

**Oral Submission to the Transport and Industrial Relations Select Committee on the
Employment Relations Amendment Bill 2013 (105-1)**

S 13.07 made by Patricia Byrne and Judy Whitcombe 22nd August 2013.

Transport and Industrial Relations Select Committee: Chairperson: David Bennett, National, Hamilton East; Deputy Chair: Mike Sabin, National, Northland; Chris Auchinvole, National List: Cam Calder, National, List; Darien Fenton, Labour, List; Iain Lees-Galloway, Labour, List; Sue Moroney, Labour, List; Simon O'Connor, National, Tamaki; Denise Roche, Green, List. In addition to the listed Committee members Barbara Stewart, NZ First, List and Claudette Hauiti, National List also attended.

Good afternoon. My name is Patricia Byrne and my colleague is Dr Judy Whitcombe. We are both members of the Parliamentary Watch Committee of the National Council of Women of New Zealand.

NCWNZ supports any moves to enhance relationships between employers and employees. It is our view, however, that this Bill will change the balance of power between the parties, to the detriment of employees. We are particularly concerned that the proposed changes will affect the most vulnerable members of our society.

We acknowledge that a goodwill relationship between employer and employee makes for a stable and beneficial work environment. While good employers and employees do exist and can negotiate agreeable conditions, this is not always the case. In cases where the employer focuses exclusively on the bottom line and the employee does not understand his/her rights there is need for the protections which already exist in our law.

Access to confidential information – An employee must be told of the reasons for dismissal. If some information is of a confidential nature, this can be blacked out, but the employee must be informed of any accusation of misconduct, and should be able to call on help from a trade union or advocate to protest his/her innocence. If an employee is dismissed for a wrongful cause, not only is he/she unemployed, but on seeking employment with someone else, may miss out on selection if the prospective employer seeks a reference from the previous employer.

Likewise, if the employee is unsuited to the position, this information needs to be given so that further training may be taken, or a different type of situation sought. New legislation must not negate the requirements under the Official Information Act, the Privacy Act and instructions from the Employment Authority in particular cases.

Collective bargaining –

The **duty of good faith** should not provide an exception from collective bargaining. In the case of the lowest paid employees, the persons applying for the job may feel that they will lose out if they ask for reasonable rights. They often feel they have no bargaining power if they have no academic qualifications or skills; they may be already coping with English as a second language, and with different attitudes from those which exist in their countries of birth.

Continuity of Employment – We all need to know that we will have a steady income, and this needs to carry over even when ownership of a business is transferred. However, once again, the employee needs to know if there are differences in the new contract and what reasons exist for the new employer to change the number or status of the employees. An employee dismissed without an explanation and a good reference, is in a very vulnerable position. We can see no reason for a difference in the provision of the 30 day time frame between union and non-union members.

“Exempt” employers – those employing 19 or less employees. We do not understand how this number was calculated. It may give an ‘out’ from employment laws by owners who break their companies down into smaller companies for this purpose. If a business is bought by a family who wish to employ their own members, surely a number such as 5 would be more appropriate.

Rest and meal breaks – We do not believe that Compensatory measures for employer’s failure to provide rest and meal breaks should be passed into law. It is important for health and safety reasons that employees take regular breaks – especially if (for example) they are in charge of machinery, or driving a bus. Employers will benefit by having employees who are alert and give friendly service to customers, when they (employees) are not over-tired or hungry. The success of many small businesses depends on the kind of helpfulness presented by the frontline employees, and satisfactory working conditions, including regular breaks, are essential.

Flexible work arrangements: We believe that flexible working arrangements can benefit both employers and employees. However, the needs of all must be taken into account, and sufficient people employed to allow for overlapping of shifts and extra cover at busy times. In the case of a small business, it may make sense for the owner/operator to come in when needed and for different types of employees (eg students, mothers of school children, etc.) to be employed to cover the different working times.

We support this legislation where it enhances the relationships between employers and employees, but oppose the removal of safeguards for employees which already exist in employment legislation.

Thank you for giving us the opportunity to address you.

Patricia Byrne
NATIONAL COUNCIL OF WOMEN OF NEW ZEALAND.

Dr Judy Whitcombe

NCWNZ were scheduled to appear at 12 noon. However we had arrived early and were taken at 11.35am

The submission before us was the Hospitality Industry who were supportive of the Bill but raised issues regarding meal breaks.

Questions from the Committee following the NCWNZ presentation.

Sue Moroney

Thanked us for the submission which was comprehensive.

She asked about the Gender Pay Gap but was told that members were consulted on the Bill.

The submission had made some good points about the importance of meal breaks – she was

concerned that people could be asked to work through these and noted the reference to bus drivers.

Darien Fenton

Said it was a good submission

As the Committee was running ahead of time the next group had not yet arrived.

While we sat outside the Committee room, organising papers, after the oral Sue Moroney and then Barbara Stewart spoke briefly, to thank us for the submission, as they passed by.