

Submission by



to the

## **Education and Workforce Select Committee**

on the

## **Health and Safety at Work (Health and Safety Representatives and Committees) Amendment Bill<sup>1</sup>**

**February 2023**

---

<sup>1</sup> Background information on BusinessNZ is attached as Appendix One.

Paul Mackay  
PO Box 1925  
Wellington  
Ph: 04 496 6553  
Mob: 021 577 719

# **BUSINESSNZ SUBMISSION ON THE HEALTH AND SAFETY AT WORK (HEALTH AND SAFETY AND REPRESENTATIVES AND COMMITTEES) AMENDMENT BILL**

## **1. INTRODUCTION**

- 1.1 BusinessNZ welcomes the opportunity to make a submission on the Health and Safety at Work (Health and Safety Representatives and Committees) Amendment Bill. Information on BusinessNZ is attached as Appendix One.

## **2. RECOMMENDATIONS**

- 2.1 That the proposed amendment bill not proceed.
- 2.2 That if the proposed amendment bill should proceed, it includes a right for employers, as now, to refuse a request for a representative or a committee but also require them to provide reasons for their refusal (as insufficient employee numbers to make accommodating a request feasible).

## **3. DISCUSSION**

- 3.1 The introduction of this bill just before the House adjourned for the end of year recess, leaving a relatively short period in which to respond, is of some concern as there would appear to be little reason to make the changes proposed.
- 3.2 Currently, smaller employers, those with fewer than twenty employees, need not have a health and safety representative (or representatives) or a health and safety committee unless they are in a high-risk industry or sector (ss62 and 66 of the current Act).
- 3.3 The above provisions do not excuse smaller PCBUs from health and safety responsibilities but rather recognise the likelihood that smaller employers will lack the resources needed to organise elections (for a representative) and have insufficient personnel to warrant establishing a committee.
- 3.4 Unlike larger organisations, where not all staff members will be known to each other, smaller organisations have the benefit of staff working in a much closer-knit environment where involuntary control can be exercised without the need for official supervision.
- 3.5 To make smaller PCBUs – as the bill does – susceptible to the fines already applicable to their larger counterparts is to criminalise them for a statutory offence unrelated to any potential harm.

- 3.6 As previously pointed out, smaller PCBUs will be well-acquainted with their workforce (and workforce members with each other) with the likelihood that the informal supervision exercised will be more effective than the efforts of representatives or committees can hope to be. Larger PCBUs lack this advantage. The existence of official appointees also sends a signal that health and safety is their responsibility, not other workers'.
- 3.7 That, of course, is not the case. Workers, while at work, are required to take reasonable care of their own health and safety just PCBUs must exercise care, diligence and skill to ensure workers are kept safe. These obligations are not avoided because not accompanied by the larger PCBU requirement to respond to health and safety representative requests or appoint a health and safety committee. For larger workforces such requirements make sense, in a way they do not where the workforce is small.
- 3.8 To impose additional, and unwarranted, obligations on smaller PCBUs, the more so at a time when many, already facing difficult economic conditions, are finding the existing regulatory system difficult to work with, can only prove self-defeating. It is a case of a solution looking for a problem that does not exist.
- 3.9 In BusinessNZ's view the proposed amendment is not needed and should not be introduced for the reasons explained.
- 3.10 However, if the amendment bill is to proceed, it is suggested it should, as now, allow employers to refuse a request for a representative or a committee but also require the provision of adequate reasons for their refusal.

#### **4. RECOMMENDATIONS**

- 4.1 That the proposed amendment bill not proceed.
- 4.2 That if the proposed amendment bill should proceed, it includes a right for employers, as now, to refuse a request for a representative or a committee but also require them to provide reasons for their refusal (such as insufficient employee numbers to make accommodating a request feasible).

- [Major Companies Group](#) of New Zealand's largest businesses
- [Gold Group](#) of medium-sized businesses

[Affiliated Industries Group](#) of national industry associations

- [ExportNZ](#) representing New Zealand exporting enterprises
- [ManufacturingNZ](#) representing New Zealand manufacturing enterprises
- [Sustainable Business Council](#) of enterprises leading sustainable business practice
- [BusinessNZ Energy Council](#) of enterprises leading sustainable energy production and use
- [Buy NZ Made](#) representing producers, retailers and consumers of New Zealand-made goods

The BusinessNZ Network is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.

The BusinessNZ Network contributes to Government, tripartite working parties and international bodies including the International Labour Organisation ([ILO](#)), the International Organisation of Employers ([IOE](#)) and Business at OECD ([BIAC](#)).

