

Protecting the Rights of Workers

Labour's Policy for Employment Relations 2008

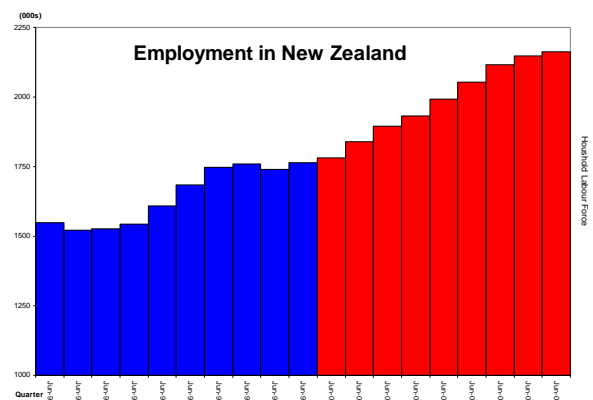
Introduction

Since its earliest days, Labour has had the protection of workers' rights as a founding value. Labour believes in the right of workers to a liveable wage, freedom from unreasonable and unfair treatment in the workplace and the right of all workers to bargain collectively. These core beliefs have continued to be reflected in the work Labour has done and continues to do on behalf of all workers.

Labour supports an employment relations framework that recognises the interdependence of workers and employers, promotes and sustains economic growth and assists in achieving a fair distribution of resources.

Labour believes that employment relations legislation should recognise that the balance of power and influence between workers and employers is not equal. Labour recognises that the best way to address this imbalance is to promote collective bargaining as the preferred means of establishing the rights and obligations of workers.

Labour has worked with, and continues to work with, unions and employers as social partners. We will ensure that each partner has the ability to participate effectively and equitably in industry and skills development and other social and economic public policy areas.



Security in Times of Change

New Zealand has enjoyed a decade of good news in the economy and in employment. We have seen an unemployment rate of below 4 per cent over the past four years, an achievement right-wing politicians of the 1990s told New Zealanders simply couldn't be done.

New Zealand has the only record in the developed world of an unemployment rate that has remained below 4% for four years, well below the average of 5.7% unemployment for developed countries including the United States, Australia, the United Kingdom, France and Germany.

A lot of progress has been made this decade getting people into work and improving the position of disadvantaged groups. Assistance to jobseekers through Work and Income is now better connected to the needs of employers to identify their workforce needs. Creating partnerships with industry has been an effective way for industry and government to work together to minimise skill and labour shortages, and maximise job opportunities for individuals.

With the New Zealand economy now facing challenges from the global financial turbulence and economic slowdown, Labour can be trusted to give impetus to our economy, ensure that New Zealand jobs are kept safe wherever possible, and protect workers' interests where change is unavoidable.

Ten years ago... Unemployment was high and the Employment Contracts Act gave very little support in times of rapid economic and social change.

Today... The Employment Relations Act has begun to address the balance of power between employers and workers and the unemployment rate has remained below 4% for 4 years (June 2008).

Ten years from now... Employers and workers will enjoy security, consistency and stability in their relationships with clearly understood entitlements and responsibilities.

Labour recognises that firms opening, restructuring, and closing is a necessary feature of today's fast-moving and adaptive economy. We have established mechanisms for government, unions, employers and agencies to work together to help smooth transitions throughout these cycles of change.

Even when there are record low levels of unemployment and equally high levels of employment, New Zealand workers must be secure in the knowledge that if there is change, they and their families can maintain at least minimum entitlements to assist them in their transition to a new job.

Labour will put in further changes to provide greater security for workers in the face of restructuring or redundancy.

We believe there must be provision in law to ensure that when redundancies occur, workers are properly supported. Redundancy law in New Zealand currently offers no statutory entitlements to workers for a notice period or for compensation in the event of a redundancy. This means that workers who are made redundant and do not have these protections negotiated into their employment agreements are vulnerable.

Labour in government set up a public advisory group on restructuring and redundancy to advise on the adequacy of New Zealand's redundancy laws and provisions. It included representatives from Business New Zealand and the Council of Trade Unions.

