



NEW ZEALAND COUNCIL OF TRADE UNIONS
Te Kauae Kaimahi

NZCTU SUBMISSION

on the

Law Reform (Epidemic Preparedness) Bill

to the

Government Administration

Select Committee

June 2006

1.0 Introduction

- 1.1 The New Zealand Council of Trade Unions – Te Kauae Kaimahi (CTU) is the internationally recognised central trade union centre in New Zealand representing 37 affiliated unions with a membership of approximately 350,000.
- 1.2 The CTU recognises that the World Health Organisation identifies the risk of an outbreak of Avian Influenza in the human population to be high. The CTU supports the need for epidemic preparedness and accepts that the necessary time for such planning is before the outbreak of an epidemic rather than when an epidemic is notified, or during such an event.
- 1.3 The CTU as the largest democratic and representative organisation in New Zealand has a major interest in all the issues affecting the economic and social well being and life of New Zealand workers and their families. The concern of the CTU is to ensure that, in planning for a potential epidemic, workers' economic and social interests are considered.
- 1.4 Given that this Bill contains very significant powers, and an epidemic is not immediately imminent, we believe it is important that adequate time and consideration is given to the far reaching provisions contained in this Bill and that the provisions contained in the Bill are considered from all perspectives, including human rights perspectives.
- 1.5 The CTU notes the extraordinarily short time frame given for submissions to this Bill. The CTU response to this Bill is therefore limited to issues of employment, income and health and safety.

2.0 Powers of this Bill

2.1 The difficulty and challenge of developing legislation for an unknown event that could be life threatening to thousands of New Zealanders, as well as have serious social and economic consequences for the country is recognised. But there must also be consideration of both important rights and moral questions if measures are introduced to protect public health and safety through the imposition of significant restrictions on individual and civil liberties.

2.2 The fact that new Bill makes significant changes to existing public health legislation raises questions about the relevance of The Health Act 1956. A preferable place to have the debate and discussion on how health and safety is protected while balancing civil liberties would be in the development of new public health legislation.

3.0 Threshold for Declaring an Epidemic

3.1 The CTU recognises that the proposed legislation establishes a high threshold for the declaration of an epidemic and this is supported. The concern of the CTU is the power in the Bill to relax some statutory requirements.

4.0 Existing Employment Legislation

4.1 The Employment Relations Act 2000 and the Health and Safety in Employment Act 1992, and its amendments, provide important protection for workers.

4.2 The CTU has concerns if that an epidemic notice would allow some relaxation in employment legislation. The ability to relax statutory

provisions should require specific and unusual circumstances. Examples should be identified in the proposed legislation.

4.3 The CTU appreciates the concerns of the New Zealand Nurses Organisation who want clarification that the relaxation of statutory powers during an epidemic would not override any of the existing health and safety protections in the Health and Safety in Employment Act, and its amendments.

4.4 The provisions in the Health and Safety in Employment Act, and its amendments, which are of concern are the right to refuse unsafe work as well as the right to adequate personal protective equipment.

5.0 Proposed Holidays' Act Amendment

5.1 Workers' financial concerns and risks must also be given due consideration in epidemic planning. The CTU does not support the amendment proposed in this Bill to the Holidays Act 2003. This provision, Clause 26, enables an employer to require employees to take annual leave if there is an epidemic notice in effect. The CTU is concerned that this provision could be abused and used in circumstances for which it was not intended.

5.2 The CTU recommends tighter wording around this clause to ensure that this provision is only invoked when a business has to close because of the health and safety impacts of an epidemic on the work force or on the immediate community.

5.3 While we recognise that this provision has been developed for use in a worst-case-scenario and may be intended to provide workers with income security, such a provision would result in workers being required to use their annual leave for purposes for which it was not intended. The CTU submits that any use of annual leave for this purpose should be with the agreement of the employee, rather than by

unilateral decree of the employer. A range of options needs to be available to workers and employers if this situation were to arise.

5.4 Clause 26 as written would also create practical difficulties. Workers will have differing lengths of leave accumulated. Some workers will have long service leave: others will have none or very little leave. This will raise employment issues and equity problems in the workplace.

5.5 The CTU supports the proposed provision that if a workplace were to close during an epidemic that the stand-down period for a benefit is waived.

6.0 Concluding Remarks

6.1 The Bill should not override without serious reason and specified processes any of the minimum requirements in employment legislation, including health and safety legislation.

6.2 The CTU stresses the need for employers to have dialogue with the organisations representing workers and also involve health and safety representatives in epidemic planning.