

The Clerk
Transport and Industrial Relations Committee
Parliament Buildings
Wellington 6140

11th April 2014

Rural Women New Zealand Submission to the Health and Safety Reform Bill

Introduction

1. Rural Women New Zealand is a charitable member based organisation that reaches into all rural communities and advocates on issues that impact on those communities. It welcomes the opportunity to comment on the Health and Safety Reform Bill.
2. Rural Women New Zealand has a close working relationship with Worksafe New Zealand and is a member of the Agriculture Health and Safety Council. It works closely with New Zealand Federated Farmers.

Submission

3. This submission supports New Zealand Federated Farmers and Volunteer New Zealand submissions on the Health and Safety Reform Bill to the Transport and Industrial Committee.
4. Rural Women New Zealand notes that the Bill has been developed with a strong reference to the New South Wales Work Health and Safety Act 2011.
5. It recommends that a Rural Impact Assessment is applied to any inquiry, legislation, regulations, statements and policy. This will require close analysis of the issues that specifically impact on rural work environments, in particular agriculture. An RIA will mean ensuring that the needs and interests of people in the agricultural workforce and other related industries are properly considered in the development and implementation of any changes that are brought about by this Bill.

Volunteer Health and Safety

6. Volunteers contribute a considerable economic and social benefit to this country. Over one million (1,011,600) volunteers gave more than 270 million hours of unpaid labour to non-profit institutions in 2004. (NZCTU Economic Bulletin 83). The value was estimated at almost \$3.31 billion. (*Volunteering NZ*). Step forward to 2011 and the Christchurch Earthquake. The value of the volunteer contribution was inestimable. This value is frequently reflected in rural communities where Rural Support Trusts support people through adverse events.

7. In 2002 the Government Policy on Volunteering noted that “volunteering is an essential element of civil society”. The economic and social benefit that volunteers contribute to New Zealand should be encouraged and supported and not have barriers that may deter this valuable unpaid workforce.

8. While the Bill excludes liability for volunteers who breach their health and safety duties as an officer or PCBU, a volunteer is described as anyone acting on a voluntary basis who receives only out-of-pocket expenses.

9. Rural Women New Zealand’s charitable works are dependent on considerable number of volunteer hours by its members. It also depends on a considerable volunteer contribution from elected officers.

10. While an unincorporated society is exempt (which we agree), an incorporated society is not. There are several advantages of becoming an incorporated society (*Companies Office, what are the advantages of becoming an incorporated society, <http://www.societies.govt.nz/>*.) This Bill may discourage groups from being becoming incorporated thus operating in a legal framework. While they would not be expected to shirk their health and safety responsibilities the penalties are prohibitive and will present barriers for some unincorporated groups wishing to incorporate.

11. Many women begin their governance journey as volunteers on community and charitable groups such as Rural Women New Zealand. There is already a dearth of women on boards in rural based companies between 11-13%. (*Women in the boardroom: A global perspective: Deloittes*) and steps should be taken to encourage their progression. However knowing that a volunteer officer could have a term of imprisonment not exceeding 5 years or a fine not exceeding \$600,000 if they commit an offense is a strong deterrent.

12. Volunteers have the same rights to appropriate protection under the law. Our view on this does not change. However if this Bill upheld to the letter of the law it will discourage people, in particular women who make up a greater percentage of the volunteer workforce, from wanting to take leadership roles as a volunteer.

13. Rural Women New Zealand believes that anyone who volunteers should be encouraged and supported to take responsibility for their own safety and the safety of those with whom they are working. Strong internal policies by organisations should oversee that.

Unique Environments – when a home is the workplace.

13. "Worker" means a person who carries out work in any capacity for a PCBU, including work as an employee, contractor or subcontractor, an employee of a contractor or subcontractor, an employee of a labour hire company who has been assigned to work in the business or undertaking, an outworker (including a homeworker), an apprentice or a trainee, a person gaining work experience or undertaking a work trial, or a volunteer.

(Russell McVeigh Health and Safety Update 12 MARCH 2014)

14. The Bill addresses some of the issues raised by simplifying and broadening the concept. Under the Bill, PCBU’s have an all encompassing obligation to ensure that workers are safe at ‘any

place where the worker goes, or is likely to be, while at work’.

(Lane Neve Workplace Law Team http://www.canterbury.ac.nz/hr/docs/WPL_HealthandSafety1.pdf)

15. Every day around 20,000 people will go to a private home to provide support for elderly and injured people. (*Homecare Association*). This is different to “homeworker” – a person working from home. Presently the approach taken is:

- i. A health and safety check of the client’s home is undertaken by the Community Nurse at the initial visit and a plan prepared. This is undertaken in conjunction with the client’s individual support plan and consent.
- ii. Hazards are identified and eliminated, or where not possible minimised.
- iii. A copy of the plan remains in the client’s home for reference by any relieving support worker. A second copy is placed on the database and highlights any issues to the care coordinators to enable them to stress any issues to relieving support workers.
- iv. Plans are reviewed by Community Nurses at review visits (6 monthly, yearly).
- v. As homes are dynamic and the support workers work largely unsupervised on a daily basis, support workers advise care coordinators of any substantive change to hazards to allow plans to be revised and new hazards addressed.

16. However there are limitations that may have some reflection on applying the new health and safety reforms to the letter of the law.

- i. The home based working environment imposes limits on the employer’s ability to control the place of work.
- ii. The home-based working environment imposes limits on the employer’s ability to control the place of work. The home in which the care is provided can be in a state of disrepair, conditions may be unhygienic, or lack of maintenance may create hazards — for example, faulty appliances or equipment, surfaces or electrical wiring in poor condition.
- iii. The clients have a greater degree of autonomy in their own home which caregivers and employers must respect.
- iv. When evaluating the practicable steps for the control of identified hazards, caregivers and their employers need to take into account the client’s beliefs and right to make personal choices about how they manage their home setting.

17. Ultimately the support worker has a right to a safe place of work and if hazards are too great the employer may have to withdraw services until a safe environment can be established for the worker. This will create conflict over who has the greater rights in law - in other words where will the precedence lie? The Health and Safety Reforms, the Employment Contracts Act, or the Health and Disability Consumers Rights?

We would be pleased to speak to the submission.

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