This group has recommended that the government should consider the introduction of a statutory requirement for redundancy compensation and other entitlements. Labour intends to act on this recommendation.

Labour will enhance employment law to provide for statutory minimum standards for redundancy.

These standards will cover minimum levels of redundancy compensation (e.g. payment for a certain number of weeks following dismissal) and the minimum amount of notice employees can expect. We will work with business and unions to establish how much notice is appropriate, how compensation will be calculated and how the issue of tax should be addressed.

We will continue to focus on improving the working lives of the most vulnerable members of the labour force and to strengthen protections available to workers.

Labour will encourage notification to government agencies of potential or upcoming redundancy situations.

We will refine the co-ordinated rapid response by government agencies to collective redundancies and raise awareness about the support available. This will include working closely with employers to prepare and offer support to their workers at the earliest opportunity.

Labour will implement more active labour market policies and programmes which provide security and support for workers in a changing economy.

We will look at whether there is a gap in terms of the level and intensity of support available in relation to particularly large-scale redundancies. We will ensure that agencies work closely with Industry Training Organisations to provide retraining support for people who have been made redundant.

In the near term, the prospect of fall out from the international crisis also requires us to have new plans for workers whose jobs might be affected.

Labour will introduce a new retraining allowance, on the same basis as a student allowance, but with no spousal income test, for workers who have been in the workforce for at least five years and have been made redundant.

In the modern world, skills are increasingly important, both for individuals and for the economy as a whole. Careers are also becoming more complex with people more likely to change jobs and even occupations over the course of their working life. That will often require a period of retraining.

In other words, learning is now lifelong. It is not something that stops when we leave school or finish an apprenticeship. Labour recognises this and is putting in place measures to support workers to gain new skills throughout their working lives.

Labour will also introduce a retraining allowance available to those who have been in the workforce for ten years and wish to upgrade their skills or retrain in a new area.

This will provide an alternative to the Student Allowance for people who have used their 200 weeks Student Allowance entitlement. These allowances will be available for up to a year for enrolment in a recognised full time course. The course will generally need to be of at least twelve full-time weeks duration. The Unemployment Benefit (in training) is already available for courses of up to twelve weeks.

We believe these positive changes will bring about greater security for workers as they move to new jobs while at the same time give employers certainty about their obligations.

In addition, in circumstances when an employer, who is a partner to a collective agreement with workers, intends to restructure their business or outsource part or all of the functions of that business, we believe workers should have rights to be involved in the process.

Labour will ensure that the Employment Relations Act does not prevent workers from being able to take strike action, if necessary, when employers initiate restructuring/outourcing which undermines a collective agreement, during the term of that agreement.

Labour believes that there is also a need to ensure that all firms are able to access the wide range of support available for their businesses at an early stage, before they face the risk of failure. This might include skills development, changing business practices, business development and productivity improvement.

Labour will work with firms to help them access the services they need to improve their productivity.

We will place a particular focus on firms in rural areas or small towns who may find it difficult to access existing programmes and support.

Labour will ensure that government agencies work constructively and collaboratively to help meet specific productivity and performance challenges facing individual firms. This will include building and disseminating knowledge, expertise and capability on how best to use and manage the resources available to achieve good business and good work outcomes.

Productivity improves when employees and employers work together to achieve a shared vision – it is not about working longer, it is about working smarter. Labour's labour market policies will continue the focus on choice and flexibility. Increasingly, the work/life balance is a key consideration in any well-functioning workplace. Things like flexible working arrangements and good parental provisions can help achieve that balance for working families.

Collective Negotiations

This decade has seen sweeping changes to the way employment relations are regulated, with the repeal of the oppressive Employment Contracts Act, enacted the decade before.

The Employment Contracts Act failed to accept there was a fundamental imbalance in the employment relationship, with power being held largely by the employer. As a result, it lacked protections for working people.

The Employment Relations Act 2000 was enacted to re-balance the employment relationship, to protect the rights of working New Zealanders in law and to allow for collective bargaining for the benefit of workers.

