



**National Council of  
Women of New Zealand**

Te Kaunihera  
Wahine O Aotearoa

National Office  
Level 4 Central House  
26 Brandon Street  
PO Box 25-498  
Wellington 6146  
(04) 473 7623  
office@ncwnz.org.nz  
www.ncwnz.org.nz

25 August 2014

S14.10

**Submission on Ministry of Business, Innovation & Employment  
Discussion Document: Modernising Parental Leave**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 44 organisations affiliated at national level and a further 41 organisations affiliated at branch level. It has 21 branches throughout the country attended by representatives of those organisations, as well as individual members. NCWNZ's function is to represent and promote the interests of New Zealand women through research, discussion and action. This submission has been prepared by the NCWNZ Employment Standing Committee after consultation with the membership of NCWNZ.

**Introduction**

1. We welcome the opportunity to submit our views on the MBIE Discussion Document: Modernising Parental Leave (the Document). We were not aware of the Document until early August however and given the relatively short timeframe for consultation with our branches and affiliated organisations, our submission largely provides general comment on the five proposals. We look forward to contributing to the next stage of the proposals' development.
2. NCWNZ policy in relation to the employment of women dates back to 1896. That policy is continually reviewed through consultation with our members. We have always promoted the employment rights of women and in particular the rights of those engaged in low paid work. NCWNZ has been active for 20 years in promoting paid parental leave (PPL), most recently in August 2012 when we made a submission in support of the Parental Leave and Employment Protection (Six Months Paid Leave) Amendment Bill. We viewed that Bill as a welcome step forward, although NCWNZ policy supports 12 months PPL.
3. We have supported previous legislation on flexible working arrangements and recommended that they be extended to all employees. In our submission on the

Employment Relations Amendment Bill 2013, however, we recommended that the right to flexible working hours be made more substantive.

## Summary

4. NCWNZ generally supports the proposals on the premise that the needs of the child should be paramount, regardless of the nature of the carer's employment. The proposals recognise the diversity of New Zealand families and the reality of work arrangements that now operate in modern workplaces. While we strongly support the extension of current eligibility for PPL, our members identified a number of issues and concerns regarding the proposals. These include:
  - a. Despite the proposals, some employees engaged in non-standard employment may still have difficulties in meeting the criteria for PPL eligibility given the current two eligibility tests (the six month test and the 10 hour on average test per week). We support a review of the tests and in particular the 10 hours' requirement;
  - b. A comprehensive education, promotion and support programme would be essential to ensure that both employees and employers are fully aware of the changes. Monitoring of the proposals' implementation would also be important in terms of assessing their effectiveness and identifying areas for further development or change;
  - c. There is the potential for unintended consequences including pressure on employees to return to work before they are ready, negating the objectives of PPL. We support the view that a limited and specified number of days return to work be allowed;
  - d. It is important to be mindful of the rights of employees who are temporarily replacing those on PPL. We support further development of the proposals in that regard;
  - e. There are potential problems inherent in proposals that require negotiation between the individual employee and the employer given the imbalance of power in that relationship. We believe that protections to ensure effective and fair implementation of the part-time and flexible work proposal are needed including the right to flexible working hours being made more substantive and included in the Parental Leave and Employment Act 1987.

### **Extending PPL entitlement to less regular or non-standard employees and employees who have recently changed jobs or experienced gaps in employment**

- 5 We support this proposal believing that PPL is both beneficial and necessary, regardless of the work history of the carers. We welcome its focus on non-standard work arrangements such as fixed-term, temporary and casual work. It recognises that in the current job market, there are those who work two or three part-time jobs in order to earn enough income. We note that a significant proportion of non-standard work is undertaken by women.
- 6 NCWNZ Southland and Nelson Branch members particularly welcomed this proposal, noting their regions' highly casualised workforce in agriculture, meat processing, shearing and the fruit and fish industries. Other members provided examples of women employed

on a regular contract basis but who were not entitled to PPL given that the work was not continuous.

- 7 It is our view, however, that the proposals may not always improve PPL eligibility for the above groups. Some will still have difficulties in meeting the criteria given the current two tests for PPL eligibility (the six month test and the 10 hour on average test per week). We believe that the current tests should be reviewed and in particular the 10 hours' requirement be reduced to recognise the reality of many non-standard work arrangements.
- 8 We look forward to further development of the proposal in terms of its potential impact on, for example, temporary employees and the significant section of the workforce on fixed-term contracts. We note in particular the rise in ongoing fixed-term work in the public service and in the education and health sectors.
- 9 We support the proposal regarding verification of length of service and salary through Inland Revenue Department processes.
- 10 We believe that a comprehensive programme of education, promotion and support would be essential in the implementation of this and the related proposals, given the often fragmented nature of the non-standard workforce and the complexity of the proposed changes. Monitoring of the proposals' implementation would also be important in terms of assessing their effectiveness and identifying areas for further development or change.

