18 weeks of payment
- around half of recipients (52 per cent) started their PLP within the first two weeks following the birth of their child
- 382 recipients received PLP as a ‘secondary claimant’, usually because the mother transferred her unused PLP to her partner
- the median age of recipients was 32 years
- the median income of recipients was \$45,000 per annum.

E.11.g How have employers been involved in the Paid Parental Leave scheme?

There are 43,716 employers registered to provide PLP to their employees nationally.

Of the registered employers at

- 34,858 have provided or are providing PLP to their employees
- 50 per cent have fewer than 20 employees and 50 per cent have 20 or more employees
- 86 per cent have opted to provide PLP only to those employees they are required to pay, and 14 per cent have opted to also provide the payment to non-mandatory employees.

E.11.h Keeping in Touch provisions

Under the Paid Parental Leave ‘Keeping in Touch’ provisions, the primary carer receiving PLP can maintain contact with their workplace without losing their entitlement to the payment. This means payment recipients can participate in paid work activities at their workplace for up to 10 days between the birth or adoption of their child and the end of their PLP period, to help facilitate their return to work. Self-employed recipients may oversee their business and perform the occasional administrative task.

E.11.i Dad and Partner Pay

The Australian Government expanded Paid Parental Leave with two weeks DAPP on 1 January 2013. It provides eligible fathers or partners (including adopting parents and same-sex partners) with two weeks payment at the rate of the national minimum wage.



Appendix F – Paid Parental Leave Review submissions and consultations

The public consultation phase of the Paid Parental Leave (PPL) review was launched with a media release on International Women’s Day, 8 March 2013. The media release invited public submissions and announced the release of the PPL review discussion paper, the PPL evaluation phase 2 findings and other review resources on the Department of Social Services (DSS) PPL review web page.

In addition to the media release, DSS emailed more than 200 employee, employer and community peak bodies, informing them of the PPL review and encouraging them to participate, and to promote the review to their members and other interested parties. Stakeholders were also provided with a kit that could be used to promote the review to their members and others. The kit contained information about the review, answers to frequently asked questions, and graphics for use on websites and in printed materials.

The more than 200 stakeholders who received an email about the review, and members of the public who accessed the PPL review website, were invited to subscribe to an online PPL review newsletter so that they could receive updates about the progress of the review. A total of 93 stakeholders subscribed to the newsletter.

Two newsletters were sent during the public submission phase. The first in late March 2013 reminded stakeholders about the public submission process and the resources available to inform submissions, and the second newsletter in early June advised the change of the public consultation phase end date from 31 May to 14 June 2013.

F.1 Public submissions to the review

A total of 63 submissions were received by DSS. Of these, 18 were from individuals and 45 were from organisations including 16 from employee groups, 13 from businesses or employer groups, and the remainder from a mix of groups including community organisations and advocacy groups.

Of the 63 submissions, 47 were public and 16 were confidential. The names of individuals and organisations making public submissions were published on the PPL review webpage. The names of those providing confidential submissions were not published. The list of submissions is included at Table 17.



In addition to the submissions made to the review, DSS drew on feedback included in Ministerial correspondence received since the start of the scheme, and issues DSS and Centrelink had become aware of as part of the day to day management of Parental Leave Pay (PLP).

Table 17 Submissions to the PPL review

Submission number	Name of individual/organisation
1	Natalie Lees
2	Lauren Bartsch
3	Confidential
4	Lyndal Lemon
5	Childcare Property Development Services Pty Ltd
6	Confidential
7	Commonwealth Bank of Australia
8	Confidential
9	Confidential
10	Grant Hall
11	Women On Boards
12	Confidential
13	Confidential
14	Western Australian Commissioner for Children and Young People
15	Public Service Association and Professional Officers Association Amalgamated Union of New South Wales
16	Confidential
17	Confidential
18	Confidential
19	Transport Workers' Union of NSW
20	Christine Williams



