

WEL submissions – 2007 TO 2008

1. Paid Maternity, Paternity and Parental Leave

Public inquiry

The Australian Government has asked the Productivity Commission to undertake a public inquiry into paid maternity, paternity and paternal leave. The Commission released an issues paper on April 8 2008 establishing terms of reference for the inquiry and noting that the inquiry would concentrate on support for parents of newborn children up to the age of two years, and would:

- consider the economic, productivity and social costs and benefits of providing paid maternity, paternity and parental leave;
- assess the current extent of employer-provided of paid maternity, paternity and parental leave in Australia;
- identify the models that could be used to provide such parental support and assess these against a number of criteria. These include their cost effectiveness; impacts on business; labour market consequences; work/family preferences of parents; child and parental welfare; and interactions with the Social Security and Family Assistance Systems;
- assess the impacts and applicability of the various models across the full range of employment forms (such as the self-employed, farmers, and shift workers); and
- assess the efficiency and effectiveness of Government policies that would facilitate the provision and take-up of these models.

The full submission can be read here:

http://www.pc.gov.au/_data/assets/pdf_file/0005/80744/sub111.pdf

A draft report was released on 29 September 2008. WEL's response to the draft ('Good one: the Productivity Commission proposes a feminist gain!') is available at

http://www.pc.gov.au/_data/assets/pdf_file/0011/83639/subdr262.pdf

2. Pension Review

On 15 May 2008, the Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP, announced that Dr Jeff Harmer, the Secretary of her department, would lead a comprehensive review of the pension system as part of the Government's broader review of Australia's Future Tax System.

The Pension Review will investigate measures to strengthen the financial security of seniors, carers, and people with disability by considering the:

- appropriate levels of income support and allowances, including the base rate of the pension, with reference to the stated purpose of the payment;

- frequency of payments , including the efficacy of lump sum versus ongoing support; and
- structure and payment of concessions or other entitlements that would improve the financial circumstances and security of seniors, carers and people with disability.

Sub in WEL folder—not on site – no link available

3. WEL submission to the 2008 Sex Discrimination Act Inquiry

On 26 June 2008, the Senate asked Legal and Constitutional Affairs Committee to inquire into and report on the effectiveness of the Commonwealth Sex Discrimination Act 1984 in eliminating discrimination and promoting gender equality, with particular reference to:

- the scope of the Act, and the manner in which key terms and concepts are defined;
- the extent to which the Act implements the non-discrimination obligations of the Convention of the Elimination of All Forms of Discrimination against Women and the International Labour Organization or under other international instruments, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights;
- the powers and capacity of the Human Rights and Equal Opportunity Commission and the Sex Discrimination Commissioner, particularly in initiating inquiries into systemic discrimination and to monitor progress towards equality;
- consistency of the Act with other Commonwealth and state and territory discrimination legislation, including options for harmonisation;
- significant judicial rulings on the interpretation of the Act and their consequences;
- impact on state and territory laws;
- preventing discrimination, including by educative means;
- providing effective remedies, including the effectiveness, efficiency and fairness of the complaints process;
- addressing discrimination on the ground of family responsibilities;
- impact on the economy, productivity and employment (including recruitment processes);
- sexual harassment;
- effectiveness in addressing intersecting forms of discrimination;
- any procedural or technical issues;
- scope of existing exemptions;
- other matters relating and incidental to the Act.

The WEL submission focuses on a number of key weaknesses of the Act, including its objects. It points out that the object to 'Eliminate, so far as is possible, discrimination...' is like requiring people to 'drive on the left-hand side of the road, so far as is possible'. We recommended the objects be reworded as 'To prohibit discrimination' - something that is important, because judges seek guidance from the objects of the Act.

We also recommended additional powers for the Sex Discrimination Commissioner, to remove the onus from individual complainants, and that she be given a statutory power to report annually to parliament on progress towards achieving gender equality. Such reporting would be against key performance indicators and we helpfully provided some. The Committee is due to report in

November and we are hoping for a strong government response in time for the 25th birthday of the Act in March 2009.

The full submission can be read here:

http://www.aph.gov.au/Senate/committee/legcon_ctte/sex_discrim/submissions/sub08.pdf

WEL also provided considerable input to the collaborative submission (from 'leading women's organisations and women's equality specialists') co-ordinated by Caroline Lambert of the YWCA and also available on the Senate committee website.

The WEL submission was prepared by Kathy MacDermott, Marian Sawyer and Margaret Thornton. Marian Sawyer and Margaret Thornton gave evidence to the Senate Committee on 11 September and it can be found on pp. 36-45 of the Hansard transcript:

<http://www.aph.gov.au/hansard/senate/commttee/S11235.pdf>

4. Inquiry into Options for a New National Industrial Relations System

In August 2007 the Lemna Government commissioned an Inquiry into Options for a New National Industrial Relations System headed by eminent constitutional expert Professor George Williams. The purpose of the Inquiry was to develop options for a national system that was based on greater harmonisation between the States and Territories and cooperative federalism.

The WEL submission to the Inquiry strongly supported the view that any new system must provide for fairness and be non-discriminatory, making available progressive work and family entitlements, unfair dismissal protection, and avenues for the resolution of pay equity problems. It raised mechanisms that would support these ends.

The full submission can be read here:

<http://www.industrialrelations.nsw.gov.au/resources/03+wel+submission.pdf>

5. National Employment Standards

On 16 June, 2008 the Prime Minister, Kevin Rudd and the Minister for Employment and Workplace Relations Julia Gillard released the new National Employment Standards (NES). The NES will come into effect on 1 January 2010 and will apply to all employees in the Federal system regardless of industry, occupation or income.

The NES are:

1. Maximum weekly hours of work
2. Request for flexible working arrangements
3. Parental leave and related entitlements
4. Annual leave
5. Personal/Carer's leave and compassionate leave

6. Community service leave
7. Long service leave
8. Public holidays
9. Notice of termination and redundancy pay
10. Fair Work Information Statement

The NES were developed following consultation and consideration of submissions to the exposure draft which was released on 14 February 2008. The joint submission of the Women's Electoral Lobby and the National Pay Equity Coalition can be read here:

http://www.workplace.gov.au/NR/rdonlyres/2DC75497-1C85-4D19-A1E2-D537D343717F/0/NES_Sub_WEL_NPEC.pdf

6. Pay equity

26 June 2008 the Acting Minister for Employment and Workplace Relations, The Hon Brendan O'Connor MP, asked the House of Representatives Standing Committee on Employment and Workplace Relations to inquire into and report on pay equity and associated issues related to increasing female participation in the workforce.

The terms of reference of this Inquiry included, but were not limited to:

- The adequacy of current data to reliably monitor employment changes that may impact on pay equity issues;
- The need for education and information among employers, employees and trade unions in relation to pay equity issues;
- Current structural arrangements in the negotiation of wages that may impact disproportionately on women;
- The adequacy of recent and current equal remuneration provisions in state and federal workplace relations legislation;
- The adequacy of current arrangements to ensure fair access to training and promotion for women who have taken maternity leave and/or returned to work part time and/or sought flexible work hours; and
- The need for further legislative reform to address pay equity in Australia.

WEL's submission was made jointly with the National Pay Equity Coalition. It is available on the Standing Committee's website at

<http://www.aph.gov.au/house/committee/ewr/payequity/subs/sub118.pdf>