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Paid paternity leave and recognition of the importance of fathers

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Does New Zealand society recognise the importance of fathers? Sadly, forty nine percent of the fathers in a survey carried out by the Families Commission feel that it does not.¹ Establishing a statutory right to paid paternity leave (i.e. a short period of paid leave around the time of child birth reserved for partners) would be a way to publicly affirm that New Zealand fathers, and their work in caring for their children, is indeed valued.²

At present, paid parental leave is available for 16 weeks at a maximum rate \$504.10.³ This is an entitlement aimed at birth mothers. It may theoretically be transferred, either in part or in its entirety to their partners, but in practice this occurs in less than 1 % of cases.⁴ Proposals for change have focused on extending the length of the payment period⁵ and widening eligibility. Proposed changes under the Employment Standards bill⁶ which is currently at the Select Committee stage, relax the continuity of employment eligibility provisions, which will have the effect of extending entitlement to paid parental leave to a wider group of workers particularly those in casual and temporary employment. Although this is a positive change the entitlement will still, at first instance, attach to the primary carer, defined as the biological mother. The theoretical possibility of transferring all, or part, of this leave to the father (or to other carers) remains but there is no reason to think this would happen any more frequently under the proposed new law than under the existing law.

It is disappointing that no apparent consideration has been given to a separate entitlement to paid paternity leave for fathers around the time of the birth. There would be a range of advantages to doing this. Research suggests that men who take leave around the birth are more likely to be involved with

¹ Families Commission *Supporting Kiwi Dads: Role and Needs of New Zealand Fathers* Research Report No 5/09 December 2009 http://www.superu.govt.nz/sites/default/files/supporting-kiwi-dads_0.pdf p12.

² Note: although the focus here is particularly on fathers there is no reason why paid partner leave should be reserved exclusively for the male partners of biological birth mothers and nothing stated here is intended to imply otherwise.

³ Parental Leave and Employment Protection Act 1987.

⁴ MBIE Regulatory Impact Statement *Modernising Parental Leave* <http://www.mbie.govt.nz/info-services/employment-skills/legislation-reviews/employment-standards-legislation-bill/document-image-library/ris-2015-modernising-parental-leave.pdf> p 4.

⁵ Budget 2014 amended the Act to extend the 14 weeks of paid leave to 16 weeks from 1 April 2015, and to 18 weeks from 1 April 2016. Sue Moroney's private member's bill also aims to extend paid parental leave to 26 weeks from 1 April 2018.

⁶ Employment Standards Bill http://www.parliament.nz/en-nz/pb/legislation/bills/00DBHOH_BILL64668_1/employment-standards-legislation-bill

their young children which contributes positively to child development.⁷ It also helps to develop “parenting skills and a co-parenting dynamic which provides the foundation for a gender equitable division of labour”⁸ If men take on more unpaid care work in the home, women are more able to participate in paid work.

While no ILO standard deals specifically with paternity leave, the ILO has called for governments to develop policies to allow a more equal sharing of family responsibilities. They have stated that such policies should include paternity leave with incentives to encourage men to take up such leave.⁹ At the current time eligible employed New Zealand fathers may be entitled to up to two weeks unpaid leave (one week for a minimum of six months continuous service and two weeks for a minimum of 12 months continuous service).¹⁰ However, uptake of this leave is very low (around 4%) and it is likely the fact the leave is unpaid is a contributory factor. Fathers’ use of leave entitlements has been shown to be highest when compensation is at least 50 percent of earnings.¹¹

In making partner’s leave unpaid, New Zealand is out of step with other countries. Paternity leave is paid in most countries that provide an entitlement to partner time off (70 countries out of 78 or 90% in total) and usually at 100% of previous earnings. There are only eight countries where national legislation provides an entitlement to take time off without providing for benefits to cover work absences. (i.e. Azerbaijan, the Bahamas, Ethiopia, Kazakhstan, Republic of Korea, New Zealand, Norway and the Syrian Arab Republic)¹²

Of course, provision by the state is not the only way to create an independent entitlement to paid paternity leave for partners. Individual employers could choose to do this. Unions could also negotiate suitable terms into collective contracts. However, data collected by the Centre for Labour Employment and Work and presented in the Table below, shows that only 3% of collective agreements in New Zealand contain a period of separate paid leave for a spouse/partner on the birth of their child.

Men have a right to share in the caregiving associated with family life. If legislators are not willing to create a separate entitlement to paid paternity leave for New Zealand fathers, perhaps unions and employers should look to fill the gap.

⁷ International Labour Organisation *Maternity and Paternity at Work: Law and Practice across the World* 2014 <http://www.ilo.org/global/topics/equality-and-discrimination/maternity-protection/publications/maternity-paternity-at-work-2014/lang--en/index.htm> p 52

⁸ Rehel 2014 cited in ILO Report above p 52.

⁹ International Labour Organisation *Maternity and Paternity at Work: Law and Practice across the World* 2014 <http://www.ilo.org/global/topics/equality-and-discrimination/maternity-protection/publications/maternity-paternity-at-work-2014/lang--en/index.htm> p 52

¹⁰ s17 Parental Leave and Employment Act 198

¹¹ ‘O Brien 2009 cited in International Labour Organisation *Maternity and Paternity at Work: Law and Practice across the World* 2014 <http://www.ilo.org/global/topics/equality-and-discrimination/maternity-protection/publications/maternity-paternity-at-work-2014/lang--en/index.htm> p 61

¹² International Labour Organisation *Maternity and Paternity at Work: Law and Practice across the World* 2014 <http://www.ilo.org/global/topics/equality-and-discrimination/maternity-protection/publications/maternity-paternity-at-work-2014/lang--en/index.htm> p 57

Table: Spouse and partner provisions by sector and industry, 2015

	Period of separate paid leave (%)	Unpaid leave (%)	Other payments/ benefits (%)	No clause/ silent (%)	Coverage (000s)
All agreements	3	92	1	4	326.3
Private sector	3	90	0	7	132.0
Central Govt sector	2	94	1	2	180.8
Local Govt sector	23	71	0	6	13.5
Agriculture, forestry etc	0	77	0	23	0.3
Mining	31	66	0	3	2.1
Food manufacturing	2	95	0	3	24.7
Wood, pulp & paper prod mfg	3	92	0	5	4.5
Petrol, chem. and assoc. mfg	0	86	7	7	2.2
Metals & machinery mfg	0	98	0	2	7.2
Other mfg	0	97	0	3	4.4
Electricity, gas, w ater supply	0	91	0	9	2.9
Construction	0	94	0	6	4.7
Food retailing	0	91	0	9	11.9
Other retailing & w holesale	0	58	0	42	10.1
Accom. & food serv.	0	99	0	1	3.5
Transport, postal, w arehouse	0	95	0	4	22.0
Info. media and telecommun.	4	86	0	10	1.4
Finance & insurance	34	65	0	1	6.7
Business (incl. sci & tech) serv.	10	85	5	0	4.3
Public admin. & safety	11	86	0	3	49.2
Education & training	1	97	0	1	74.8
Health and social assistance	0	95	2	3	84.2
Arts and recreation	0	83	0	17	3.4
Other services	5	92	0	2	1.6

Blumenfeld, S., Ryall, S. and Kiely, P. (2015) *Employment Agreements: Bargaining and Employment law Update 2014/2015*. Centre for Labour, Employment and Work, Victoria University of Wellington, Wellington, New Zealand, Table 5.1, p 78.