



Australian Government
Department of Foreign Affairs and Trade

File Number: 2022/116548

04/02/2022

Mr Peter Woolcott AO
Australian Public Service Commission

Dear Mr Woolcott,

**SUBMISSION ON THE REVIEW OF THE MATERNITY LEAVE
(COMMONWEALTH EMPLOYEES) ACT 1973**

Thankyou for the opportunity to provide a submission on the review of the *Maternity Leave (Commonwealth Employees) Act 1973* (ML Act). DFAT is broadly supportive of the aims outlined in the Terms of Reference (ToR) for the Review including, reducing administrative burden, provision of appropriate support to new parents, promotion of gender equality and inclusion, and providing greater flexibility where possible.

We would also like to offer the following comments in support of the review:

- DFAT welcomes consideration of drafting an Act using plain, modern language, as suggested in the ToRs.
- We suggest consideration be given to the effect, if any, that other government parental leave schemes, such as the Parental Leave Pay scheme, will have on any future provisions within the ML Act.
- We welcome consideration of an holistic approach to parental leave entitlements, including provisions for parents other than birth mothers, such as foster and adoptive parents. However, we also wish to note that some departments, such as ours, already have such provisions enshrined within enterprise agreements (EAs). Any extension of ML Act provisions would need to carefully consider the Act's interactions with existing EA provisions.
- The global footprint of DFAT means that we have employees working in small posts consisting of 2-3 employees. Any expansion of eligibility for paid leave under the ML Act would place greater stress on these smaller posts, as it is often not logistically possible for us to back-fill these roles.
- Similarly, paragraph 11 in the ToRs refers to consideration of whether paid leave under the ML Act could be used to facilitate part-time working arrangements. While DFAT is broadly supportive of this, such arrangements may be challenging to implement in smaller offices or overseas posts while continuing to meet Australian Government commitments.

- Current eligibility for leave under the ML Act requires employees to have reached 12 months of service before giving birth in order to receive a paid leave entitlement. We suggest that this eligibility be removed altogether, noting the time delay that can be experienced between applying for a position, interviewing and being successful for a role, awaiting a security clearance, and subsequently commencing in the role.
- In the alternate, if a 12-month eligibility period is retained, we suggest it be tied to expected date of confinement (EDC). This prevents new employees from being penalised if they experience pre-term labour and would have otherwise been eligible for paid leave at their EDC.
- DFAT also requests that any Bill include a delayed commencement period from the date of Royal Assent to allow agencies to evaluate and align internal policies and processes prior to its commencement.

I would also like to request that, once a bill has been drafted, DFAT be provided with an advanced copy for review, prior to its presentation before parliament, noting the unique overseas environment in which we operate and the possible effects on our overseas footprint, as outlined above.

Should you wish to canvas any of the above in greater detail, please contact ^{s22(1)(a)(iii)} ,
^{s22(1)(a)(ii)} via email at ^{s22(1)(a)(ii)} or
phone on ^{s22(1)(a)(ii)} .

Yours sincerely,



Jo Talbot, FCPHR and GAICD
Chief People Officer
People Division