

19 May 2008

Transport and Industrial Relations Committee
Parliament House
Wellington

Dear Sir/Madam

Submission on the Employment Relations (Breaks and Infant Feeding) Amendment Bill

The New Zealand Manufacturers and Exporters Association (NZMEA) represent the interests of manufacturers and exporters throughout New Zealand.

The NZMEA is New Zealand's only focused, independent voice for manufacturers and exporters. NZMEA members make over \$2.0 billion in sales and have an export value of around \$1.0 billion. The Association can trace its beginning to the early history of New Zealand. As a legacy of the hard work and careful financial management of the past, we have a significant asset base that enables our independence and extends our activity.

The NZMEA is independent; we do not seek or receive funding from local or central government. We are not associated to any other business group.

The health of the elaborately transformed manufactures, particularly, and exporters generally, acts as the "canary in the coalmine", indicating the long-term prospects for our whole economy. In a similar way, the health and development of our smaller companies has a major role to play in the development of the New Zealand economy.

Elaborately transformed manufactures comprise over 30% of New Zealand tradeable exports, with sector sales totaling over \$30 billion, and total national employment numbers of around 170,000. New Zealand manufacturers face the ever-increasing onslaught of the cost of local regulation and global competition from low cost countries, without any real support from the policy framework.

Comments on the Breaks and Infant Feeding Bill have been unusually heavy; the matters have raised comment that fall into two areas:

- What is broken that needs to be fixed in regard to breaks and infant feeding?
 - From a safety and productivity standpoint, infants and workplaces do not mix.
 - Breaks are adequately dealt with in the vast majority of workplaces.
- This Bill is indicative of the growing disconnect between our policy makers and the real world.

Rather than represent the comments made, we have chosen to use representative quotes that carry the background to these two points.

The NZMEA does wish to speak on this Bill at a Select Committee hearing.

Member Comments

Breaks

“I run a Union shop (EPMU) and these breaks are already included in the collective agreement.”

“I cannot remember a time in my long working life that such breaks were not provided and was surprised when the proposed bill was announced to find that they are not standard practice.”

“My feeling is that it should not be necessary to have these breaks regulated.”

“When I was a self employed contractor, working independently of an employer, I took breaks as I needed, not as I was required by peer pressure or rules.”

“In my long experience as an employer of workforces of up to 800 people, I am quite sure that breaks for staff were never an issue.”

“I have found that overall meal and rest breaks are very much a moveable feast and that both staff and employers are fully aware that no set minimum is observed.”

“Mostly staff take a break of between 10 and 20 minutes, morning and afternoon and lunch breaks are rarely less than 30 minutes, and often much longer, even if a 10-30-10 schedule is appropriate for the hours worked and the type of workforce.”

“Even in strictly regulated work environments such as factories and building sites, the traditional ‘smoko’ is very much a part of the working environment. I would suggest that the numbers of employees who are exploited by management and refused breaks would be very low and that this legislation is a ‘sledgehammer to crack a walnut’.”

“Providing additional rest and meal breaks will simply drive another nail in the ‘compliance cost coffin’ and send another message to industry, if not already loud and clear, New Zealand is not a place to manufacture. I would be fairly certain our FTA partners won’t be adopting this or similar policies any time soon.”

“We run part of our factory with 3x8 hour shifts and after trying many different options we have found (in consultation with the staff) that what works best are 2x20 minutes taken on rotation amongst the staff after approx three and six hours on site – this should be left as a matter between employer and employee.”

Infant Feeding

“As for employers providing breast feeding areas in the workplace, my concern would be more about the added safety responsibilities that would fall on employers by having an infant in the workplace.”

“The Bill suggests that *“Breastfeeding is critical to providing the best start for infants and important to both infant and maternal health. Evidence suggests, however, that access to breastfeeding breaks and facilities in the workplace is mixed.* Indeed breast feeding is crucial to infant development, but I suspect that bringing up a neonate/infant within a home environment rather than a workplace is even more crucial.”

There are several issues that immediately come to mind, including distraction for the employee and lowered productivity, risk of accident to the infant, management and protection of the infant in an emergency (say a workplace fire) and increased OSH profiles required to be implemented. It might encourage nursing mothers to return to work earlier than they should if there develops an expectation that the workplace is suitable for breastfeeding.

“Personally although I am the most liberal of people when it comes to the rights of the individuals, I think the suggestion that employers provide facilities for nursing mothers to be quite daft.”

“If facilities are to be provided for breastfeeding mothers at work, where are the babies between feeds?”

“What of the distractions in the workplace and other staff disruptions by having babies sleeping/crying, etc, on the premises disrupting work concentration.”

“If the babies are not on the work site and at a crèche, just how much time is to be allowed for the breastfeeding?”

“One way or another disruption will need to be recovered by all employees. What about them having a break too?”

“Children are a choice and a life time commitment and perhaps some parents should choose more carefully before entering it.”

“I’m not biased against children, but young ones should be 'home-based' in a safe environment.”

“Whilst I respect the needs of child bearing, however, at a time when manufacturers are fighting for survival, I find it hard to support this bill. Surely Government would do better focusing on addressing our woeful fiscal and monetary policy than increasing further the already burdening compliance costs to New Zealand manufacturers.”

