



**National Council of
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S17.08

Submission to Health Committee on the Care and Support Worker (Pay Equity) Settlement Bill

The National Council of Women of New Zealand, Te Kaunihera Wahine O Aotearoa (NCWNZ) is an umbrella group representing 283 organisations affiliated at either national level or to one of our 21 branches. In addition, about 260 women are individual members of branches. Collectively our reach is over 290,000 with many of our membership organisations representing all genders. NCWNZ's vision is a gender equal New Zealand and research shows we'll be better off socially and economically if we are gender equal. Through research, discussion and action, NCWNZ in partnership with others, seeks to realise its vision of gender equality because it is a basic human right.

This submission has been prepared by the NCWNZ Employment Standing Committee and the Parliamentary Watch Committee and a number of our affiliated organisations.

Introduction

- 0.1. NCWNZ has recently made a submission to the Ministry of Business, Innovation and Employment on the Employment (Pay Equity and Equal Pay) Bill – Exposure Draft¹. As stated there we have a long history of working to progress pay equity issues.
- 0.2. This Bill provides a legislative framework for the settlement of the Care and Support Worker (Pay Equity) Settlement Agreement, as agreed to by the parties of the settlement. The phasing in of the agreed pay rates is covered in Schedule 2.
- 0.3. NCWNZ generally supports the Bill which will have wide application across the care and support sector.

Part 1. Preliminary Provisions

- 1.1. The Purpose of the Act (Clause 3) specifies its coverage. It extinguishes existing claims and bars future claims for the period to 30 June 2022, specifies the minimum rates payable to care and support workers, and provides for additional funding from the Ministry of Health, DHBs and ACC to pay additional funding to employers.

¹ S17.05 Employment (Pay Equity and Equal Pay) Bill Exposure Draft <https://www.ncwnz.org.nz/wp-content/uploads/2013/06/S17.05-Employment-Pay-Equity-and-Equal-Pay-Bill-Exposure-Draft.pdf>

- 1.2. Interpretation (Clause 4) gives comprehensive coverage of the care and support services and the various locations where the services are carried out. However, we note that that coverage does not include mental health workers. The specifications of “continuous employment” also provide wide coverage.

Part 2. Care and support worker entitlements and employer obligations

Clause 7 Existing claims extinguished and potential claims barred

- 2.1. Existing claims extinguished and potential claims barred (Clause 7 (1)(b)) bans claims for an eleven-year period from 2011 to 2022. This is a severe response and arouses concerns that it will create a legal precedent for claims for other groups of women workers. It is also inconsistent with clauses in the Draft Employment (Pay Equity and Equal Pay) Bill². The Carers’ settlement is the resolution of one particular claim and should not constrain the outcomes of any other claim which may be brought in the future.

Clause 10 Previous agreements that require allowances for service or qualifications unenforceable

- 2.2. Clause 10 makes previous agreements that require allowances for service or qualifications that were agreed before the commencement of this Act unenforceable. While it is appreciated that the Settlement Agreement does provide acknowledgement of length of service and qualifications in Schedule 2, this is an across the board specification. The qualifications for Care and Support Workers are grouped into 4 levels. Again, there is concern that this classification should not be the model for other future claims.

Part 3. Funding of employers and miscellaneous provisions

Clause 19 Records to support additional funding

- 3.1. Part 3 covers funding of employers and miscellaneous provisions. Clause 19 requires employers to keep certain records relating to qualifications and length of time that the worker has been employed continuously by that employer. It should also require the employer to keep a record of the gender of the employee. Gender of employees has been a central argument in the Pay Equity case.

Conclusion

NCWNZ supports the Care and Support Worker (Pay Equity) Settlement Bill as the legislative framework agreed by the parties – the Crown, Crown agencies and relevant unions in April 2017. However, we are concerned that this Bill could be regarded as the model for any future settlements. The conditions covered in Clauses 7 and 10 should not be a blueprint for any future wage settlements. It is essential that all women employees have the right to make a pay equity claim at any time that they consider that their situation warrants it.

² <http://www.mbie.govt.nz/info-services/employment-skills/legislation-reviews/exposure-draft-employment-pay-equity-and-equal-pay-bill>

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