Collective bargaining is about ensuring consistency and transparency in the employment relationship and about maintaining a balance between the needs of the employer and the needs of workers. Collective bargaining enables workers to negotiate their terms and conditions as a group so they are treated fairly and in good faith.

The Employment Relations Act provides a fairer employment environment that supports collective bargaining. It has brought about improvements to the conditions of working New Zealanders during this decade by restoring the rights of workers to use their collective strength in their bargaining position.

The number of work stoppages in New Zealand has reduced by around 23 per cent, with a reduction of around 40 per cent in dollars lost because of strike action. The introduction of the Employment Relations Act has seen greater satisfaction in the workplace and it shows.

Under the old Employment Contracts Act, union membership more than halved because the law at the time was focused on individuals having to bargain directly with their employer.

We believe there is more to be done to strengthen the position of workers when they negotiate pay and conditions and we will continue to make enhancements to employment law to achieve this.

Multi Employer Collective Agreements, or MECAs as they have become known, enable a group of employees working in a similar field but with different employers to join together to negotiate their conditions in their respective work places.

Labour believes that MECAs are valuable to both sides of the employment relationship. For employers, MECAs mean greater consistency in the quality of skills being demonstrated by workers, greater security in the negotiation process and common standards across the sector. We believe this will encourage sector-wide improvements in skills and services, and greater job satisfaction and therefore staff retention.

The benefit of shared conditions is that workers within sectors have greater certainty when they move to another position within that sector. Nurses, for example, now have greater certainty around their conditions of work no matter which District Health Board they work for.

Labour will amend the Employment Relations Act to provide greater statutory support for multi-employer collective bargaining.

The place of unions in New Zealand is a long-standing tradition, with many of our early settlers coming here to escape oppressive working conditions in their home countries. In more recent times, unions have taken on a wider role, now working as partners with government and business to enhance workplace health and safety, productivity and workplace practices.

But unions are, and always will be, strong advocates for the workers they represent. They are experienced in this role, have expertise in negotiation and a financial membership that gives them a mandate to act on behalf of workers.

Labour will ensure that only union members can obtain the benefits of union-negotiated agreements.

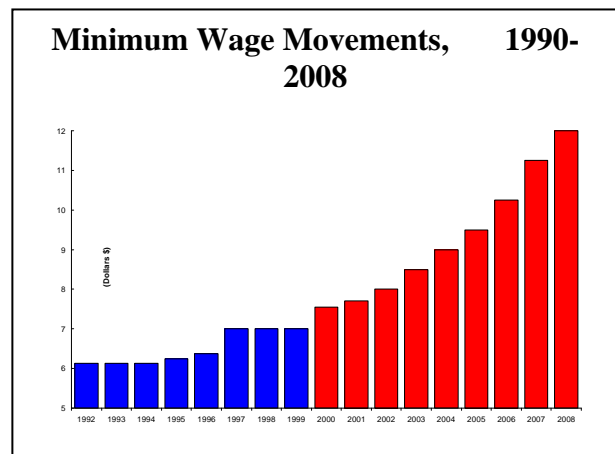
We want to continue to see effective representation for those who choose it and want to continue to see the involvement of unions in the development of strategies for growth and development in partnership with business and government.

The Minimum Wage

The minimum wage is part of every government's general responsibility to ensure socially-acceptable employment standards are prescribed and enforceable. It provides a floor for wages paid to employees. It is an offence to pay less than the minimum wage unless an individual exemption due to disability applies.

In this decade, New Zealand's lowest-paid workers have experienced increases to their income of 71% - more than four times the level in the preceding decade. Over 120,000 people had increases in their income in 2008. This has been possible because of strong management of the New Zealand economy and investment in areas that create jobs such as skills development, new infrastructure and strong social services.

The minimum wage has increased every year since 1999. Last year's increase lifted the adult rate from \$10.25 to \$11.25 per hour and the youth rate from \$8.20 to \$9.00 an hour. This was the largest increase in the adult minimum wage since the Lange Labour government boosted the rate in 1985. On 1 April 2008, the minimum wage was increased again from



\$11.25 per hour, to \$12 per hour.

