



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

BILLS

**Paid Parental Leave and Other
Legislation Amendment (Dad and Partner
Pay and Other Measures) Bill 2012**

Consideration in Detail

SPEECH

Thursday, 24 May 2012

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date Thursday, 24 May 2012
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Questioner
Speaker Billson, Bruce, MP

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Mr BILLSON (Dunkley) (11:38): I move amendments (1) and (2) as circulated in my name:

(1) Clause 2, page 2 (after line 3), at the end of the table, add:

5. Schedule 2, Part 3	Immediately after the commencement of the provisions covered by table item 4.
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(2) Schedule 2, page 58 (after line 25), at the end of the Schedule, add:

Part 3—Amendments to reduce the compliance burden for employers

Paid Parental Leave Act 2010

36 Section 4 (fourth paragraph under the heading " *Chapter 3—Payment of parental leave pay* ")

Repeal the paragraph, substitute:

Part 3-3 sets out when the Secretary must pay instalments directly to the person. The Secretary is required to do that if an employer determination is never made for the person. There are some other circumstances in which the Secretary is also required to pay instalments directly to the person (such as when an employer determination has been revoked).

37 Section 6 (definition of *employer determination decision*)

Repeal the definition.

38 Section 6 (definition of *subject to review*)

Repeal the definition.

39 Section 6 (definition of *transfer day*)

Omit "(3)".

40 Subsection 64(1) (note)

Omit "Sections 93 and 94 affect", substitute "Section 94 affects".

41 Section 83

Omit "is being reviewed or".

42 Subsection 84(3)

Repeal the subsection.

43 Subsection 85(1)

Repeal the subsection, substitute:

(1) This section applies if both of the following apply:

(a) the Secretary is required to pay an instalment to a person under subsection 84(4) (which deals with payment of instalments where an employer determination is revoked);

(b) the employer determination made for the person and the person's employer has never come into force.

44 Subsection 85(3)

Omit "paragraph (1)(a) or (b)", substitute "subsection (1)".

45 Section 93

Repeal the section.

46 Section 100

Omit the section, substitute:

100 Guide to this Part

This Part is about employer determinations. If an employer determination is in force for an employer and a person, the employer must pay instalments to the person.

Under Division 2, the Secretary may make an employer determination if the Secretary is satisfied that certain conditions have been met.

If the Secretary makes an employer determination for a person and the person's employer, the employer must give the Secretary certain information to enable the Secretary to pay the employer PPL funding amounts for the person.

Division 3 is about when an employer determination is in force. It includes rules about revoking employer determinations.

Division 5 provides for the Secretary to give an employer for whom an employer determination has been made notice of certain other decisions under this Act.

47 Subsection 101(1)

Omit "Secretary must", substitute "Secretary may".

48 Paragraphs 101(b) and (c)

Repeal the paragraphs, substitute:

(b) both the person and the employer have consented in the claim to the employer paying instalments to the person; and

49 Paragraph 101(f)

Repeal the paragraph, substitute:

; and (f) the employer determination is made on or before the day on which the payability determination referred to in paragraph (a) is made.

50 Subsections 101(2) and (3)

Repeal the subsections.

51 Subsection 101(4)

Omit all the words after and including "of all or any", substitute "that the employer is not a fit and proper person".

52 Subsection 102(5)

After "a person", insert "and the person's employer".

53 Subsection 102(5)

Omit "the person a", substitute "them a".

54 Subsection 102(5)

Omit "the person of", substitute "them of".

55 Section 103

Before "Within", insert "(1)".

56 Section 103

Omit all the words after and including "do one of", substitute "give the Secretary a written notice (the *acceptance notice*) that complies with section 104".

57 Section 103 (note)

Repeal the note.

58 At the end of section 103

Add:

(2) The employer may, at any time, by written notice given to the Secretary, withdraw the acceptance notice.

59 Subsection 104(5)

Repeal the subsection.

60 Sections 105 and 106

Repeal the sections.

61 Subsection 107(1)

Omit "or (3)".

62 Subsection 107(2)

Omit "or a compliance notice given under section 157".

63 Subsection 107(3)

Repeal the subsection.

64 Subsection 108(1) (table item 2)

Omit "as required by a compliance notice given for a contravention of section 103", substitute "within the time required under subsection 103(1) or has, by written notice given to the Secretary, withdrawn the acceptance notice for the employer determination".

