



**Supplementary Submission to the Productivity Commission**

**Inquiry in Paid Maternity, Paternity and Parental Leave 2008**

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## SUMMARY

- AMMA represents all major minerals, coal, and hydrocarbons producers as well as significant numbers of construction and maintenance employers in the resources sector, and is uniquely able to articulate the workplace relations interests of the resources sector as a result.
  
- On 2 June 2008 AMMA lodged a submission to the Productivity Commission, the key points of which were:
  - That a compulsory paid parental leave scheme be tax-payer funded, with quantum and duration of payment assessed in consideration of affordability and competing budgetary interests;
  - Administration of the scheme be carried out by a government agency;
  - Employers should not be subject to claims in relation to a paid parental leave entitlement, such as for ‘top-up’ payments to increase the statutory level or length of payment to a pre-leave salary, or claims from those not legally entitled to the paid leave;
  - The right of an employer and its employees to negotiate any additional ‘voluntary’ entitlements should be just that, voluntary, and employers should not be subject to compulsory arbitration on these issues; and
  - Protected industrial action should not be available in relation to paid parental leave.
  
- Having considered the Productivity Commission’s Draft Inquiry Report, there are a range of issues which arise for consideration. These stem from the following recommendations:
  - Employers should fund superannuation contributions during the paid parental and paternity leave period.<sup>1</sup>
  - Employers are to make payments to employees with subsequent reimbursement by the Australian Government.<sup>2</sup>
  - Amendments to the National Employment Standards to require six weeks notice for an extension to (unpaid) parental leave, unless an employer agrees to a shorter period, and job return guarantees to adoptive parents equivalent to natural parents.<sup>3</sup>
  - Employers should be provided with advice on how to reduce the disruption burdens associated with paid parental leave absences; and a web-based calculator to show which employees would be eligible and sets out employer obligations.<sup>4</sup>

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<sup>1</sup> Productivity Commission 2008, *Paid Parental Leave: Support for Parents with Newborn Children*, Draft Inquiry Report, Canberra, Draft Recommendation 2.1

<sup>2</sup> Ibid, Draft Recommendation 2.3

<sup>3</sup> Ibid, Draft Recommendation 2.8

<sup>4</sup> Ibid, Draft Recommendation 2.9.

- A 'keeping in touch' provision, allowing parents to work up to 10 days while on paid parental leave if the employer and employee mutually consented.<sup>5</sup>
- In relation to those areas which the Productivity Commission made a specific request for feedback, AMMA has surveyed its membership and provides feedback on the following areas of a paid parental leave scheme:
  - The practicality and merit of providing paid parental leave part time;
  - The likely disruption burdens for employers associated with employees taking longer periods of leave;
  - Whether sick leave, recreation leave and long service leave should accrue during the period of paid parental leave; and
  - The costs involved in mandating the provision of superannuation contributions while an employee is on paid parental leave.
- AMMA supports the introduction of paid parental leave, but contends the Productivity Commission's recommendations impose three additional burdens on employers: firstly, that employers make paid parental leave payments before being reimbursed by the government; secondly, that employers fund superannuation contributions on paid parental leave, without reimbursement and finally that employers will incur the costs of administering the scheme.
- AMMA welcomes the Productivity Commission's proposal that the National Employment Standards be amended to increase the period of notice required to extend unpaid parental leave to six weeks. AMMA also supports the recommendation that adoptive parents be afforded the same entitlement to unpaid leave and the 'job return guarantee' as natural parents.
- AMMA is in support of the proposal for employers to be provided with advice on the implementation of the scheme and ways to reduce the disruption burdens associated with a paid parental leave scheme.
- AMMA contends the ability for an employee to take paid parental leave part time should be restricted to those circumstances where it is agreed between employer and employee.
- AMMA does not oppose the extension of paid parental leave (subject to the leave maximum contained in the National Employment Standards), on the basis that all payments are funded and administered by the Australian Government.

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<sup>5</sup> Ibid, Draft Recommendation 2.10.

