

15 February 2008

Clerk of the Committee
Transport and Industrial Relations Committee
Parliament Buildings
WELLINGTON

Submission on the Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 2)

Introduction

This submission is made by the New Zealand Business Roundtable, an organisation comprising mainly chief executives of major New Zealand business firms. The purpose of the organisation is to contribute to the development of sound public policies that reflect overall New Zealand interests.

Analysis

The Bill aims to increase ACC payments to some categories of persons. It contains a regulatory impact statement (RIS) certified by the Department of Labour that purports to make the case for these proposals.

The attached analysis of the RIS by our consultant, Dr Bryce Wilkinson of Capital Economics Limited, finds that it is totally flawed. All the calculations in the RIS relate to transfers not to national economic benefits. It is an extraordinary indictment on the Department of Labour that its policy analysts appear not to know the difference between national economic benefits, which are relevant to the cost-benefit assessment component of an RIS, and transfers, which are not. It is beyond belief that the Ministry of Economic Development, which is supposed to have an audit role for RISs, could have accepted the Department's analysis.

As a result, the RIS does not focus on the national interest and does not even make a case that there would be any (gross) national interest benefits from the proposal (leaving aside any costs). Given that there would obviously be costs of various kinds, the prima facie conclusion is that net benefits would be negative.

We are aware that other business organisations, in particular Business New Zealand, and experts in insurance matters have serious concerns of a more detailed nature with the bill. We support the thrust of their conclusions. We also join with them in submitting that inadequate time has been provided for consultation on these proposals.

Recommendation

Since the analysis on which the bill is based is patently wrong, we submit that the Committee should reject it unless and until it is presented with a proper national interest analysis on which submitters are given another opportunity to comment.

We would appreciate the opportunity to appear before the Committee on our submission.

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Analysis of the Regulatory Impact Statement in the Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 2)

The Regulatory Impact Statement (RIS) in the Bill contains four cost-benefit assessments: (1) gradual process injuries, disease or infection; (2) mental injury from witnessing "a traumatic event"; (3) changes to weekly compensation; and (4) vocational rehabilitation.

Problem definition

None of these assessments establishes a national interest problem with existing arrangements. In every case the discussion of the problem is concerned to provide greater benefits to one group of claimants without reference to the cost to the rest of the community.

No case is made that potential claimants lack financial resources to a greater extent than others who will continue to be ineligible for ACC. No case is made that the needs of these claimants are greater than those of others in the community (such as those dying while waiting to get access to public hospitals for life-saving treatments). Nor is any case made that if they are in greater need, it would be better to assist them in this form rather than in some other form. (For example, they might prefer cash in the hand to more vocational training.)

Statement of objective

None of the objectives expresses a national interest objective. The objective for (1) is to provide greater certainty of coverage (regardless of national interest considerations) and the objectives for (2) and (3) are to extend coverage (again regardless of national interest considerations). The objective for (4) has an element of national interest in that it seeks to restore more people to employment "as far as practicable" and "in order to provide better outcomes". However, the "as far as practicable" specification is inconsistent with the need to ensure that community benefits exceed the costs.

In short, all the objective statements are designed to confer benefits on a specific target group at the expense of others in the community, while ignoring the need to provide an overall net benefit.

Assessment of alternatives

While most of the assessments consider a range of options, they are all limited to greater payouts by the ACC. No option considers the possibility that if a return to earlier employment were desirable or if less moral hazard were desirable, a system of private competing insurers could be far more effective.

Criteria for determining the preferred option

The criteria for choosing the preferred option are, to the extent that they are discernible, arbitrary. Perhaps the only detectable national interest element is the

disincentive to work which is used as a point against one option in just one of the assessments.

Quantifying the costs and benefits

Preliminary national interest question: What is the national benefit from transferring one dollar from group A to group B without the consent of group A? The correct answer is: "In itself, there is no net community benefit or cost if the transfer is costless. However, the transfer is not costless. As a result, there is a negative net community benefit as it imposes direct administrative and enforcement costs and indirect costs as individuals alter their affairs in order to shift themselves from group A to group B, commonly in all sorts of unintended and undesired ways."

Application: All the assessments in the RIS ignore this national interest framework. None considers any national economic costs arising from unintended consequences. There is no evidence of awareness that the national economic cost of transferring one dollar between citizens is not measured by that dollar or that the benefit to the community is not measured by the advantage gained by the recipient.

No case is made that there is *any* gross benefit to the community, let alone a net benefit (one that exceeds the direct and indirect costs).

Instead, the only cost acknowledged is the financial cost to the Accident Compensation Corporation, which is quantified in each case. Yet only the component of this cost that reflects increased transaction costs is a cost to the community overall. The rest is a transfer.

Adequacy statement

The RIS states that the Department of Labour considers the RIS in the Bill to be adequate.

Conclusions

1. The analysis is totally flawed. Cost-benefit analysis requires consideration of national economic costs and benefits. Transfers play no part in it. The bill should be supported by a demonstration that the benefits of its measures exceed the costs.
2. Since no case is made that any of these measures will provide a gross benefit to the community, the *prima facie* conclusion is that they will each impose overall costs for no discernible overall benefits.

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