65 Subsection 108(6)

Repeal the subsection.

66 Division 4 of Part 3-5

Repeal the Division.

67 Section 146 (table items 10 and 11)

Repeal the items.

68 Subsection 157(1)

Repeal the subsection, substitute:

Compliance notice given by Secretary

(1) This section applies if the Secretary reasonably believes that a person has contravened subsection 82(2) (which deals with notifying the Secretary if certain events happen).

69 Paragraphs 159(1)(b) and (c)

Repeal the paragraphs.

70 Section 202 (fifth paragraph of the Guide to Part 5-1)

Repeal the paragraph, substitute:

The third kind of review is where an employer applies for internal review of certain decisions that affect the employer.

71 Subsection 203(2)

Repeal the subsection.

72 Subsection 205(1)

Omit ", 207".

73 Paragraph 206(1)(b)

Repeal the paragraph.

74 Section 207

Repeal the section.

75 Subsection 209(2)

Omit ", other than an application under section 207 (which deals with application for review of employer determination decisions),".

76 Paragraphs 210(2)(a) and (b)

Omit "an employer determination decision or".

77 Paragraphs 212(1)(c)

Repeal the paragraph.

78 Paragraph 212(1)(d)

Omit "any other", substitute "a".

79 Section 213

Omit "employer determination decisions and".

80 Subparagraphs 215(2)(a)(vi) and (vii)

Repeal the subparagraphs.

81 Paragraphs 223(1)(a) to (d)

Omit "an employer determination decision or".

82 Subsection 224(1)

Repeal the subsection.

83 Subsection 224(3)

Omit "(1) or".

84 Paragraph 225(2)(b)

Repeal the paragraph.

As Bill Kelty said, the truth will often do. The changes that we are foreshadowing in these amendments do not in any way alter people's eligibility. They do not in any way compromise what the minister boasts about as the success of the scheme. In fact, what was ironic was that in the early phase of the scheme, the option that we are putting forward was the way the scheme operated. So for the first six months this is what happened: these payments were paid by Centrelink through the Family Assistance Office directly to eligible employees and it was on that basis the government went around boasting about the success of the scheme. All we are saying is let the success continue. If that is the benchmark, make that available to employers. But for those where the employee and the employer wish to have the employer handle the payment then so be it. We are not objecting to that. If that is people's desire then these amendments facilitate that.

I remember last time this debate was held that one of the people brought out in support of the current arrangements was Sony, a very substantial international corporation with more people in their pay office than most small businesses have in their entire enterprise. They had an existing paid parental leave scheme, so it was a matter of simply bolting on the extra cash from the Commonwealth and they were more than happy to do that. I say good luck to them, but not every business in Australia is Sony. Not everyone is in a position to carry out that work and not everyone is desirous of carrying out that work, either as an employer or as an employee, but if they are, let them do that work on behalf of the Commonwealth. Let employers and employees who are eligible for PPL payments opt in to have the employer pay those payments.

The minister says this is part of the staying in touch regime. Again, I would draw her attention to the fact that the staying in touch provisions that are available under the legislation the government has introduced are not being altered at all. We are not stopping that. We see the value in that. Where there might be some change in technology or an important occasion within the workplace where someone on a period of paid parental leave is invited to come back in and be a part of the workplace because of something of significance, we are not opposed to that. What this is about is who organises the back of house work to see some digits appear in an electronic bank statement. This is not mid last century, when you came in and got your pay cheque off somebody. There is no physical engagement with this payment—it is an electronic funds transfer. So how that adds to the quality of the relationship between an employer and an employee is beyond me. I am quite certain most workplaces I have been involved with and many I have talked to, rather than turn their minds to more than 20 engagements in transactions with the risk of fines if they get them wrong, would rather spend their time talking with the person eligible for paid parental leave about how things are going, how the microhuman is going, how the family is going and how excited people are about coming back, even organising a bouquet of flowers, not having this the red tape burden that would distract the employer from that work.

The DEPUTY SPEAKER: I ask the member for Dunkley not to make excessive use of props. He has referred to the props sufficient times.