- AMMA contends that the benefits of a “keeping in touch” provision are not applicable to all workplaces, and consequently, any such provision should be voluntarily agreed between employer and employee as they fit.
- AMMA proposes that the accrual of sick, recreation and long service leaves during periods of paid parental leave would be an additional cost burden on employers.
- AMMA seeks the Productivity Commission’s recommendation that the Government ensure employers will not be subject to compulsory arbitration on ‘top up’ claims, and that protected industrial action on parental leave matters be prohibited.

## **PRODUCTIVITY COMMISSION INQUIRY**

In February 2008 the Australian Government announced it had directed the Productivity Commission to undertake an inquiry into paid maternity, paternity and parental leave (‘paid parental leave’). The Government highlighted the need to ensure strong economic growth whilst adjusting to the needs of an ageing population, promote a work/life balance and support families.<sup>6</sup>

When then Shadow Ministers Tanya Plibersek, Jenny Macklin and Julia Gillard announced that a Rudd Government would examine reforms to support parents of newborn children, it was proclaimed that any examination would include consideration of:

- the cost effectiveness of different options and their impact on business; and
- preventing the imposition of financial burdens or administrative complexity on small businesses.<sup>7</sup>

AMMA seeks to remind the Commission of this policy objective, and consequently seeks for the Commission to frame its recommendations so as to reduce the financial and administrative burden of a paid parental leave scheme on employers.

### **AMMA June 2008 Submission**

On 2 June 2008 AMMA lodged a submission to the Productivity Commission (the Commission) in which it addressed the following points:

- AMMA supports the wider social objectives that the Commission’s inquiry seeks to achieve, such as health and wellbeing of Australian families during the period leading up to and after child birth, a decreased fertility rate and its effect on Australian industry and economy. However, AMMA believes these are

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<sup>6</sup> Inquiry into Improved Support for Parents with Newborn Children, Productivity Commission, April 2008, Attachment B: Terms of Reference.

<sup>7</sup> ALP Ministers Joint Media Statement, 13 July 2007, Paid Maternity Leave.

fundamental goals of the Australian community as a whole and should not be the sole responsibility of Australian employers.

- AMMA contends an entitlement to unpaid parental leave under the Government's National Employment Standards is a pre-condition to eligibility for any paid parental leave.
- The various benefits ascribed to paid parental leave will benefit not only employers but the entire community. As a result the costs of any paid parental scheme should be borne by the entire community.
- A paid parental leave ought to only be introduced if paid for by the Commonwealth Government, with quantum and duration established in consideration of affordability, and assessed in consideration of Australia's economic capacity and competing interests for government revenue.
- A paid parental leave scheme should apply to employees universally (with appropriate eligibility requirements), and be administered in legislation and not the award system.
- Employers should not be responsible for administration of the scheme, which should be a function of government agencies.
- Industrial action should not be available for claims made in respect of payments for paid parental leave; including 'top-up' claims and those from employees who do not qualify for such leave.
- AMMA acknowledges the right of an employer and its employees to negotiate individual working arrangements and conditions where appropriate. Where employers believe additional voluntary paid parental leave conditions are considered desirable, voluntary bargaining is the best measure to progress such considerations. Employers should not however, be subject to compulsory arbitration on these issues, and protected industrial action should not be available in relation to claims for payment during terms of leave.

## **PRODUCTIVITY COMMISSION DRAFT RECOMMENDATIONS**

AMMA has considered the Commission's Draft Inquiry Report ('the Report') released 29 September 2008. In its report, the Commission proposes the introduction of a tax-payer funded paid parental leave scheme, which includes the following proposals relevant to this submission:

- paid postnatal leave for a total of 18 weeks that can be shared by eligible parents, with an additional two weeks of paternity leave reserved for the father (or eligible partner);<sup>8</sup>
- the adult minimum wage (currently \$543.78) for each week of leave (with lower rates for juniors and others with hourly wages below the minimum wage);<sup>9</sup>
- paid parental leave for all employees with 'reasonable attachment to the workforce' and a broad range of family types;<sup>10</sup>