Until this year there was a separate youth minimum wage for employees aged 16 and 17 years. This has been replaced by a new entrants minimum wage. This can be paid to 16 and 17 year olds for their first 200 hours or three months of employment, after which the adult minimum wage applies. The current new entrants minimum hourly rate is \$9.60, or 80 per cent of the adult minimum wage.

Ten years ago... The minimum wage was \$7.00 an hour and had been barely adjusted for a decade, increasing by only 87 cents since 1990.

Today... The minimum wage is \$12.00 an hour, increasing every year this decade, with the second-largest increase ever of \$1.00 last year.

Ten years from now... The minimum wage will have continued to keep pace with changes in average incomes so that low-paid workers don't fall behind.

We acknowledge there have been calls from a number of quarters to lift the minimum wage to \$15.00 an hour. Labour would like to meet this target if possible, but in the current economic circumstances we are not able to commit to doing so.

Labour will guarantee annual adjustments to the minimum wage during the next term of government, so that the minimum wage at least keeps pace with increases in the average wage or the consumer price index, whichever is the greater.

Raising the minimum wage, combined with other assistance such as Working for Families, has had a significant positive effect on the lives of working New Zealanders and their families. Especially during these times of turbulent economic conditions, it reduces the stress and tension some families face in trying to managing financial pressures.

But Labour believes increases in the minimum wage are only one part of a bigger picture. We want to improve the living standards of all working New Zealanders by seeing wages increase over the whole economy. In general, wages in New Zealand are low, both in comparison to Australia and other OECD countries and relative to the economic transformation we need to make if we are to move to a high-skill, high-wage, high-value economy.

Labour is committed to investing in infrastructure and skills, and supporting increased management capability in order to ensure that New Zealand has more productive workplaces. This is the route to higher wages that also benefits employers.

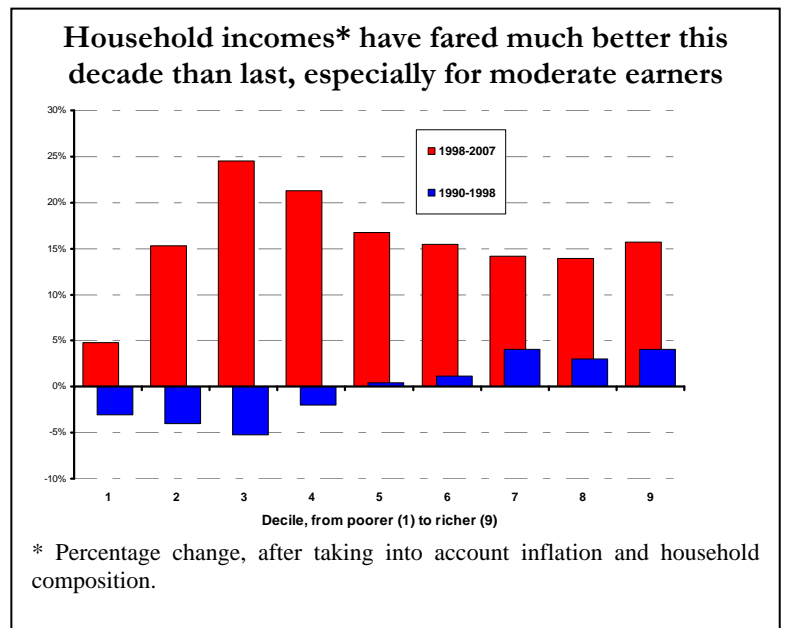
Low Paid Work

Changes this decade have assisted low paid workers to feel more recognised, supported and valued for the work that they do.

The Employment Relations Act, which replaced the Employment Contracts Act from the last decade, restored balance, fairness and transparency in the employment relationship. This has helped to give greater security and certainty to all types of workers in New Zealand.

Employers have been encouraged to support workers to become more highly skilled. Both workers and employers have been assisted to develop career paths that give greater reward to workers and more certainty, consistency and better skills in the workplace for the employer.