Submission number	Name of individual/organisation
21	Juanita Golland
22	Confidential
23	Confidential
24	Diversity Council of Australia
25	Real Estate Institute of Australia
26	Economic Security for Women
27	Women Lawyers Association of NSW
28	Australian National Retailers Association (ANRA)
29	National Council of Women of Australia Ltd
30	Samone McCurdy
31	BPW Australia
32	ThoughtWorks Australia Pty Ltd
33	Kate Ravenscroft
34	Confidential
35	Australian Services Union
36	Independent Education Union
37	Family Voice Australia
38	Women in Mining Network Australasian Institute of Mining and Metallurgy
39	Jobwatch Inc.
40	Australian Education Union
41	Confidential
42	United Services Union
43	Australian Council of Trade Unions
44	Business SA



Submission number	Name of individual/organisation
45	Shop, Distributive and Allied Employees Association
46	Confidential
47	Stephanie Ferrier
48	Newcastle Trades Hall Council
49	Unions NSW
50	Victorian Legal Aid
51	Hayley Aked-Hurditch
52	Australian Federation of Employers and Industries
53	Women in Super
54	Australian Industry Group
55	Early Childhood Australia
56	Police Federation of Australia
57	National Tertiary Education Union
58	Women's Electoral Lobby (Aust)
59	NSW Teachers Federation
60	Chamber of Commerce and Industry Western Australia
61	Confidential
62	Australian Chamber of Commerce and Industry
63	Australian College of Midwives

F.2 Consultations with key stakeholders

During the public submission phase of the review, DSS contacted key stakeholders to invite them to participate in a face to face consultation. Nineteen stakeholders accepted the invitation.



Consultation meetings were held with these stakeholders between April and mid-June 2013. The stakeholders who participated in consultations are listed at Table 18.

Table 18 Stakeholders with whom DSS held a PPL review consultation

Name of organisation
Australian Chamber of Commerce and Industry
Australian Council of Trade Unions
Australian Institute of Family Studies
Australian Public Service Commission
Australian Taxation Office Software Developers Consultative Group
Australian Taxation Office Tax Practitioner Forum
Department of Employment (previously the Department of Education, Employment and Workplace Relations)
Department of Human Services
Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education
Early Childhood Australia
economic Security4Women
National Australia Bank
National Foundation of Australian Women
Office for Women
Sex Discrimination Commissioner
Shop, Distributive and Allied Employees Association
Unions NSW
UnitingCare Australia



Name of organisation

Workplace Gender Equality Agency



Glossary

ABS – Australian Bureau of Statistics

ACTU – Australian Council of Trade Unions

BaMS – Baseline Mothers Survey

CWLTH – Commonwealth

DAPP – Dad and Partner Pay

DHS – Department of Human Services

DSS – Department of Social Services

EIPE – Employer Implementation Phase Evaluation Study

FaHCSIA – Department of Families, Housing, Community Services & Indigenous Affairs

FaWCS – Family and Work Cohort Study

FTB – Family Tax Benefit

FWA – Fair Work Act

FWO – Fair Work Ombudsmen

HILDA – Household Income and Income and Labour Dynamics of Australia (survey)

IDC – Interdepartmental Committee

ISSR – Institute for Social Research

KIT – Keeping in touch (provisions)

MoPE – Mothers Process Evaluation Study

NES – National Employment Standards



PLP – Parental Leave Pay

PPL – Paid Parental Leave (scheme)

RIS – Regulatory Impact Statement

UQ – University of Queensland



Bibliography

Australian Bureau of Statistics 2011, 2011 Census QuickStats

http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/quickstat/0?opendocument&navpos=220#peoplecharacteristics

Australian Council of Trade Unions, March 2013, 'Creating Secure Jobs and a Better Society', Report to National Community Summit.

Australian Government 2009, Australia's *Paid Parental Leave Scheme: Supporting working Australian families*, Commonwealth of Australia, Canberra

Australian Government 2010a, *Paid Parental Leave: Information for Parents*. Commonwealth of Australia, Canberra.

Australian Government 2010b, *Paid Parental Leave: Information for employers and consultation outcomes*. Commonwealth of Australia, Canberra.

Australian Institute of Health and Welfare 2013. Australia's welfare 2013. Australia's welfare series no.11. Cat. no. AUS 174. Canberra: AIHW.