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<sup>8</sup> Draft Recommendation 2.7

<sup>9</sup> Draft Recommendation 2.1

- in most cases the employee's employer should initially make payments to employees under the statutory parental leave scheme, with subsequent reimbursement by the Australian Government;<sup>11</sup>
- employers to fund superannuation contributions at the statutory 9 per cent rate during the paid parental and paternity leave period;<sup>12</sup>
- a cost of around \$530 million annually in net terms, of which taxpayers would contribute \$450 million and business \$75 million;<sup>13</sup>
- recommendation that the National Employment Standards be amended to increase the notice required by an employee to extend unpaid leave to six weeks, and to provide adoptive parents with an equivalent entitlement to natural parents;<sup>14</sup>
- recommendation that the Australian Government provide information on the workings of a statutory paid leave scheme, including advice to employers on how to reduce the disruption burdens associated with paid parental leave and a web-based calculator that shows which employees would be eligible;<sup>15</sup>
- recommendation of a 'keeping in touch provision' which allows the employee to work up to 10 days while on paid parental leave;<sup>16</sup>
- recommendation that the Australian Government undertake ongoing assessments of the interaction of the paid parental leave scheme with the tax and welfare system, evaluation of the administrative aspects of the scheme two years into its life and a comprehensive evaluation of the impacts of the scheme five years into its life.<sup>17</sup>

The Commission has welcomed feedback on all aspects of its proposed model, and AMMA notes it has made specific requests for feedback on:

- the practicality and merit of allowing paid parental leave to be taken part time;
- the likely disruption burdens for employers associated with employees taking longer periods of leave;
- whether other leave entitlements, such as sick, recreation and long service leave should accrue during the period of paid parental leave; and
- the costs of mandating the provision of capped employer superannuation contributions while an employee is on paid parental leave.<sup>18</sup>

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<sup>10</sup> Draft Recommendations 2.4 and 2.7

<sup>11</sup> Draft Recommendation 2.3

<sup>12</sup> Draft Recommendation 2.2

<sup>13</sup> Productivity Commission 2008, *Paid Parental Leave: Support for Parents with Newborn Children*, Draft Inquiry Report, Canberra, XIV.

<sup>14</sup> *Ibid*, Draft Recommendation 2.8

<sup>15</sup> Productivity Commission 2008, *Paid Parental Leave: Support for Parents with Newborn Children*, Draft Inquiry Report, Canberra, XXXVI. Draft Recommendation 2.9

<sup>16</sup> *Ibid*, Draft Recommendation 2.10

<sup>17</sup> *Ibid*, Draft Recommendation 2.12

<sup>18</sup> *Ibid*, Draft Recommendations, XXXIX.

## **AMMA SUPPLEMENTARY SUBMISSIONS**

AMMA made oral submissions to the Commission on 12 November 2008, and makes this written submission in support. Having read and considered the Commission's Draft Report released 29 September 2008, there are a range of issues which arise for AMMA's consideration. AMMA has consulted with its membership, which includes having conducted a second survey on paid parental leave since the beginning of the inquiry.

AMMA supports the introduction of paid parental leave, however AMMA believes the Commission's proposals place three unnecessary burdens on employers- making them 'paymasters' of the scheme in respect of employees eligible for the scheme under the National Employment Standards; the financier of superannuation contributions (without reimbursement); and the bearer of administrative complexity. AMMA makes the following submission in respect of these matters, among others, raised in the draft report.

### **Draft Recommendation 2.2: *Funding of paid parental leave***

#### **Main leave payments**

The Commission has proposed the Australian Government fund the cash component of the paid parental leave scheme by removing eligibility for family tax benefit B while parents are on paid parental leave, and replacing the 'baby bonus' with another payment.<sup>19</sup> Throughout the Commission's inquiry, AMMA contended the community at large via the taxation system should provide the financial support for programs designed to increase the health and wellbeing of Australian families.<sup>20</sup>

AMMA supports the Commission's recommendation that a compulsory paid parental leave scheme be entirely tax-payer funded.