“As a privately owned company exporting in excess of NZ\$10m annually, and passionate about manufacturing in New Zealand, I feel my greatest competitor, and constraint to growing our business, is the New Zealand Government...ironically a Government historically recognised for supporting the working class kiwi – an industry they now appear hell bent on destroying!”

“There is no limit on how long each infant feeding or expressing milk break should be, or how often an infant requires to be breast fed each day.”

“There is no limit on the age of the infant, to indicate how long an employer is required to provide each working mother with this facility.”

“The amendment Bill, Clause 69Z is confusing. Section 69Y (2) states the (feeding) breaks are paid only if the employee and employer agree that they are paid. However, Clause 69Z refers to clause 6D “Rest breaks and meal breaks” where the two can be combined. The meal breaks in part 6D are unpaid, but the rest breaks are paid.”

Case Study - The Current Position

Ten years ago we negotiated to eliminate the regimented ten minute Tea Breaks for the following reasons:

- The ten minutes did not allow people to leave their work-station, walk to the one café on site (via washing their hands), sit and have refreshment, and be back at the workstation to relieve the next person for the following ten minutes. Supervisors had to go to the café to “round-up” staff who were taking longer than ten minutes.
- Due to the requirement to keep machines running, departments had to stagger their ten minute breaks to ensure the minimum amount of operators were always in the department to “man” the machines, and often machines had to be turned off due to absenteeism or problems occurring during the breaks.

- Staggering the tea breaks also resulted in a steady stream of people coming and going from the department. The routine of staggering all operators through ten minute tea breaks, along with the half hour meal breaks, meant just as the ten minute tea break was finishing the first lot of people were beginning to take their half hour meal breaks.

The solution was to put smaller café stations in each department, and allow flexibility in accessing the café stations throughout the shift, where people could get their machines up and running, then take regular breaks to go to the café station, prepare a refreshment to take back to their work station.

- Over time, each department and shift have organised themselves around the differing process requirements to ensure all employees have an opportunity to take refreshment breaks either at a café station or at their work station as suits. This could differ from one day to the next depending on staffing and production requirements.
- In the ten years plus that this arrangement has been in place, we have not had any issue raised that has not been satisfactorily rectified in house.

On the Break Proposals

There is a concern that if legislation requires that we must provide a defined ten minute rest break, we will lose the flexibility we have created of shorter breaks spread conveniently through the shift.

The control and monitoring requirements of any mandated break duration, say ten minutes, will require balancing and managing groups of people taking their “ten minutes” at one time. This will increase the supervision load and would result in machines being switched off, with resulting loss in productivity and quality.

On the Infant Feeding Proposals

We employ up to 300 staff, over a 24 hour period, seven days per week. One third of our staff are female concentrated in a single department with ages ranging from 20 to 40 years. This particular department would be the one most affected by this proposed legislation. This may impact on production if we have two or more nursing mothers, which could cause a build up of stock from the other departments.

Having another person bringing an infant (and possibly siblings) in for feeding during working hours exposes these people and infants to hazards. This is an industrial site, with hazards such as noise, trucks, forklifts and heavy machinery are operating.

We would have to provide 24-hour access to the caregiver to bring in an infant, which minimises our security and exposes our hazards to more people. Accessing our secure site after 5pm and before 8am and on weekends must be by employee swipe card.

In some instances, babies could take up excessive time if they are slow feeders or having feeding difficulties. This loose arrangement is also open to abuse, is impossible to plan for or supervise, and takes more time away from the work-stations.

This practice of daily feeding an infant could realistically be from three months (usually when a working mother returns to work) up to three or four years, depending on how long the mother wishes to continue breastfeeding her child.

It seems we would be required to provide a private, clean room with appropriate ventilation and heating for an infant to be breastfed in. There would also need to be secure refrigeration to keep expressed milk in and hygienic waste disposal facilities. This is an additional cost to an employer.

The confusion of providing paid or unpaid "feeding breaks" and combining these with regulated paid rest breaks or unpaid meal breaks could cause confusion and discord.

Summary

The Paid Parental Leave and Extended Parental Leave provisions for parents of new born children allow for the infant and parental bonding and "best start" for the infant in allowing them to be breastfed for the first few months. Employers are already required to cover for these absences and ensure they keep the same role and same conditions to return to.

This proposal will ensure they return to better conditions (flexibility of taking "feeding breaks") whilst the employer will be required to cover for the uncertain down time and loss of production for an undefined period and duration.

Keeping in mind the obligations in regard to equal employment opportunities for all people, selecting the "best person for the job" may be viewed that a male or an older female may in the long term be the "best" option.

It is recognised that in a given situation, say an office in the middle of Wellington, or where people do independent work with no machine paced or team based work patterns, no shift work, or where the people employed are few, or of a single sex, disruption to the work place may be minimal.

However, where these advantages do not exist, disruption could be significant, that might lead to departmental managers to avoid the selection of child-bearing aged female workers.

The comments and the above case study demonstrate the reactions of our members, the Bill should not proceed.

Yours sincerely



John Walley
Chief Executive