

House of Representatives

Supplementary Order Paper

Wednesday, 22 October 2014

Employment Relations Amendment Bill

Proposed amendments

Andrew Little, in Committee, to move the following amendments:

Clause 44

In *clause 44, section 69ZD(1)(b)* (page 41, line 32), replace “period.” with “period and;”

In *clause 44, after section 69ZD(1)(b)* (page 41, after line 32), insert:

- “(c) are no less than—
 - “(i) if an employee’s work period is 2 hours or more but not more than 4 hours, one 10-minute paid rest break; or
 - “(ii) if an employee’s work period is more than 4 hours but not more than 6 hours, one 10-minute paid rest break and one 30-minute meal break; or
 - “(iii) if an employee’s work period is more than 6 hours but not more than 8 hours, two 10-minute paid rest breaks and one 30-minute meal break; or
 - “(iv) if an employee’s work period is more than 8 hours, the same breaks as specified in **subsection (iii)** and the breaks as specified in **subsections (i) and (ii)** as if the employee’s work period had started at the end of the eighth hour.”

In *clause 44, section 69ZD(2)*, replace “The” with “In exceptional circumstances the” (page 41, line 33).

In *clause 44, after section 69ZD(2)* (page 42, after line 12), insert:

- “(2A) Notwithstanding anything in **subsection (2)**, restriction on an employee’s rest and meal breaks cannot be used to defeat the intention of the Act that all employees are entitled to rest and meal breaks.”

In *clause 44, section 69ZEB(2)(a)*, replace “an equivalent amount of time off work (that is, the same” (page 43, lines 23 to 25) with “at least one and a half times that amount of time off work (that is, at least one and a half times the” .

In *clause 44, after section 69ZEB(2)* (page 43, after line 29), insert:

- “(3) To avoid doubt, if an employer provides an employee with a compensatory measure in the form of payment it must be paid at the rate of at least one and a half times the employee’s usual hourly rate for the amount of break time not provided in addition to compensation for any loss the employee suffers as a result of being unable to take a break.”
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Explanatory note

This Supplementary Order Paper amends the provisions of the Bill which remove workers’ entitlements to rest and meal breaks. The Bill as drafted removes employees’ entitlements to minimum levels of rest and meal breaks, provides a low level test for when an employer does not have to provide breaks, and provides inadequate compensation for when a break is taken away. This Supplementary Order Paper will restore specific entitlements to a minimum amount of breaks for all workers. In addition it requires that an employer can only restrict a worker’s right to breaks in exceptional circumstances rather than as a matter of course. Furthermore it requires that compensation be provided in the order of at least one and a half times the amount of time worked or payment of at least one and a half times the normal pay rate for the time worked when the worker would have otherwise taken a break.