#### **Superannuation**

The Commission has also proposed employers fund superannuation contributions on the paid parental leave payment of eligible employees. AMMA rejects the Commission's recommendation that employers make superannuation contributions on the leave payment, without reimbursement.

The compulsory provision of capped (9% of the minimum wage) superannuation contributions will not only impose an additional cost on employers (which would not be reimbursed), but also cause administrative complexities for business. For example, the difference between the employee's usual salary and paid parental leave payment will

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<sup>19</sup> Ibid, Draft Recommendation 2.2.

<sup>20</sup> AMMA Submission to the Productivity Commission, Inquiry into Paid Maternity, Paternity and Parental Leave, June 2008, 14, [http://www.amma.org.au/home/publications/AMMASubmission\\_PPL\\_2June2008.pdf](http://www.amma.org.au/home/publications/AMMASubmission_PPL_2June2008.pdf) at 10 November 2008.

require a re-assessment of employees' earnings in order to alter their superannuation contributions.

This proposal may also require amendments to be made to superannuation legislation. Superannuation Guarantee legislation currently requires employers to pay superannuation on ordinary time earnings (OTE).<sup>21</sup> However, the Commission's proposal requires that superannuation is payable on the federal minimum wage, which is more likely than not to be distinguished from the employees' OTE.

Consequently, AMMA submits the obligation to fund superannuation contributions creates an added burden on employers with minimal productivity offset, and should not be imposed on employers. If the Commission's final proposal includes employer-funded superannuation, those contributions in respect to periods of paid parental leave should not be treated any differently to the primary payment. That is, employers should be reimbursed for superannuation contributions made on behalf of their employees, or alternatively, superannuation should not be paid at all.

### **Draft Recommendation 2.3: Administration of paid leave**

The Commission has proposed that an employer would act as 'paymaster' for the government where:

- an employee was eligible for unpaid leave under the National Employment Standards; and
- a workable method for 'speedy' reimbursement of that employer was feasible, such as credit through PAYG withholding payments to the Australian Taxation Office.<sup>22</sup>

The Commission has also recommended the Australian Government should pay other eligible parents directly.<sup>23</sup> The Commission proposes 'other' employees would be those which had worked an average of at least ten hours a week in the 12 months preceding the birth, and been employed continuously for the last 12 months, though not necessarily with the same employer.<sup>24</sup> The self employed and contractors would also be eligible for government cash payments of paid parental leave under these requirements.<sup>25</sup>

While AMMA supports the proposal that the leave payment be tax-payer funded, it has always contended that the Government should administer any compulsory government paid parental leave scheme, and continues to do so. Thus, AMMA does not support the recommendation that employers make the primary payment to some eligible employees

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<sup>21</sup> *Superannuation Guarantee (Administration) Act 1992*.

<sup>22</sup> Productivity Commission 2008, *Paid Parental Leave: Support for Parents with Newborn Children*, Draft Inquiry Report, Canberra, Draft Recommendation 2.3.

<sup>23</sup> *Ibid*, XXXVI.

<sup>24</sup> *Ibid*, 2.15. 'Continuously' would be defined to allow parents reasonable breaks in employment, such as holidays and time between positions.

<sup>25</sup> *Ibid*, Draft Recommendation 2.4.

before being reimbursed by the government. AMMA contends the administrative complexity and confusion in identifying an employer's obligation would be unnecessary given the Government will already be administering a large part of the scheme.

AMMA submits that requiring employers to make the initial paid parental leave payment to *some* eligible employees but not others would cause confusion in workplaces. For employers, identifying firstly which employees are eligible for paid parental leave, and secondly who would be responsible for making the cash payments, would be an additional unreasonable administrative burden.

