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Committee Secretariat
Education and Workforce Committee
Parliament Buildings
Wellington

Dear Committee Members,

ICNZ submission on the Employment Relations Amendment Bill

Thank you for the opportunity to submit on the *Employment Relations Amendment Bill* ('the Bill'), which was introduced to Parliament on 29 January 2018.

The Insurance Council of New Zealand (ICNZ) represents general insurers who insure about 95 percent of the New Zealand general insurance market, including over half a trillion dollars' worth of New Zealand property and liabilities.

Please contact Andrew Saunders, our Regulatory Affairs Manager, on andrew@icnz.org.nz or (04) 914 2224 if you have any questions on our submission or require further information.

Submission

The Insurance Council of New Zealand (ICNZ) opposes the Bill and supports the submission made by BusinessNZ on the grounds that the Bill as proposed will inhibit the ability of NZ businesses to prosper and grow into the future.

The overarching concern of ICNZ members is that the proposed changes when taken together, fail to take account of the dramatically changing broader workforce context of technological, and demographic change on New Zealand businesses.

All industries are facing the impacts of increasingly rapid market disruption, competition, globalisation and technological changes that are requiring them to continually transform or face obsolescence. The insurance sector is no different, and for our members to remain relevant to their customers in these fast changing and challenging times, they need to be able to move nimbly and continually evolve their strategy and operating models to meet ever changing consumer demands.

To do this, they are in turn needing to apply their workforce flexibly and support the development of new ways of working, emerging capabilities and technologies within their workforce. Taken together,

the provisions in the Bill would however impose further regulatory constraints on employers, which will only slow the ability of our members to effectively navigate the rapidly changing business and employment climate of the future, to everyone's detriment (including employees and prospective employees).

As noted above ICNZ supports BusinessNZ's submission on the Bill. The remainder of this submission comments further on several aspects that are of particular concern to our members.

A) The Bill constrains employers from offering different conditions of employment to employees who do not wish to join a union

Just as customer expectations have increased, so have those of our employees and meeting the expectations of a workforce with 5 generations co-existing in the same workplace, is now more complex than ever. Where a single proposition used to suffice, the ability for our member organisations to differentiate their employment offering and provide flexibility to potential employees at an individual level is a key attraction and retention mechanism and will be a critical part of the employer brand of the future.

This also applies when considering the scarcity of talent that is arising in emerging capabilities within the workforce. For example, our members are experiencing high demand for capabilities in areas such as data, digital, robotics and customer insights, and a differentiated employment offering may be the only tool an employer has to attract these skill sets.

It is therefore of great concern to our members that the Bill may require an employer to return to a 'one size fits all' approach to employment terms and conditions, and in our view, does not promote a progressive and performance driven labour market, nor does it support the spirit of individual negotiation, if both parties are unable to agree a variation that is inconsistent with the Collective.

The unintended consequence of such a change is that it may drive employers to retain their workforce on a contingent basis in order to bypass the perceived onerous obligations of direct employment. Employees in turn, may elect to work for digitally enabled global organisations (located overseas) that can provide the flexibility, conditions and employee experience people are seeking, over local employers who are unable, due to regulation to keep pace with the rapidly changing world of work.

We are also concerned that in the event of catastrophic situation (i.e. major earthquake or cyclone) the insurance industry's ability to rapidly and effectively scale up workforce to meet the needs of the situation and insured parties could be constrained by the Bill's requirements. For instance the requirements in clauses 18-20 of the Bill complicate the employment process and have the possible effect of hindering employers in this industry competing quickly for talent either from within the sector or more broadly from the market, to resource up to manage the catastrophe appropriately.

B) Repeal of the ability to opt out of bargaining for a multi-employer collective agreement (MECA)

The strengthening of MECA's is of particular concern to our members as compulsory MECA bargaining fails to preserve the private sector's need for commercial flexibility and sensitivity. ICNZ members consider their employment conditions, pay rates and remuneration funding pools to be commercially sensitive and integral to their competitive advantage.

The increased risk that protracted and drawn out negotiations will result from MECAs is also a key concern to members, when considered alongside the requirement to fully bring negotiations to a close even in the case of stalemate on certain topics. The change also assumes that all parties in a sector come to the table with similar employment propositions, strategies and spending power, where we

know that isn't the case and within the insurance industry, employees seek out different employers to work for based on factors like size and organisational culture. This diversity needs to be retained as it directly reflects the space that they are operating in the market and it's not clear how this would be achieved under a MECA.

Joint bargaining across the sector further threatens our ability to differentiate based on employer brand and necessity, where competition for the same small pool of talent becomes increasingly tight.

C) Many of the Bill's provisions create additional bureaucracy and compliance costs for employers inhibiting workplace productivity and responsiveness to change

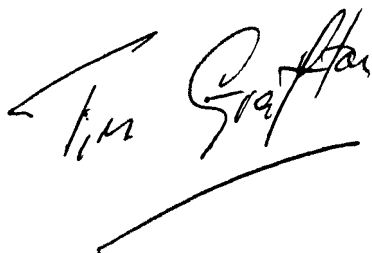
The Bill as proposed, places considerable constraints on an organisation's ability to adapt to the pace of change and invest resource into digitisation and transforming their organisations with the capabilities to equip them for the future. Section 4 of the BusinessNZ submission highlights those proposed provisions that will impose greater operational complexity, slow productivity and add cost, thereby diverting the resources of increasingly lean organisations from much needed investment in technical and human infrastructure to remain relevant on the domestic and/or global stage.

Of particular concern to our members are the provisions that potentially stall the progress of core employment interactions between the employee and their employer, detrimentally impacting productivity and growth. For example, the suggestion that bargaining could be used as a tool to resist a change initiative; the implication that a performance management process could be halted whilst an allegation of discrimination on the grounds of union membership is investigated; and the hindrance to the speed and cost of recruitment caused by increased bureaucracy and notification requirements.

Conclusion

Thank you again for the opportunity to submit on the Employment Relations Amendment Bill.

Yours sincerely,



Tim Grafton
Chief Executive



Andrew Saunders
Regulatory Affairs Manager