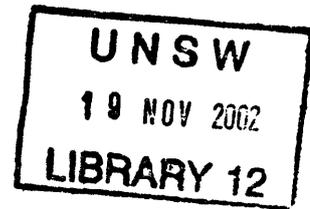


SOCIAL SECURITY



Including SSAT Decisions

Opinion

In this Issue

The role of social welfare in the work and family debate: A brief comment

The work and family debate has intensified in Australia prompting the Prime Minister, John Howard, to comment, with some exaggeration, that this was 'the biggest ongoing social debate of our time'. It was, in the Prime Minister's words, a 'barbecue stopper'.¹ In recent times, this debate has focused on the issue of supporting mothers in the workforce around the time of childbirth with the question of paid maternity leave, in particular, acquiring a degree of prominence due to the release of the Human Rights and Equal Opportunity Commission's interim paper, *Valuing Parenthood: Options for Paid Maternity Leave* (2002).

In a somewhat low-key contribution to this specific question, the Democrats have sponsored the Workplace Relations Amendment (Paid Maternity Leave) Bill 2002 (Cth), a Bill which proposes a national scheme of paid maternity leave. Last month, the Senate Employment, Workplace Relations and Education Legislation Committee handed down its report on this Bill with the majority report by government Senators rejecting the Bill.²

While this report means that the Bill is unlikely to be enacted, a key statement of

the majority report is worthwhile discussing as it raises important questions on the role of social welfare in the work and family debate. In a passage that appears early in its report, the majority states that:

At the core of the bill is the unresolved dilemma of whether paid maternity benefits should be embedded in social welfare policy or whether they are, as this bill proposes, a workplace relations issue.³

The key argument of this opinion piece is that the 'unresolved dilemma' put forth by the majority report is not a dilemma at all. If the policy objective is to support mothers in the paid workforce around the time of childbirth, social welfare policy and workplace measures are *simultaneously* relevant. This is so on at least two grounds.

First, workplace entitlements are not generally available to all workers. Entitlements like maternity leave entitlements typically depend on a person being an employee and a degree of continuous service with an employer.⁴

The first requirement excludes two groups that participate in the paid

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workforce, namely, the unemployed and the self-employed.⁵ The second requirement, on the other hand, would exclude a significant number of workers engaged in intermittent work or engaged by multiple employers. A prime instance of such excluded workers are casual employees; a point of some significance given the over-representation of female workers among casual employees.⁶

For mothers in the workforce who are unable to access workplace entitlements, a crucial source of support would be social welfare benefits. Take the example of a worker who has recently given birth but is not entitled to any form of maternity leave. In many cases, such a worker would rely on Parenting Payment and/or Family Tax Benefits.

The second reason why social welfare policy and workplace measures are simultaneously relevant in supporting mothers in the paid workforce around the time of childbirth is that those who are entitled to workplace entitlements can, in

certain circumstances, receive social welfare benefits. In other words, for some mothers, *both* workplace and social welfare entitlements would be relied on for income. For instance, a worker on paid maternity leave may still receive payments of the Family Tax Benefit.

These reasons mean that the work and family debate should not proceed on any false 'unresolved dilemma'. Instead, the debate needs to be founded on the understanding that social welfare policy and workplace measures, alongside taxation policies, are all legitimate means to achieve the end of supporting workers with family responsibilities.

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References

1. John Howard quoted in Phillip Hudson, 'Work and family: Striking a balance for a

fertile future', *The Age: Insight*, 20 July 2002, p.3.

2. Senate Employment, Workplace Relations and Education Legislation Committee, *Workplace Relations Amendment (Paid Maternity Leave) Bill 2002* (2002), Chapter 2.
3. *Ibid* para 2.2.
4. See, for example, cl 3, Schedule 14 of *Workplace Relations Act 1996* (Cth).
5. The exclusion of the self-employed must be seen in the context of a significant proportion of self-employed constituting 'dependent' self-employed, that is, such self-employed are very similar to employees in being dependent on a particular business for their income: Audrey VandenHeuvel and Mark Wooden, 'Self-Employed Contractors in Australia: How Many and Who Are They?' (1995) 37 *Journal of Industrial Relations* 263.
6. See Richard Hall, Bill Harley and Gillian Whitehouse, 'Contingent Work and Gender: Evidence from the 1995 Australian Workplace Industrial Relations Survey' (1998) 9 *Economic and Labour Relations Review* 55.

Administrative Appeals Tribunal

Assets test: principal home

**HEWITT and SECRETARY TO
THE DFaCS
(No. 2002/348)**

Decided: 15 May 2002 by N. Bell.

Hewitt owned a duplex property comprising two self-contained units in Burwood on the same title. She resided on the top floor while the ground floor was rented out. She was receiving age pension when Centrelink obtained a valuation that increased the value of the ground floor part of her property. Applying the assets test in the *Social Security Act 1991* (the Act) reduced her pension from \$211.65 to \$84.55 per fortnight.

The issue

The issue was whether it was correct to include the value of the downstairs part of the property as an asset in calculating the rate of pension. It was common ground that the principal home was exempt from such inclusion per s.1118(1) of the Act. It was therefore necessary to consider whether the whole or only part of Hewitt's property was her principal home. That term is defined in s.11 of the Act:

11.(5) A reference in this Act to the principal home of a person includes a reference to:

- (a) if the principal home is a dwelling-house — the private land adjacent to the dwelling-house to the extent that the private land, together with the area of the ground floor of the dwelling-house, does not exceed 2 hectares; or
- (b) if the principal home is a flat or home unit — a garage or storeroom that is used primarily for private or domestic purposes in association with the flat or home unit.

The facts

Hewitt was born in 1923. A member of her family built the property when she was very young. It was built as a duplex, comprising two units. She, her parents and her sister moved into the ground floor unit when she was about 16 years old. Her aunt occupied the upper floor unit. Hewitt lived there until she was 33 years old and got married. She then moved to her husband's house until she moved back to the property in 1967 or 1968. At present she rented the ground floor unit for \$240.00 per week.

Access to the ground floor unit was through double doors on the front porch. For the upper floor unit it was through a single door on the right side of the porch and up an internal staircase. There was

one water meter and Hewitt paid the water bill for both units. There were separate meters for electricity and gas. There was one laundry for the whole property but Hewitt used it as a storeroom. She kept a washing machine and dryer in her bathroom, and her tenants had a washing machine on the verandah at the back of the unit they occupied. There was also a garage but the tenants did not use it. Hewitt looked after the courtyard at the back of the property and the paved area at the front. She never entered the ground floor unit without the tenants' permission although she did hold a key to it.

Hewitt had owned the property since 1977. Her husband's name was never on the title. She had discussed with the Council the possibility of converting the property to strata title to enable the sale of the ground floor unit and had been advised that the Council would be unlikely to consent to such a conversion. She would have to obtain a search of the property at a cost of \$88.00 for Council to supply details of the original approval of the building of the duplex. She would have to hire a surveyor with expertise in town planning and a consultant to act on her behalf. She would have to satisfy the requirements of the Land Titles Office and the Department of Urban Affairs and Planning and would have to comply with a State environmental policy. She