Consequently, AMMA contends if the Government has the capacity to make payments to 'other' eligible employees - the self employed, recipients of the baby bonus and those receiving general welfare – it should also have the capacity to make payments to those employees eligible to receive paid parental leave under the National Employment Standards.<sup>26</sup>

### **Administrative costs**

AMMA notes the Commission's discussion on the benefits of simplicity for any compulsory scheme such as this. The Commission has recognised this by stating:

While all programs involve some administrative and compliance costs for governments, firms or individuals, those that are more complex (in terms of, for example...eligibility... top up payments and substantiation requirements), will impose higher compliance and administrative costs than simpler programs. Efficient program design should aim to minimise costs that are unnecessary....one way of doing this might be to build on existing administrative systems, rather than to introduce new ones.<sup>27</sup>

AMMA submits that administration of the scheme as proposed would not be simple, but in fact unnecessarily complex. Not only would the identification of employers' responsibilities be time consuming and costly, the process of actually making the payments would involve immense administrative complication, with the potential to increase organizational costs and administrative pressures for employers. A recent survey of AMMA's membership revealed 83% of respondents felt that the requirement to make initial cash payments to some employees before reimbursement would bring increased compliance and administrative costs to their business, mainly in the form of increased work for their payroll departments. This would be caused by the need to alter salary levels, make payments, and track reimbursements, whilst also administering the salary of a replacement employee.

Some AMMA members believed the process proposed would be time consuming and open to errors, while another had concerns as to the 'increased amount of work for payroll to do (which) will cost the company in time, effort and money. Tracking reimbursements and

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<sup>26</sup> Australian Government, *National Employment Standards*, Division 4, section 14 states employees must have given 12 months continuous service with the one employer.

<sup>27</sup> Productivity Commission 2008, *Paid Parental Leave: Support for Parents with Newborn Children*, Draft Inquiry Report, Canberra, 1.22.

filling out forms will only add to employers' concerns.'<sup>28</sup> Furthermore, many respondents to the AMMA survey had concerns regarding the effect paid parental leave in this form would have on their payroll tax and workers compensation payments.

AMMA contends this recommendation has the potential to adversely impact on the cash flow of employers, particularly on small business. While the Commission has proposed employers are reimbursed via regular PAYG tax withholding statements to the Taxation Office,<sup>29</sup> AMMA submits this process would still reduce the cash flow of employers. The period of time between making paid parental leave payments, (whilst paying the salary of a replacement employee) and being reimbursed could significantly affect an employer's cash flow. AMMA notes the UK paid parental leave model, while administered by employers, provides reimbursement of 104.5% of the statutory maternity pay in an attempt to cover the additional costs involved.<sup>30</sup>

### **Administrative uncertainties and complexities**

This recommendation also raises uncertainty as to the status of the employer during each period of paid parental leave. By requiring an employer to make initial cash payments, all those obligations associated with the payment of salary could still technically apply. Thus, AMMA is concerned that the paid parental leave payments would be treated as wages despite being the financial responsibility of the Australian Government. The payment of wages generally attracts additional obligations, and consequently AMMA seeks clarification of the treatment of parental leave payments in this context.

AMMA is concerned that the Commission has underestimated the costs and uncertainties of its proposals by not taking into account potential increases in payroll tax liability,<sup>31</sup> paid and unpaid leave (including personal, annual and Long Service Leave), workers compensation payments and the potential increases in other payments such as redundancy and severance packages. This would also raise uncertainty for identifying lengths of service, in the event of employment terminations, as well as accrual rates for those entitlements. For example, on what salary would those entitlements accrue, the paid parental leave payment, or pre-leave salary?

In relation to payroll tax, jurisdictional inconsistencies would create confusion and inequity among employers. While Victoria, New South Wales, Tasmania and South Australia's legislation provides an exemption from payroll tax in respect to wages payable to employees on maternity or adoption leave, other jurisdictions (Northern Territory and Western Australia) do not. Moreover, the exemption provided in section 53 of the *Victorian Payroll Tax Act 2007* applies only to female employees taking maternity leave and male

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<sup>28</sup> AMMA Survey, 'Paid Parental Leave', Anonymous Respondent.

