



New Zealand Chambers of Commerce (Inc)
Submission to the Transport and Industrial Relations Select Committee
Extending the 90 Day Trial Period
The Employment Relations Amendment Bill
September 2010

Introduction

The New Zealand Chambers of Commerce (Inc), NZCCI, is an umbrella organisation serving the interests of 29 Chambers of Commerce nationwide. These, in turn, represent over 24,000 businesses around the country. While many of our members are in the SME category our membership includes most of the largest corporations in New Zealand.

Thank you for this opportunity to make submissions on the Employment Relations Bill. We are focussing on the extension of the 90-day trial period in this brief submission.

Summary

New Zealand Chambers of Commerce believes the 90-day trial has been a great success for small businesses. We support its extension to larger businesses but recommends that improvements be made to minimise the fall out for those cases where the trial does not work out for businesses and their employees.

Submission

The 90-day trial scheme was introduced last year for firms with 20 employees or less.

In our view this has been a great success in that it has encouraged employers to take the risk of employing staff which they might not have done without the opportunity of a trial period. There is much anecdotal evidence to show it has improved job creation since the scheme was introduced and benefited small businesses wanting to take on new staff. We note the Department of Labour evaluation showed that 40 percent of employers who had hired someone on a trial period said it was unlikely they would have taken on new employees without it.

We believe the benefits that have accrued to small businesses and their new employees would be extended to larger businesses and the wider economy

generally if the 90 day trial were extended to all businesses as is proposed. However, we believe there are some important differences between large and small businesses in terms of HR capacity which mean there is potential to improve the scheme when applied to larger businesses. These are discussed in the next section.

We note that trial periods such as what is being proposed are the norm in developed countries and that these are usually for a period of six months to a year. It is appropriate for New Zealand to join the rest of the developed world in this regard. It is interesting to note the success of Australia's experience with a trial period and that even the unions in that country support a 90 day period.

Notwithstanding the longer periods in other countries, we support the trial period being a maximum of 90 days. We think that 90 days is sufficient for employers to judge whether an employee is capable or suited to a job.

Making the Scheme Fail-safe

The aforementioned DoL survey found that 74 percent - of people employed on a trial period had their employment maintained. This is viewed as positive ("by far the majority") but we are surprised it is as low as 74% and thought it would have been higher. Might it be possible that the low sample size of the survey (i.e. 132 employers had used the 90 day trial period to hire with 29 cases of employment being terminated) means the results are not indicative of the experience of the country as a whole?

Irrespective of this, it would be disappointing if this 26% failure rate translated across to larger businesses as well. We think that larger employers are likely to more often than not be in a better position to sustain the employment and we suspect (without any evidence) that the failure rate is likely be lower if extended to larger employers. Nevertheless, we think that steps could be taken to reduce the failure rate without blunting the incentives to employ on the trial basis. A possible weakness in the scheme is the absence of any outreach provisions for managing employees dismissed during the trial period. Larger businesses are in a better position to assist employees found unsuitable keep their re-employment options open by providing a formal de-brief for example.

We recommend the Select Committee give consideration to building such a requirement into the scheme. We emphasise that whatever mechanism is adopted must not compromise the incentive that the trial period provides employers to take on a new employee. We would be happy to work with the Committee in coming up with some ideas as to how this can be done.

Such a proposal would give pause to the small number of employers who might think to take unfair advantage of scheme. It would also go some way towards making the legislation more acceptable to unions currently opposed to the legislation.