Mr BILLSON: Sorry, I thought twice was not excessive in my second contribution, but I thank you for your counsel. I will put the props to one side, waving them to show you how many points of engagement there are. My point is the payment process is a financial transaction and the back of house work in the first six months of this scheme was done by the Commonwealth, and we believe that should continue unless the employer and the employee want it to be different. These amendments bring about that change. They actually inoculate against the risk that was identified in the Productivity Commission report, that the biggest danger employers were facing was the risk of discrimination towards women of reproductive ages because of imposts the scheme might impose upon them, not as it currently stands but if there was work and coordinated effort to require employers to push up the contribution with their own funds and their own effort.

The other thing this debate offers is an opportunity for the government to correct a broken promise. The Prime Minister, then in another shadow ministerial role, said:

Labor will not support a system that imposes additional financial burdens or administrative complexity on small businesses or in any way acts as a discouragement to the employment of women.

Yet what we have here in the way this scheme is designed are those additional financial and administrative burdens and complexities—the very thing that was promised by Labor not to be imposed on small business. Well, here is a chance for the government to honour a commitment by rectifying yet another broken promise. (*Extension of time granted*) That was what the government committed to when in opposition. That promise was broken. We have tried on a number of occasions to allow the government to keep the faith with those to whom it had made that commitment and here is another opportunity for that today, to actually ensure that the system does not impose additional financial burdens or administrative complexity on small businesses.

What has changed? Not much, according to a then Labor minister, Jan Jarratt, when she wrote to the previous—two ago—small business minister asking: "Why don't you embrace what the coalition is doing? Why don't you look at even an opt-in or an opt-out proposal?" That is what Labor in Queensland were advocating, so it is nice to know that even some within the Labor movement thought what was being proposed was a perfectly sensible measure, along with the very long list of industry organisations, particularly small business groups, that want to be cut some slack here and to have the red tape burden reduced. That is exactly what these amendments seek to achieve. The big organisations have the resources and are in a position to carry out a pay clerk role on behalf of the Commonwealth with no change whatsoever to the eligibility criteria or the payments that might be available to eligibility recipients. It requires no change whatsoever, none of the undermining that the minister would have you believe exists. It is about who does the back of house work so that some digits appear on a bank statement. The Commonwealth has done that before and did it well. It used to boast about the success of the scheme. We think that should continue.

And guess what is in the bill we are debating today? Those payments to the dads. And guess who is processing those? The Family Assistance Office at Centrelink. So the machinery that we are advocating should be available to a small employer—the minister argues it undermines the very scheme and then she launches into an attack on the coalition; her argument is absolute nonsense—is the very machinery that is being used to make another payment relating to the Paid Parental Leave scheme. And guess what happens in the event that the employer is insolvent or at some risk and the department secretary chooses not to decree that they be the ones carrying out the pay clerk role? The machinery that we are arguing should be available more broadly kicks in. So this is not some transformational change; this is a sensible, completely pragmatic, very constructive and positive proposal to relieve an unnecessary and unjustified small business compliance and red tape burden in particular.

The government, when in opposition, made a commitment that it would not do this. When in government, Queensland Labor said that what you have done is not helpful for small business so why don't you do what the coalition is proposing. The Productivity Commission said there are a range of things that need to be weighed here but please do not place new barriers in front of employers employing women of a reproductive age such as additional cost and compliance burdens.

There is a shopping list on this flow chart. I will not wave it around again but I will quickly summarise the action steps that are needed in the minister's department's own material about the considerable work that is involved for an employer in these exercises. It says employers are not required to separately identify payments—but they

are not required to make a superannuation contribution, so we should decouple that. It says it is not supposed to trigger any payroll action, so decouple that as well. It says there is no need for a separate bank account but you need to make sure you can account for every dollar that comes in. It says there are processes required for ensuring that people are eligible—and so on and so on. So this is not without a considerable amount of burden on an employer at a time when there is quite a lot of mutual adjustment needed in a workplace where one of your team members has the good fortune of looking forward to becoming a parent. That is a time of considerable mutual adjustment for the person anticipating the child and also for the workplace.

So why add to that with this needless, useless and unnecessary red tape burden? Well, there is a reason—and the ACTU belled the cat on it. 'If the coalition amendments got up,' the ACTU warned, 'it would restrict unions' capacity to improve and enforce PPL in workplaces.' So this is not really about the integrity of the scheme. It is not about any suggestion that we are undermining. This is about giving small business employers a break. The only argument that runs against that is the union saying that, with this machinery in place, it is easier for the union movement to fit up employers with additional costs and additional obligations. The objections to these measures should be seen for what they are. *(Time expired)*