<sup>29</sup> Productivity Commission 2008, *Paid Parental Leave: Support for Parents with Newborn Children*, Draft Inquiry Report, Canberra, 1.22., Finance and Delivery Options, 8.27.

<sup>30</sup> *Ibid*, 8.26.

<sup>31</sup> Treatment of payroll tax in relation to parental leave differs between states, see: *Payroll Tax Act 2007* (Vic); *Pay-roll Tax Act 1971* (Qld);

and female parents taking adoption leave and is limited to a maximum of four weeks pay,<sup>32</sup> which would quite obviously be inconsistent with the Commission's proposed scheme. Furthermore, Queensland's *Pay-roll Tax Act 1971* subjects superannuation payments to payroll tax treatment, which would result in further additional costs to employers which could be avoided if the Government were to make these payments directly to all eligible employees.

Likewise, some workers compensation legislation<sup>33</sup> would subject employers to increased costs as the paid parental leave payments would count as 'wages' and result in higher workers compensation premiums. AMMA contends the Commission should consider more carefully all possible 'on-costs' for employers of processing paid parental leave payments before releasing its final recommendations.

AMMA submits a government funded paid parental leave scheme should be both funded and administered *solely* by the Australian Government for all recipients of the scheme.

### **Draft recommendation 2.8: Amendments to the National Employment Standards**

AMMA welcomes the Commission's proposal that the National Employment Standards<sup>34</sup> (NES) be amended to increase the period of notice required to extend unpaid parental leave from four to six weeks.<sup>35</sup> AMMA members see the proposed extension of the notice period as a positive step towards recognising the effects of employee absences on workplaces, with some survey respondents advocating for a requirement that 12 weeks notice would be more appropriate.

Similarly, AMMA supports the recommendation of the Commission that the NES be amended in order to afford adoptive parents with the same entitlement to unpaid leave as natural parents, including the return to work guarantee. This would involve amending section 15 of the NES, which currently restricts adoption-related parental leave under the NES in relation to children under school age.<sup>36</sup> The majority of respondents to AMMA's most recent survey agreed that parents of adopted children are deserving of an equal entitlement. However, opinion did differ as to whether this entitlement should change where children are adopted at older ages.

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<sup>32</sup> *Payroll Tax Act 2007* (Vic) s 53.

<sup>33</sup> For example, *Workers Compensation Act 1987* (NSW).

<sup>34</sup> Australian Government, National Employment Standards, section 21 (3).

<sup>35</sup> Draft Recommendation 2.8

<sup>36</sup> Australian Government, National Employment Standards, section 15 (1).

## **Draft Recommendation 2.9: Advice to employers**

Recommendation 2.9 proposes employers are provided with a web-based calculator that shows which employees would be eligible for paid parental leave, and clearly sets out any obligations on employers associated with that employee's leave. AMMA supports this proposal, and notes support from its membership to be provided with such advice; particularly in relation to how a statutory paid parental leave scheme will affect their business, and suggested methods to reduce the disruption burden associated with such a scheme and periods of leave.<sup>37</sup>

## **PRODUCTIVITY COMMISSION'S REQUEST FOR FEEDBACK**

While the Commission has called for feedback on all aspects of its proposed paid parental leave model, it has also made a specific request for opinion on particular areas of the inquiry. In relation to those areas on which stakeholder's input was requested, AMMA wishes to provide the following feedback.

### **Part time paid parental leave**

AMMA contends that the practicalities of an employee taking paid parental leave part time would vary in each circumstance, and depend on the suitability of the workplace and the employee's position. The ability of an employer to offer an employee part time work and need in some cases to find a replacement employee also willing to work part time would similarly vary. Consequently, AMMA submits that if the Commission were to recommend that paid parental leave be take part time, it be restricted to those circumstances where it is agreed between employer and employee.

### **Extending paid parental leave beyond 18 weeks**

AMMA does not oppose the extension of length of paid parental leave subject to the leave not exceeding the maximum in the NES, on the basis that all payments are funded by the Government. The current proposal would however, increase the costs incurred by additional superannuation employer contributions. AMMA submits that this be taken into account by the Commission in its consideration.

