

10 June 2010

S10.15

**Submission to the Transport and Industrial Relations Select Committee on the
Employment Relations (Rest and Meal breaks) Amendment Bill (91-1)**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 46 nationally organised societies and national members. NCWNZ has 26 branches throughout the country attended by representatives of those societies and some 150 other societies. 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. This submission has been prepared by the NCWNZ Employment Relations Standing Committee with reference to the policy of our organisation.

Introduction

NCWNZ views the provision of meal and rest breaks as a very important part of employment practice. Although our members appreciate that certain employment areas will have difficulty with the present law, they are disturbed by the substitution of money for meal breaks as a permanent employment practice although our membership recognises that it may be appropriate for temporary situations. We are also concerned that under this Bill the employer will have the ultimate power to decide the exact nature that the breaks may take and this imbalance may inhibit the employees' ability to fairly negotiate to obtain compensation.

Part 1

Clause 5, Section 69ZD, Employees entitlement to rest breaks and meal breaks

Sub-section (1) Members noted that women in employment often use their break times to check up on their family, perhaps a sick family member, and make family arrangements. Members believe that if they are not guaranteed a minimum of a half hour lunch break they may lose this opportunity.

One member considered that the minimum of a half hour lunch break was not always long enough and we were advised that in some workplaces employees can already negotiate flexible working hours, by forgoing morning and afternoon breaks and adding this time to the lunch break thus extending the 30 minute break to 50 minutes.

At issue here is the importance of a reliable, fixed time so that employees can plan their work/life balance accordingly.

Sub-section (2) Members acknowledge there have been many changes in the variety of employment patterns and the wide range of hours worked by employees. We are no longer

locked into an 8-hour employment day. The majority of members agree that flexibility in employment working hours has advantages. This Bill will enable an employer to negotiate with the employees to work through meal and rest breaks when an urgent deadline must be met in return for compensatory measures. Likewise if an employee would like an earlier finish time to meet personal commitments there will be an opportunity to negotiate to work through and use this time in lieu. However, members raised concerns that this should only be a short-term arrangement not a permanent situation.

Clause 5, Section 69ZE, Timing and duration of rest breaks and meal breaks

Members raised their concerns regarding the many women who do not belong to a union and who are in low paid employment. It is this group of women that the majority of our members believe could be susceptible to exploitation by employers under a flexible regime. They may feel that negotiating for their rights could endanger their position. This was highlighted by members as a health concern with the potential to create mental stress for women in the workplace when they feel disfranchised and fearful of speaking up to obtain their basic rights to a break.

In 2001 NCWNZ made a submission to the Department of Labour on the Discussion Paper: *Review of the Health and Safety in Employment Act (1992)*. The membership expressed concern regarding the links between fatigue and accident rates and excessive working hours with the consequential stress on health, efficiency, alcohol/drug consumption and family life. It was concluded in this submission that any proposals which promote more effective partnership and encourage employees and employers to take a pro-active role in adopting work place management safety practices would be desirable. However, this Bill does not promote the pro-active role we envisaged since decisions are largely left to employers. If employees do not take rest and meal breaks members believe this will impact on accident rates as employees become tired and do not have the opportunity to recharge their energy and attention levels. While a member expressed the view that the individual must have some self-responsibility for safety, the majority of members felt that this Bill removes the employees' self-responsibility to ensure their safety through maintaining a fair work schedule.

**Clause 5, section 69ZE
Sub-sections (1) (2) (3)**

The membership believes the use of the term "reasonable" when negotiating is bound to be subject to different interpretations by all parties and will be a cause of dispute in the future. They considered the term "fair" when negotiating might have more satisfactory outcomes for all parties.

Conclusion

While members appreciated the need for negotiated flexibility within workplaces there was also concern for health and safety, permanent substituting of actual breaks, substituting money for actual breaks, potential for exploitation of vulnerable women in low paid employment, and the use of the term "reasonable". In particular it seems that this Bill gives the ultimate power to the employer as to the exact nature and timing of the breaks.

Elizabeth Bang
National President

Juanita O'Brien
Convener Employment Standing Committee
Jean Fuller
Parliamentary Watch Committee