



Submission by
The Employers and Manufacturers Association
(EMA)

to the
Education and Workforce Select Committee

on the
**Health and Safety at Work (Health and Safety
Representatives and Committees) Amendment Bill**

February 2023



About the EMA

The EMA has a membership of more than 7,500 businesses, from Taupo north to Kaitaia, employing around 350,000 New Zealanders.

The EMA provides its members with employment relations advice and legal services from industry specialists, consulting services in HR, ER and Health and Safety, Collective Bargaining negotiation, a People Experience Practice and Advocacy at both Central and Local Government levels for its members to help their businesses and people businesses to grow.

The EMA also advocates on behalf of its members to bring changes in areas that can make a real difference to the day-to-day operations of our members including RMA reform, infrastructure development, employment law, skills and education, health and safety and export growth.

The EMA is also part of the BusinessNZ network.

CONTACT

For further information regarding this submission contact:

Paul Jarvie

Employment Relations and Safety Manager

Employers and Manufacturers Association

Private Bag 92-066

Auckland 1142

New Zealand

paul.jarvie@ema.co.nz

027 494 628

09 367 0962

Please note the EMA wishes to appear before the Select Committee.

INTRODUCTION

The EMA welcomes the opportunity to make a submission on the Health and Safety at Work (Health and Safety Representatives and Committees) Amendment Bill.

RECOMMENDATION

That the proposed amendment bill does **not proceed**.

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 requires them to provide reasons for their refusal (as insufficient employee numbers to make accommodating a request feasible).

DISCUSSION

The scope of new business inclusion of the proposed Bill is large. Figures provided by MBIE “SMALL BUSINESSES IN 2021” would indicate another 105,000 businesses will be covered under the proposed Bill. These are broken into 1-5 employees 102,000 and 6-19 employees 43,000. See *Appendix One*.

There has been no evidence to support this Bill and thus justify the cost and disruption to businesses caused by the provisions accorded to H&S representatives. (e.g., two days training per year).

Based on MBIE numbers of 105,000 businesses, and at two days per representative, equates to 210,000 training days. Training fees are paid for by the business, plus the employees daily working rate including travel and other expenses. This does not account for the 210,000 days of lost productivity caused by representatives attending training days. It is well known that with staff churn, and representatives moving on or resigning, that this will require ongoing and repeated training costs. This cost is never really recovered and is just another extra cost imposed on business for no justifiable reason.

Smaller businesses do not have departments or divisions, rather it's a team-based system, and in smaller enterprise's, the team act and operate like a family. This system allows for fast, face-to-face communication to occur, thus not requiring formal and regimented systems: issues can be raised quickly and to the correct person. These businesses are better able to organise a committee-type system rather than having a designated representative.

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.

All workers, while at work, are required to take reasonable care of their own health and safety, just as PCBUs must exercise care, diligence, and skill to ensure workers are kept safe. Having designated H&S representatives does not diminish this obligation and thus furthers the argument, where is the need for the provisions of the Bill.

The Bill *could* have more weight if it was sector oriented based on evidenced based risk rather than a ‘one size fits all’ approach. There are huge differences in risk between a transport or construction sector business and a local greengrocer or shoe shop. Simply, a ‘one size fits all’ model never has, and never will be, appropriate.

To impose additional, and unwarranted, obligations on smaller PCBUs 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.

Given there is no evidence to justify the Bill and the huge financial costs to business, it is EMA's view that the proposed amendment is not needed and should not be introduced for the reasons explained.

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.

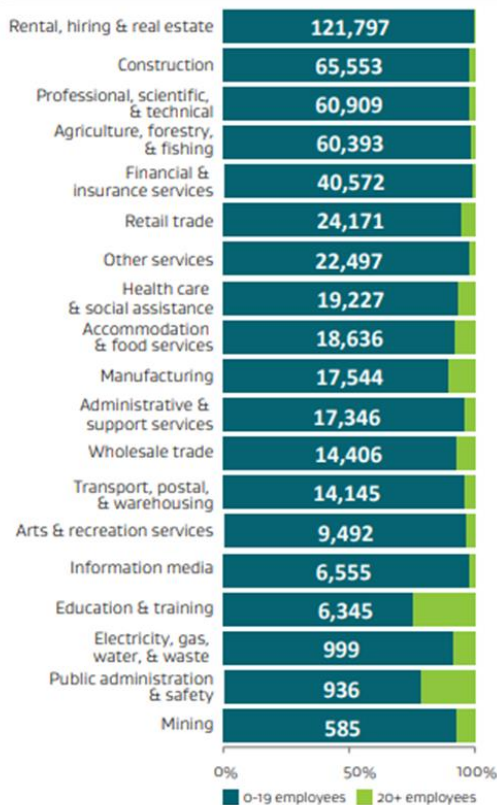
RECOMMENDATION

That the proposed amendment Bill does not proceed.

APPENDIX ONE

1. Small Business by Industry

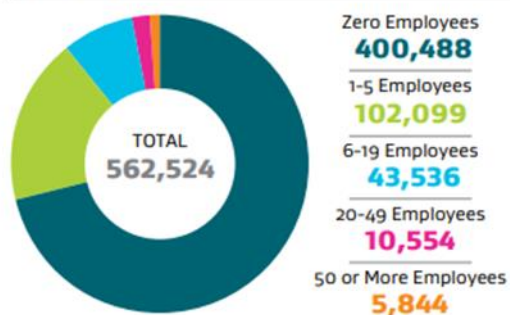
Chart 4: Number and Percentage of Small Businesses by Industry



Source: Business Demography Statistics, February 2021

2. Small Business Demographics

Chart 1: Number of Businesses by Employee Size Group



Source: Business Demography Statistics, February 2021

1-5 employees	102K
6-19 employees	43K
Total	105,000