Baird & Whitehouse 2012, Paid Parental Leave first birthday review. Australian Bulletin of Labour 38(3)

Broomhill & Sharp 2012, Australia's Parental Leave Policy and Gender Equality: an International Comparison. Australian Workplace Innovation and Social Research Centre.

Coalition's Policy for Paid Parental Leave, August 2013

Equal Opportunity for Women in the Workplace Agency 2011, *Annual Report 10/11*, Sydney.

Fair Work Act 2009

Family Assistance and Other Legislation Amendment Act 2011

Family Assistance and Other Legislation Amendment Act 2013

Macklin J (Minister for Families, Housing, Community Services and Indigenous Affairs), Swan, W (Treasurer) and Gillard, J (Deputy Prime Minister, Minister for Employment & Workplace



Relations and Social Inclusion) 2008, *Productivity Commission to Investigate Paid Maternity Leave*, media release, Parliament House, Canberra, 17 February.

Macklin, J (Minister for Families, Housing, Community Services and Indigenous Affairs) 2009, *Rudd Government to Introduce Paid Parental Leave*, media release, Parliament House, Canberra, 10 May.

Macklin, J (Minister for Families, Housing, Community Services and Indigenous Affairs), Australia, House of Representatives 2010, *Debates*, 12 May 2010, p. 3207

Martin, B, Hewitt, B, Baird, M, Baxter, J, Heron, A, Whitehouse, G, Zadoroznyj, M, Xiang, N, Broom, D, Connelly, L, Jones, A, Kalb, G, McVicar, D, Strazdins, L, Walter, M, Western & M, Wooden. M 2012, *Occasional Paper No. 44 Paid Parental Leave Evaluation: Phase 1*. Department of Families, Housing, Community Services and Indigenous Affairs, Canberra.

Martin, B, Hewitt, B, Jones, A, Yerkes, MA, Baird, M, Davis, K, Rose, E, Rose, J, Coles, L, Heron, A, Xiang, N, Strazdins, L, Zadoroznyj, M, Kalb, G, McVicar, D, Baxter, J, Walter, M, Western, M, Whitehouse, G, Connelly, L & Broom, D 2013, *Paid Parental Leave Evaluation: Phase 2 Report*. Department of Families, Housing, Community Services and Indigenous Affairs, Canberra.

Martin, B, Hewitt, B, Yerkes, MA, Xiang, Rose, J & Coles, L (forthcoming), *Paid Parental Leave Evaluation: Phase 3 Report*. Department of Families, Housing, Community Services and Indigenous Affairs, Canberra.

Martin, B, Baird, M, Brady, M, Hewitt, B, Hanel, B, Kalb, G, Tomaszewski, W, Zadoroznyj, M, Baxter, J, Chen, R, Heron, A, Strazdins, L, Whitehouse, G, Xiang, N, (forthcoming) *Paid Parental Leave Evaluation: Phase 4 Report*. Department of Social Services, Canberra.

Paid Parental Leave Amendment Rules 2011 (no. 1)

Paid Parental Leave Amendment Rules 2012 (no. 1)

Paid Parental Leave Amendment Rules 2012 (no. 2)

Paid Parental Leave and Other Legislation Amendment (Dad and Partner Pay and Other Measures) Act 2012



Plibersek, T (Shadow Minister for Women), Gillard, J (Shadow Minister for Employment and Industrial Relations) and Macklin, J (Shadow Minister for Families and Community Services) 2007, *Maternity Leave*, media release, 13 July.

Productivity Commission 2008, *Paid Parental Leave: Support for Parents with Newborn Children*, Draft Inquiry Report, Canberra.

Productivity Commission 2009, *Paid Parental Leave: Support for Parents with Newborn Children*, Report no. 47, Canberra.

Social Security and Other Legislation Amendment (2012 Budget and Other Measures) Act 2012

Workplace Gender Equality Agency 2013. *The 'how to' guide to employer-provided paid parental leave: Adopting or introducing entitlements to complement the Government's Paid Parental Leave scheme*. Sydney.

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