### **Accrual of sick leave, recreation leave and long service leave**

AMMA contends the compulsory accrual of sick, recreation ("annual") and long service leaves would result in additional cost and complexity for employers. What would the salary for the additional accrual be, the employee's normal salary or the paid parental leave benefit? AMMA submits paid parental leave should not be regarded as service for any of

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<sup>37</sup> Draft Recommendation 2.9

these purposes, whilst recognising that an employee's 'continuous service' would not be broken by paid parental leave.

## **OTHER OUTSTANDING ISSUES**

### **Arbitration on paid parental leave**

AMMA acknowledges the proposal that there be no requirement for employers to continue or increase any current voluntary paid parental leave schemes<sup>38</sup>, and that any agreement to increase or 'top-up' an employee's payment to the pre-leave salary would be privately bargained.<sup>39</sup> Some stakeholders to the inquiry have requested the Commission propose mandatory top-ups from employers through the paid parental leave period, and continue to do so.

Thus AMMA remains concerned as to claims from unions to increase the statutory paid parental leave payment, broaden the eligibility for both paid and unpaid leave, or increase the duration of leave statutorily imposed. AMMA seeks the Commission's recommendation that protected industrial action and compulsory arbitration on paid parental leave matters be expressly prohibited. In this context, AMMA also seeks the Commission's recommendation that Fair Work Australia not be afforded jurisdiction to arbitrate on matters relating to paid parental leave.

In AMMA's initial submission, it highlighted the numerous claims for 'top-up' payments brought by unions in the Australian Industrial Relations Commission in the past, such as for work related benefits such as workers compensation, superannuation and employee entitlements in the event of insolvency.<sup>40</sup>

### **Industrial action**

Similarly, throughout the inquiry AMMA has sought to demonstrate how changes in industrial disputation levels in the resources sector have positively affected the productivity of the industry in recent years.<sup>41</sup> Given the changes that are likely to occur to workplace relations in Australia under the federal Government's Fair Work Bill,<sup>42</sup> and the potential for an increased role for trade unions in workplace issues, AMMA continues to seek the Commission's recommendation that 'protected action' in relation to parental leave matters be expressly prohibited.

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<sup>38</sup> Productivity Commission 2008, *Paid Parental Leave: Support for Parents with Newborn Children*, Draft Inquiry Report, Canberra, 2.11.

<sup>39</sup> *Ibid.*

<sup>40</sup> See: AMMA Submission to the Productivity Commission, Inquiry into Paid Maternity, Paternity and Parental Leave, June 2008, 23, [http://www.amma.org.au/home/publications/AMMASubmission\\_PPL\\_2June2008.pdf](http://www.amma.org.au/home/publications/AMMASubmission_PPL_2June2008.pdf)

<sup>41</sup> *Ibid.*, 24.

<sup>42</sup> Due for release November 2008.

## **AMMA POSITION**

AMMA supports the provision of paid parental leave, and recommends that the paid parental leave scheme include the following features:

- Compulsory paid parental leave funded and administered by the federal Government, of which entitlement to unpaid parental leave under the National Employment Standards is a precondition.
- Superannuation contributions funded by the Government, or if employers are to fund contribution, with prompt reimbursement, or alternatively, no superannuation contributions at all.
- Clarification of the status of the Employer and its obligations during the period of paid parental leave.
- Amendment of the National Employment Standards to increase the period of notice required to increase a period of unpaid parental leave from four to six weeks, and to provide an entitlement to adoptive parents equal to that of natural parents.
- Provision of advice to employers which outlines their obligations in the context of all aspects of paid parental leave (including a web-based calculator).
- The provision of part time paid parental leave where agreed between employer and employee.
- The stipulation of a 'keeping in touch' provision only where an employer and employee agree.
- Paid parental leave should not be regarded as service for other paid and unpaid entitlements such as sick, annual and long service leaves.
- An express prohibition on protected industrial action and compulsory arbitration in relation to paid parental leave matters.