



**National Council of
Women of New Zealand**

Te Kaunihera
Wahine O Aotearoa

National Office
Level 4 Central House
26 Brandon Street
PO Box 25-498
Wellington 6146
(04) 473 7623
www.ncwnz.org.nz

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**Submission to the Commerce Select Committee on the
Insolvency Law Reform Bill**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 38 nationally organised societies. It has 32 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.

Preamble

With women prominent in the world of small-to-medium business, the Insolvency Law Reform Bill is of interest to NCWNZ. Since the Insolvency Act of 1967, businesses have become subject to pressures that are different from those prevailing at the time the Act was passed. Competition from Asian producers, fluctuating dollar value, the Goods and Services Tax (GST) are but a few of the challenges facing New Zealand firms and farms. Lately there have been the extra compliance costs occasioned by legislation concerned with paid parental leave, hygiene standards and labelling requirements.

In spite of so many hurdles, people are attracted to the opportunities promised by success as business entrepreneurs. NCWNZ acknowledges the findings of many economists who maintain that economies dominated by small businesses tend to have a more equitable distribution of income, and therefore any legislation is welcomed which simplifies procedures for small-to-medium businesses. But unforeseen contingencies can threaten any business whether as a debtor or creditor, so solutions must be made as simple and as safe as possible.

While this Bill is a large and wide ranging document, comment will be made on only the following topic and three clauses.

The 'No Assets' Procedure

This is a topic of special interest to NCWNZ members because it sets out a simpler procedure for winding up a failing business, and gives a fixed time for the process.

Clause 359: - **The criteria for entry** into a 'no asset' procedure appear stringent but fair, especially as they do not deprive the debtor of essentials such as household furnishings and utensils, thus allowing an acceptable level of dignity.

Clause 360(a): - **Debtor disqualified from entry to no asset procedure.** It is noted that the Assignee can refuse entry to the 'no asset' procedure if the debtor has concealed assets or has transferred them to, say, a trust. This is reassuring to our members, several of whom have objected to the way bankrupts continue to live luxuriously because property has been put under someone else's name.





Clause 371: - The Discharge Rule could be seen as particularly unfair to small business creditors who may be unable to withstand the loss and are denied any avenue for redress. They have the right to object to a debtor being granted 'no assets' status although the Assignee has the final say. If discharged, the debtor *"is not liable to repay any part of the debts, including any penalties and interest that may have accrued"*.

Conclusion

The policy objective of providing "a simple regime for financial failure" which provides alternatives to bankruptcy certainly meets with approval. But NCWNZ urges Government to pursue policies which make small businesses more viable, even if this means policies of positive discrimination in favour of small-to-medium firms and farms. The '**Buy New Zealand Made**' campaign is a good start but the actions are not speaking as loudly as the words. The falling value of the New Zealand dollar presents an excellent opportunity for import substitution industries in which small businesses have a chance to excel. Prevention is better than cure but it is pleasing that the Insolvency Law Reform Bill offers some relief from financial pain when small businesses fail.

Thank you for the opportunity to comment on this Bill.

Christine Low
National president

Heather M Smith
Convener, Economics Standing Committee