

04 September 2009

S09.25

Submission to the Department of Labour on the Content for Code of Employment Practice on Infant Feeding – Section 69Y of the Employment Relations (Breaks, Infant Feeding, and Other Matters) Amendment Act 2008

Introduction

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 46 nationally organised societies and national members. It has 28 Branches spread throughout the country to which women from national and local societies are affiliated. The Council's function is to serve women, the family and the community at local, national and international levels through research, study, discussion and action. NCWNZ has a longstanding history of encouraging the promotion of social and health issues, particularly as they affect women.

NCWNZ has contributed in many ways to Employment issues and wishes to convey our thanks for this opportunity for consultation in the development of the final Code.

NCWNZ Policy (Resolution 9.9.3) supports women's right to paid breaks for breastfeeding /expressing of milk during the hours of employment. In support of this resolution NCWNZ submission to the Transport and Industrial Relations Select Committee on the Employment Relations (Breaks and Infant Feeding) Amendment Bill 2008, concluded, "NCWNZ although not unanimous on specific areas, is pleased to see its general policy reflected in the Employment Relations (Breaks and Infant Feeding) Amendments Bill and supports its intentions".

We canvassed our Employment Standing Committee and nationwide membership for their responses to the issues identified in this Content for Code of Employment Practice.

Questions:

- 1. Does the Code help you to understand an employer's obligations in respect of employees who wish to breastfeed? If not, what aspects do you consider are unclear and what changes do you think would improve clarity?**

While members overall considered the Code does outline the key principles of employer's obligations in a practical manner it was suggested some aspects of the Code may conflict with the idea that failure to comply with the code is not an offence under Section 2, clause 13.

Members supported the inclusion of Section 1, clause 6 however expressed their concerns whether an employee would feel sufficiently empowered to follow this process.

2. Does the interpretation section help your understanding of key phrases in the Act? If not, what changes do you think would improve it?

Yes, members fully agreed this section was of great assistance. In particular members considered Section 2, clause 8 provided guidance as to the intention by clearly defining “Breastfeeding” to include expressing milk as an important part of breast feeding.

3. Does the Code help with the understanding of the general requirements, of the Act, regarding breaks and facilities? If you consider requirements are unclear, what changes do you suggest?

A majority of respondents agreed the Code assists with the general requirement of the Act. However some members recommended caution under Section 2, Clause 13 as the requirements of the employer to provided facilities may be negated by the employer’s decision as to what is “reasonable” and “practical” “in the circumstances”. They also queried under Section 2, Clause 14, if a screened-off area would be satisfactory as a private and quite area.

4. There is a lot of flexibility around how breaks and facilities can be provided. Does the Code make this flexibility clear? If not, do you have any suggestions for improvement?

All members believed this was communicated clearly.

5. Does the Code give clear information about factors an employer might need to consider meeting their obligations? If not, what critical information is missing?

A majority of our members agreed the Code provides clear information about factors an employer might need to consider when meeting their obligations. Members considered Clause 21 as particularly helpful and the Clause 23 recommendation for documentation of arrangements, as a very good idea for the protection of both parties.

6. Is there anything else you would like to comment on about the content of the Code?

While members overall accepted the Code to be clear and practical they have suggested that the inclusion of a mediation process and suggestions of how to resolve any conflicts which may arise pre escalating to the Employment Court would be useful. There was some concern expressed that if the Code provided too much detail it would be too prescriptive.

Conclusion

The majority of NCWNZ responses received accepted the outlined content for the Code of Employment Practice as clear, flexible and practical and supports its work life balance intentions.

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National President

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Convener Employment Standing Committee