

25 October 2007

David McGee CNZM QC
Clerk of the House of Representatives
Parliament Buildings
Molesworth Street
Wellington 6160
New Zealand

Dear Mr McGee

Supplementary Order Paper No 148 on the Employment Relations (Flexible Working Arrangements) Amendment Bill

The National Council of Women of New Zealand (NCWNZ) wishes to tender the following on from our Submission on this Bill to the Transport and Industrial Relations Committee of 15 December 2005. As we stated then, NCWNZ supports the general intent of this Bill. We agree with Clause 3(a) substituting "any Person". NCWNZ would like to see the criteria extended to anyone in the work force, but especially to parents or caregivers with dependents to care for, whatever their age. Research documented in the EEO Trust Newsletter Dec 2005 No 14 demonstrates clearly the desirability of flexible working hours and the success companies who already offer it, have enjoyed. NCWNZ members' personal experience endorses this, with examples of staff stability and loyalty, increased work output and reduced stress, resulting in happier children and better parenting too.

We wish to point out an anomaly under 69AAEA Grounds for refusal of request by employer. This could be interpreted as if the employer has made the request, when it would actually be the employee making the request. It would be less ambiguous if this was re-phrased: *Grounds for refusal by employer to request*. We agree with the grounds so listed. Under 69AAEA (2) (d) we wonder how "detrimental impact on performance" can always be assessed before the flexible working arrangements are implemented. In some cases this could just show up after a period of flexible work being permitted. Is there an opportunity to reassess this after the flexible work has been approved, perhaps by benchmarking prior to implementation of the Act.

Our members strongly disagree with New sections 69AAI and 69AAIA dealing with alleged noncompliance by employers with section 69AAE (grounds for refusal of request by employer). These New sections relate to referrals to Labour Inspectors, Applications to Authority and liability to a penalty not exceeding \$2,000. Our organisation is mindful of the need to foster and maintain good working relationships between employers and employees and as we stated in our Submission to the Transport and Industrial Relations Committee, we do not support punitive measures which would be deleterious to the continuing working relationship of both parties. We stated then that employers

should not be penalized by having to pay compensation for not agreeing to flexible working hours, under any circumstances.

In fact Green MP Sue Kedgley's 2nd Reading Speech on 5 September 2007 actually inadvertently supported our members' stance on this. She quoted the UK report from the Chartered Institute of Personnel and Development, an organization with 127,000 members which represents employers involved in management and personnel. "The existing right to request flexible working has been well received by employers, and has **successfully encouraged rather than compelled** employers to experiment with flexible working practices...". "Our research shows that most employers are happy to agree to the majority of such requests and that two in five employers have already extended the right to request further than the legislation requires. Given the benefits that can be gained, and the ultimate right of the employer to decline to grant requests if they will cause problems for the business, we back an extension of the right to request as a sensible extension **of this existing light touch approach to employment law.**"

NCWNZ maintains that new sections 69AAI and 69AAIA do not exhibit a "light touch" nor do they "encourage rather than compel" as referred to in Sue Kedgley's quote. NCWNZ opposes the New Sections 69AAI and 69AAIA and recommends that the Authority simply have the power to require the employer to reassess the employee's request for flexible working hours where the Authority considers that the employer's refusal has been unjustified stating the reasons why the Authority has ruled in favour of the employee.



Christine Low
National President

Elizabeth Cruickshank
Convener, Employment Standing Committee