



**National Council of
Women of New Zealand**

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Wahine O Aotearoa

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**Submission to the Transport and Industrial Relations Select Committee on the
Paid Parental Leave and Employment Protection (Paid Parental Leave for
Self - Employed Persons) Amendment Bill**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organization representing 38 nationally organised societies. It has 32 branches spread throughout the country to which women from 150 societies are affiliated.

Introduction

We have surveyed our organisation and received 23 responses from nationally organised societies and branches located throughout New Zealand from Whangarei to Southland. Our preoccupation is concerned with improving the health and wellbeing of women, families and children and the intent of this Bill will certainly advance these objectives.

NCWNZ applauds Government for introducing this Amendment Bill and for voting for it to be sent to a Select Committee. We are also pleased that most aspects of our submissions to your Select Committee in 1998 and again in 2003 have been incorporated, initially in the Paid Parental Leave Act and now subsequently in the Amendment Bill.

As a signatory to the United Nations Convention on the Elimination of all forms of Discrimination Against Women, New Zealand is bound to take all appropriate means to deliver paid parental leave or extend comparable social benefits. We feel that this Bill does not go far enough in achieving our CEDAW obligations. However we are gratified that Parliament has increased Paid Parental Leave to 14 weeks from 1 December 2005 as NCWNZ had urged, and now proposes to extend eligibility to the scheme to certain self-employed persons.

We welcomed the earlier amendment which reduced the term of eligibility for employees who have been in a job for 6 months (previously 12 months) and are pleased that this Bill will permit recipients of this leave to be able to re-apply for it for a subsequent pregnancy or adoption after 6 months has elapsed (previously 12 months).

Clause 8 New Section 2AD inserted

Our respondents disagree with this clause where a person who works both as an employee and a self-employed person, where entitlements in respect of parental leave payments are to be based on the person's work as an employee or as a self-employed person, but not both. A considerable proportion consider that as the person pays tax on both incomes that person should have their income from both sources amalgamated for the calculation of their Paid Parental Leave (PPL) entitlement. If just one category of their employment or self-employment is selected they might only be entitled to receive a small proportion of their total income in PPL and this could often be less than the uppermost limit (currently \$357.30 per week before tax). We see no reason why they should be penalised for working hard and trying to set up their own business as well as using part time employment to prop up their income. A smaller group of respondents agreed that only one income be considered. We urge the Select Committee to change Clause 8 of the Amendment Bill to cover this consideration.



**Clause 15 Section 39A repealed**

This repeals section 39A of the Principal Act relating to the succession of a spouse or a partner to parental leave entitlements (where the mother continues in employment or self-employment and passes the entitlement to her earning spouse or partner). These sections are moved to new sections 72B and 72C of the Principal Act.

Clause 18 New heading and section 70G inserted

The new legislation must be fair and easy to administer. Some respondents consider that IRD could more easily determine the income of self-employed than could Labour Department Inspectors who are already overworked and currently number only 20 throughout New Zealand. IRD holds all the details of income earned on a monthly basis and tax paid and the department has the staff on hand to undertake the work – rather than Labour Department Inspectors. Some of our respondents considered the proposed section 70G to be clumsily worded and difficult to interpret, i.e. whether a self-employed person has worked for at least an average of 10 hours a week for *6 or 12 months* in order to be eligible for a parental leave payment ; ...We recommend that the shorter time – 6 months – is all that is necessary to be stated, to improve clarity as the 12 months category is now redundant. This clarification is also required for Section 71CB.

Clause 21 New sections 71CA to 71CD inserted**Section 71CB Definition of eligible self-employed person**

Some of our respondents queried the 6 months of self-employment or employment, of over 10 hours average per week that is required immediately prior to the expected date of delivery of the child. Some said that 3 months would be more reasonable as some women get very ill early in pregnancy. These women would be ineligible for Paid Parental Leave if they had not worked continuously for 6 months before having to stop work through ill health due to their pregnancy.

Section 71CC Multiple self-employment

The limitations imposed in this section are disputed by some of our respondents – namely that concurrent types of work and consecutive types of work are also to be treated as one period of self-employment provided that the break between engagements is 30 days or shorter. This discriminates against self-employed workers such as shearers, shedhands, tailing gangs and others undertaking seasonal work such as freezing workers who may earn high incomes while their work is available but they can have long gaps between work at other times of the year. However their annual income and their tax can be high and they should be entitled to paid parental leave too in such instances.

Conclusion

NCWNZ reiterates its support for this Amendment Bill. We agree with the provision that a self-employed person can maintain a level of oversight of his or her business during the parental leave period. We also approve of the provision permitting such a person to retain his or her entitlement despite continuing to receive income for work or whilst carrying out occasional administrative tasks during the PPL payment period for reasons of continuity of the business. These are sensible and necessary provisions, as is the method of calculating the maximum and minimum levels of PPL indexed annually at 1 July each year.

The estimated cost to Government of \$1.147m for 2005/2006, and \$6.790m for 2006/2007 is a modest sum which will support positive outcomes for the mother, the child and the family, will enhance equity between employed people concerning PPL irrespective of whether they are employees or self-employed, and will enable a self-employed parent to take leave with a period of income replacement.

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National President

Elizabeth Cruickshank
Convener, Employment Standing Committee