



**Parental Leave and Employment
Protection (Six months' Paid Leave and
Work Contact Hours) Amendment Bill**

**Submission to the Government
Administration Select Committee**

November 2015



For a better working life

New Zealand Public Service Association
Te Pūkenga Here Tikanga Mahi

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PSA submission to Government Administration Select Committee

Introduction

Who we are

The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 62,000 members. We are a democratic organisation representing members in the public service, the wider state sector (the district health boards, crown research institutes and other crown entities), state owned enterprises, local government, tertiary education institutions and non-governmental organisations working in the health, social services and community sectors.

The PSA has been advocating for strong, innovative and effective public and community services since our establishment in 1913. People join the PSA to negotiate their terms of employment collectively, to have a voice within their workplace and to have an independent public voice on the quality of public and community services and how they're delivered.

The PSA is an affiliate of the New Zealand Council of Trade Unions Te Kauae Kaimahi and supports it's submission on this bill.

Nearly 44,000 working women are members of the PSA and an overwhelming majority of PSA members, both men and women, are parents or grandparents. At any one time, approximately 590 PSA members are on parental leave. 2% of these members are men. The average age of PSA members on parental leave is 33 years.

PSA submission

The PSA considers that the amendments proposed by the government to the Parental Leave and Employment Protection Act (the Act) in the Employment Standards Legislation Bill have not gone far enough and supports this bill's purpose of extending paid parental leave to 26 weeks.

There is a risk that, in agreeing to the changes proposed in the Employment Standards Legislation Bill, Parliament will feel that it has gone far enough in supporting New Zealand families and bringing the workplace into the 21st century. However, legislation must look to the future and the changes proposed to parental leave in the Employment Standards Bill, and in this bill, are only catching us up to

the late 20th century. There is more to do and for families to have to wait again until it is again the “turn” of this legislation for review would do the children growing up now in these families, a disservice.

This private member’s bill presents the Committee with an opportunity for New Zealand to get it right and ensure the quantum of paid parental leave available to families is in line with the needs of young babies and widely accepted international standards.

Decisions about the relative costs and benefits of social policy measures like this one are difficult and will be shaped as much by the politics of the day as by need. Sometimes, irrespective of the economic arguments put forward for and against, proposals such as this one are right for the time.

PSA members are ambitious for their families and their country – and we know that members of the Committee are in Parliament for the purpose of making meaningful change. The PSA asks the Committee to support the continuance of this bill through the parliamentary process.

We also request that the Committee take the opportunity presented by this bill to recommend further amendments to the Act including:

- Amending section 42 of the Act, relating to the calculation of annual holiday pay in the year following a return from parental leave. We consider that this is harsh for parents re-entering the workforce when their annual leave is worth nothing or very little. In our view this effect on annual holiday pay is inconsistent with the objects of the Act.
- Reintroducing employer penalties for breaches of the Act. We are aware that many women experience pregnancy-related discrimination in the workplace as employees or prospective employees. The reintroduction of penalties is likely to assist women and carers in accessing any new entitlements.
- Providing that the paid parental leave payments should rise annually by the greater of the increase in the minimum wage and the increase in the average wage. The Committee should also recommend that the current rate for paid parental leave increase immediately to the level of at least the minimum wage. The rate is currently so low that taking it places a real burden on families at a time when they are already likely to be struggling financially.
- Providing partners with a separate entitlement to paid parental leave. In not providing for this the legislation risks falling well behind social norms and arrangements. The way in which the Act supports partners to take parental leave needs to be reviewed to ensure that it is not unintentionally discouraging partners from taking on more active parenting responsibilities.

- Specifically enabling parents returning to work after parental leave to access different work arrangements for the purpose of child care needs. Despite the ability to request flexible working arrangements our experience is that such requests following parental leave are most often turned down.

The PSA Women's Network has built an outline of changes they believe are needed to make work and the workplace work better for our families as they are today. They've called this Work Rights for Living. A copy is attached for the Committee's consideration. They say that an extension to paid parental leave to 26 weeks is not just a "nice-to-have" and is just one of the changes needed to bring work and New Zealand workplaces into the 21st century.

The Bill provides for "work contact hours" which are similar to the "keeping in touch" days provided for in the Employment Standards Bill. The PSA supports this in principle but on the basis that such work is paid at not less than the employee's substantive rate and that any employer who applies undue influence to make an employee return to work prematurely should be subject to personal grievance proceedings and penalty under s135 of the Employment Relations Act 2000.

For further information about this submission contact:

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Work Rights for Living!

