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## LawTalk Blog



# Proposed changes to paid parental leave strip entitlements from working mothers

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Whether you loved her or hated her, there is little denying that one of former Prime Minister Julia Gillard's greatest reforms was the introduction of Australia's first Paid Parental Leave ("PPL") scheme in 2010. The scheme passed Parliament in mid 2010 and became operational in January 2011.

The union movement had been fighting for a strong PPL in Australia for decades, and before its successful passage in Parliament, Australia was one of the few developed nations that did not have a federally mandated and regulated PPL scheme (even now politicians including Presidential candidate Hillary Clinton are still fighting for the introduction of PPL in the United States).

The 2010 Australian scheme comprised of very complex legislative reforms (which will not be discussed in detail in this blog, suffice to say that the *Paid Parental Leave Act 2010* comprised of more than 300 sections in addition to detailed regulations). Basically, it allowed working mothers to receive 18 weeks of salary paid at the Federal Minimum Wage (which was raised to about \$660 per week before tax in June 2015, and was approximately \$570 per week when the law was introduced). This payment coincided with the birth or adoption of a child.

If, for example, a woman was earning \$30,000 per year and fell pregnant, she'd be entitled to 18 weeks paid leave at the minimum wage, and a woman earning \$80,000 per year would also be entitled to 18 weeks pay at the minimum wage. Women earning over \$150,000 annually were precluded from accessing the entitlements.

When Labor was in government, the Liberal/National Opposition argued that Labor's scheme did not go far enough. In fact, the then Opposition Spokesperson for Women, Sharman Stone, heavily criticised Labor's legislation arguing that the 'poor-relation scheme offering only 18 weeks of the minimum wage does not go near covering the household expenses of two-income families

working hard to pay their mortgage and the cost of living'.

However, others argued that the scheme struck a good balance between the workforce, the Government and the business community, and it would encourage higher participation of women in the workforce during arguably their most productive years.

Importantly, the scheme was also designed to supplement any entitlements provided by the employer. For example, if the specific employment contract or agreement afforded a worker a certain amount of parental leave, the worker could still access the 18 week PPL. Employers would offer its own form of parental leave in an attempt to attract and retain women workers and encourage a good work-life balance, but this was never meant to be offset against the Government scheme. Any employer benefit was *in addition* to the Government scheme.

In other words, some new mothers only had access to the 18 week Government scheme, but some new mothers did better if their own employer provided them with additional weeks of paid leave. The Labor Government wanted employers to top-up and compliment the PPL.

In fact, section 3A(3) of the *Paid Parental Leave Act 2010* confirms that *'The financial support provided by this Act is intended to complement and supplement existing entitlements to paid or unpaid leave in connection with the birth or adoption of a child.'*

When Tony Abbott was fighting for the Prime Ministership in 2013, one of his biggest policy announcements concerned a vast expansion of PPL entitlements. Under his proposal, women would have access to 6 months of leave paid at their full wage. In other words, a woman earning \$150,000 per year could receive \$75,000 in Government funded PPL payments. This obviously would have been a far cry from Labor's scheme with a maximum entitlement of around \$11,000 over a period of about 4 months.

Tony Abbott went to the electorate as a champion for women's workforce participation and he argued that 'a fair dinkum Paid Parental Leave scheme will strengthen the economy and provide much needed assistance to families when they need it the most ... We are proud of this policy: it helps women, it helps families and it will strengthen the economy'. The scheme would be funded by an increased tax on big business.

Many argued that the \$75,000 safety net was excessive, so the policy was tweaked following the Coalition's victory when Prime Minister Abbott reduced the maximum entitlement to \$50,000. However, months and years went by without his signature policy being introduced into the new Parliament.

So what has happened with PM Abbott's commitment to significantly enhance PPL entitlements? Not only has he decided not to proceed with his pre-election core promise to introduce his own generous PPL scheme, but he has in fact stripped away entitlements from working mothers. A conservative estimate is that 80,000 new mothers will be adversely affected by the announcements in the May 2015 Federal Budget regarding Parental Leave.

PM Abbott has attacked many new mothers and his Government Ministers have commented that many of these mothers are 'rotters' or 'fraudsters' simply for taking advantage of the 18 weeks PPL as well as their employer funded scheme. They have made allegations of fraud and rotting notwithstanding the fact that some Government Ministers' wives claimed both the PPL and employer benefits when they had their babies.

But this change of policy direction regarding Parental Leave appears to be a poorly considered thought bubble. Under the new proposal, why would an employer offer their employees paid parental leave if this means the employees will lose access to the Government scheme? There would be absolutely no incentive for employers to offer Paid Parental Leave – they might as well tell employees 'just access the Government PPL, you'll receive the same money as if we pay you directly'. Alternatively, some smart employers will simply offer different incentives to new parents (like a bonus payment at the time of birth, or a return to work incentive) which will allow the employee to access the PPL whilst still receiving some financial benefit from the employer.

So why has the Abbott Government performed a complete 180 from their pre-election commitment to provide 6 months of wages up to \$75,000 to a policy that leaves new mothers worse off than the existing scheme? Why is he now criticising mothers for 'double dipping' into the PPL and employer scheme even when this was the exact intention of the law when it was introduced in 2011?

In any event, it is unclear whether this controversial policy change will pass through our difficult Senate.

At Andersons, we will always fight for workers' rights and entitlements irrespective of the Government of the day. [Parental leave](#) and other industrial entitlements should be protected, not diminished.

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