



National Council of Women of New Zealand

Te Kaunihera
Wahine O Aotearoa

Oral submission to the Transport and Industrial Relations Committee on the NCWNZ submission on the Employment Standards Legislation Bill, 53-1, S15.26

by Beryl Anderson and Margaret Ledgerton on 5 November 2015

Transport and Industrial Relations Committee

Chairperson: **Jonathan Young**, National Party, New Plymouth; Deputy-Chairperson: **Alastair Scott**, National Party, Wairarapa; Members: **Brett Hudson**, National Party, List; **Sarah Dowie**, National Party, Invercargill; **Jenny Salesa**, Labour Party, Manukau East; **Mahesh Bindral**, NZ First, List; **Sue Moroney**, Labour Party, List; **Parmjeet Parmar**, National Party, List; **Jan Logie**, Green Party, List; **Phil Twyford**, Labour Party, Te Atatū; **Maurice Williamson**, National Party, Pakuranga.

[Note: The committee proceedings were interrupted by a fire alarm at 10.20 am, with [a fire occurring](#) in the building in which the committee rooms were located. On reconvening at about 11.20 not all MPs were present, notably Sue Moroney. Jan Logie was replaced by Catherine Delahunty.]

Good morning. My name is Beryl Anderson. I am the convener of NCWNZ's Parliamentary Watch Committee. With me today is Margaret Ledgerton, convener of the NCWNZ Employment Standing Committee. This submission has been prepared from a background of policy decisions by the Employment Standing Committee with input from the Parliamentary Watch Committee.

NCWNZ believes that there has been an ongoing erosion of legislated employment rights in New Zealand and the zero hour section of this Bill can be seen as continuing that trend. The root cause of the zero hour work problem was clearly identified in MBIE's regulatory impact statement as the inherent imbalance between the parties to the employment agreement, and that the individual worker is less likely to be aware of their rights and entitlements.

We are concerned that, under this Bill's proposals, zero hour agreements will continue to omit basic rights to sick leave, public holiday leave and other employment benefits that are generally expected by the workforce at large. Our comments mostly relate to **Clause 87**.

Under this clause (**67C-67F**) the requirement is that an individual employment agreement contains "...an indication of the arrangements relating to the times the employee is to work", which, by not specifying the hours to be offered provides insufficient protection for the worker. The employer is to include a clause in the employment agreement on the period of reasonable notice for the cancellation of a shift and the compensation payable. Yet the Bill fails to set a minimum level or reasonableness test for the level of compensation.

Also under this Clause **(67H)** there is an intention to make it more difficult for an employer to prohibit secondary employment. Yet the Bill allows an employer to insist on availability for additional work that precludes acceptance of any other employment, either as part of a salary package or for a nominal sum.

Clause 131 needs to identify what is meant by an “unreasonable” deduction when section 5A of the Wages Protection Act 1983 is amended.

One method by which the government could reduce insecure employment would be to ratify the various International Labour Organisation Conventions dealing with insecure work, including those related to migrant workers, workers with family responsibilities, part time work, termination of employment and a recommendation on social protection floors

It is our view that the Bill, despite its intent, does not adequately protect and promote the rights of those in zero hour employment. Instead, the Bill’s proposals frequently legitimise zero hour employment agreements and may well encourage and accelerate their use.

Questions

Catherine Delahunty asked two questions on the meaning of reasonable and the impact on pay equity for women which Margaret answered. Such items as sick leave and public holiday leave should be included as part of the definition of reasonableness. Women, being amongst the vulnerable groups, are adversely affected by zero hour contracts and this contributes to the gender pay gap.

Summation at the end by Margaret Ledgerton

We would like to see the Bill strengthened by providing provisions around what is required to address zero hour contracts, which we see as an extreme form of insecure work, for example, by including specific practices that should be banned, as noted in the MBIE Risk Assessment options.

We see the Bill as a piecemeal approach to the much broader issue – that of insecure work – which requires a comprehensive, integrated policy approach – involving a range of social and economic policies and fundamental changes to the current deregulated employment legislation framework.