The PSA Women's Network is developing an agenda called Work Rights for Living. This will give us a "to do" list when we're talking to employers, negotiating employment agreements and lobbying for change to legislation.

1. Supporting families

New Zealand has a way to go before it can match the parental leave and other support for families in other OECD countries. [Here's some information](#) about current entitlements. The Families Commission has [made comprehensive recommendations](#) for changes. We'd like to endorse them. We can progress some through bargaining for collective agreements and others through working alongside other interested groups to make change politically;

What is needed?

Parental leave – job protected leave

- Increase the amount of job-protected leave that families have access to.
- Include in this maternity leave, separate leave for partners and some "family" leave that can be used by either partner.
- Consideration should be given to being able to transfer some of the family leave entitlement to another eligible family member who is engaged in a parenting role.
- Change the eligibility criteria so that part-timers and those who have had casual or multiple short-term but continuous jobs are not disadvantaged.
- Allow family leave to be able to be taken before the child is 3 years old, in blocks of time or in combination with part-time work.
- Make maternity leave a fixed entitlement for immediately before and after the birth.
- Partner leave to be able to be taken flexibly – e.g. at the same time as maternity leave, after maternity leave is completed, in blocks of time or part-time in combination with part-time paid work at any time in the child's first year of life.

Parental leave - paid

- Give partners an entitlement to paid parental leave that is separate from maternal paid parental leave.
- Extend the current 14 week's paid parental leave to 6 months (or 7 months if partner leave is taken consecutively).
- Additional entitlements for multiple and premature births
- Change the income assessment criteria used for the parental leave payment to ensure those with an irregular work history are not disadvantaged.
- Increase the maximum payment cap for paid parental leave.
- Employer to top up the government payment to full salary or fund extra paid parental leave.

Supporting return to work

- Agreed and monitored systems to ensure that those on parental leave get all the information they need about work, including change management, promotion and training opportunities.
- A shorter period of notice of early return from parental leave.
- A phased return to work for those intending to eventually return to work full time, this could include, e.g. a right to shorter hours for the first 2 years of the child's life.
- Good infant feeding facilities and paid infant feeding breaks.

Other leave to support families

- Special arrangements for women who give birth prematurely – e.g. an extra week of maternity leave for each week that a baby is premature.
- Ensure leave taken because of stillbirth and miscarriage before 24 weeks is not included as sick leave or in sickness absence monitoring.
- Paid time off for both partners to attend ante-natal and post-natal appointments (e.g. midwife visits or Plunkett appointments).
- Reasonable paid time off for fertility treatment
- Paid leave for foster parent training
- Job protected planned carer's leave for those needing to provide, e.g. nursing care following a serious illness or discharge from hospital, respite care, to assist a dependent into or out of residential care, to assist with transport of a dependent to and from hospital or doctor's appointments etc.

2. Flexible working

All workers will soon have the right to request flexible working arrangements – of course this doesn't mean your employer has to agree. The recent PSA survey of women members found that responsibility for sorting out and managing flexible working arrangements is passed down so that it's up to the individual to sort it out with their team. The survey also found that barriers to flexible working include workload and concern about impact on other team members.

What's needed?

- Clear information and processes for making requests for flexible working arrangements
- A commitment from the employer to managing and resourcing this so that it's not left up to individuals to sort out.
- Menus of options for flexible working in collective agreements

3. Part time working

The public sector has a low rate of part-time working and workers often pay a penalty for working part-time in terms of their rate of pay and the kind of work made available to them.

What is needed?

- Commitment from employers to equality of pay and employment opportunities for part time workers.
- Rights to part-time working for those returning from parental leave and transitioning out of the workforce.

4. Family violence

American research suggests that 10% of the workforce have experienced violence from their partner in the past 12 months. The impact on work performance puts job security at risk, with up to half the women in one study reporting losing a job, at least in part due to family violence.

What is needed?

- Recognition from employers that family violence sometimes affects employees and a commitment to support employees in this situation.
- Access for employees experiencing family violence to paid special leave for medical appointments, legal proceedings and other activities related to family violence.

- Ability to take paid carers/dependent leave for those supporting a person experiencing family violence to accompany them to court, to hospital or to mind children.
- Employers to agree to reasonable requests for flexible working, relocation, changes to work contact details etc. to avoid harassing contact.
- Access to EAP from professionals trained specifically in family violence.

5. Pay equity

What is needed?

- Transparent pay rates and starting salaries for all roles
- An obligation to monitor, regularly report on and respond to any inequities in pay, pay progression, access to other rewards, career progression and access to training and development.
- An obligation to address any identified inequities.