**Extending PPL and job protection entitlement to 'primary carers' (ie anyone who has the primary responsibility for the day-to-day care of the child on an ongoing and permanent basis)**

- 11 We support this proposal and its recognition of the diversity of care arrangements that currently operate in New Zealand. We support the definition of 'primary carers' as noted on page 12 of the Document. Members noted, for example, the growing number of grandparents who have sole care of grandchildren and support the extension of PPL eligibility to long-term foster carers, adoptive parents, fathers and identified whanau and whangai. Some NCWNZ members expressed the view, however, that allowing 'others' to qualify for PPL could be complicated to monitor.

**Enabling employees to work limited days during the paid parental leave period without losing their entitlement to parental leave payments**

- 12 We support this proposal and note that similar policy operates successfully in the United Kingdom. We believe that it could be beneficial for both employee and employer. An employee could earn additional income, maintain skills and knowledge and remain relevant in their job. It could assist employers by maintaining continuity in the workplace and also assist those who have difficulties in finding suitable people to replace those on PPL. Some members expressed the view that the proposal would have benefits for employees who need a minimum number of contact hours to maintain professional standards.
- 13 We believe that there could be a number of possible unintended consequences to the proposal. These include pressure or harassment from an employer for the employee to return to work before they are ready, negating the objectives of PPL. There may also be family financial pressure to return to work. It is our view, therefore, that a limited and

specified number of days return to work be allowed. We support the view that the days could only be worked after the first four weeks of the birth of the baby. Some of our members suggested that the days be limited to two at a time. The United Kingdom Keeping in Touch Days' policy of enabling employees to work up to 10 days during their statutory parental leave period, without losing entitlements, is a possible option.

- 14 As with some of the other proposals it is important to be mindful of the rights of employees who are temporarily replacing those on PPL. We support further development of the proposals in that regard.

#### **Enabling employees to take the unpaid parental leave part-time and flexibly**

- 15 NCWNZ believes that advantages to this proposal are similar to those that apply to the taking of Keeping in Touch Days noted above. They include helping to keep the employee attached to their workplace and job content, whilst maintaining their child care. It could also help ease financial pressures for the family.

- 16 A number of our members supported the proposal as long as it was voluntary. Some thought that, in most cases, they could not see the proposal working. For example, implementing the proposal could be 'messy' given that the employer would have taken on another employee to cover the PPL. The replacement employee could be disadvantaged unless the possibility of the full-time job becoming part-time was negotiated at the beginning of the leave period. Some members noted that if the allocated number of PPL days were to be taken as one day a week for more than a year, productivity could be reduced and employers discouraged from employing women of child-bearing age. Unintended consequences to the proposal may include employees feeling pressure to return to work before they are ready. That pressure could come from an employer or because of financial concerns.

- 17 We note that it is proposed that the remaining extended leave could only be taken by mutual agreement between the employer and employee. NCWNZ has some concerns regarding individual employees having to negotiate agreement on part-time and flexible hours with their employer, given the imbalance of power between the two. This could be particularly problematic for employees in small workplaces in which there are close working relationships with the employer. While the provisions of a collective employment agreement may support the employee in this respect, many workplaces are not covered by collective agreements.

- 18 We believe, therefore, that protections to ensure effective and fair implementation of this proposal would be necessary. We note that currently the Employment Relations Act 2000 includes a procedural right for employees to request flexible working hours. In our submission on the Employment Relations Amendment Bill 2013 we recommended that the right to flexible working hours be made more substantive and include as a minimum: the right to appeal an employer's refusal to agree to flexible working hours; a requirement that any refusal be in writing; and the dissemination of information about the provision to ensure that all employees are aware of the opportunities for flexible working arrangements. It is our view that these protections should be included in the Parental Leave and Employment Act 1987.

#### **Providing a period of unpaid leave to parents who have worked continuously with the same employer for at least six months (but less than 12)**

- 19 We support this proposal and believe that the option of a *pro rata* amount would be fairest, otherwise a person who had been there for 11 months would lose a significant amount of leave. It is believed that this should be relatively easy for employers to work out, as it would be based on the amount of time that the employee had been employed and would be in pay records.
- 20 It must be noted that there were some of our members who did not agree with this proposal believing that any decisions should be based on the employer's assessment of such things as the capacity of the organisation, the nature of the position and the likelihood of finding a replacement.

## Conclusion

NCWNZ generally supports the intent and direction of the proposals. Our concerns are largely around their complexity and implementation. We would be pleased to contribute to further development of the proposals.

Barbara Arnold  
President

Margaret Ledgerton  
Convener, Employment Standing Committee