Consistent increases in the minimum wage every year this decade have also helped to drive pay rises for workers in low paid work. Particular improvements have been achieved for workers in New Zealand's health sector.



Ten years ago... Household incomes were in decline for low to modest income households.

Today... Modest income households have had greater income growth this decade than wealthier households, partly due to Labour's Working for Families policy.

Ten years from now.... A focus on skills and productivity, combined with increases to the minimum wage and to Working for Families, mean New Zealand will have continued to become a more equal society.

Nevertheless, there are workers in New Zealand, within specific sectors of the economy, with limited opportunity for advancement in pay and responsibility and with low levels of job security. These sectors tend to have a high level of staff turnover. Labour will make further changes to improve opportunities for New Zealanders in low paid in work.

Labour will review low-paid sectors of the economy and examine whether additional changes to legislation are necessary to improve access to collective bargaining and collective agreements, and achieve improved wages and conditions for workers in these sectors.

Alongside this, Labour will continue to engage in strategies that seek to have direct positive impacts on the workforce to drive up wage rates, and put in place programmes and initiatives to support and develop low-wage sectors of the economy.

We intend to increase worker satisfaction, reduce staff turnover, and increase opportunities for workers to develop skills that can be used to achieve higher-paid work opportunities.

For employers, there will be benefits from positive changes in workplace practice that will improve productivity. We expect this to result in increased profits for firms and increased wages, leading to an overall positive impact on New Zealand's economic growth.

Workers in Precarious Employment

Labour believes that all workers should be assured of fundamental rights and conditions no matter whether they are involved in casual employment or in situations where their employer hires their skills out on contract to another employer.

We believe that workers should have security in their employment and should have some assurance they cannot suddenly be removed from regular work arrangements, for whatever reason, without access to reasonable entitlements and protections.

Labour has ensured that workers have access to rights and entitlements including meal and rest breaks, infant feeding breaks, four weeks' annual leave, the right to bargain collectively, improved health and safety rules and more.

Ten years ago... The Employment Contracts Act had marginalised workers at the fringes.

Today... There are more jobs, more opportunities for training, entitlements for workers have been enhanced and collective bargaining means workers are better off.

Ten years from now... All workers will have knowledge of and access to their entitlements in the workplace, workers will have more job security and consistency, and both employers and employees will enjoy an enhanced employment relationship.

We are now intending further changes to protect the interests of workers in precarious employment. This includes workers who are hired in seasonal employment, who are not currently in fixed-term or full-time employment or who work irregular hours in order to support busy family lives.

Labour will ensure that workers employed in precarious forms of employment (such as labour hire, casual employment and contracting) are given similar rights to those in more traditional forms of employment.

Labour hire and contracting

This could involve amendments to employment law that would ensure workers employed by temporary work agencies and labour hire companies have the right to be covered by the collective agreement in force at that workplace.

Labour believes that workers should be treated on the basis of their skills and there are instances where these arrangements force workers to accept conditions less than those enjoyed by their co-workers. This is unfair.

Casual employment

We know that many casual workers do not have access to statutory entitlements such as holidays, sick or bereavement leave and the right to take a personal grievance claim if they are unjustifiably dismissed. This may be because they are unaware of their entitlements or because the law currently does not provide sufficient clarity around what rights a worker has when they are employed on a casual basis.

Casual employment has no statutory definition and all workers are legally either permanent or fixed term with appropriate entitlements. We will launch an awareness-raising campaign to improve casual and temporary workers' knowledge of their rights and entitlements.

We will also consider the implementation of a Code of Employment Practice that spells out what entitlements workers can expect when it is agreed that their role is as a casual worker.

We will amend legislation to provide for enhanced powers for labour inspectors to provide guidance and advice to employers when determining whether a worker is a casual, fixed term or full time worker.

In tandem with changes to the powers of labour inspectors, we will amend employment law to provide greater clarity around the definition of permanent work. This will include consideration of how regular an employees' work has become, consideration of how dependent the employer is upon casual workers and whether the worker is genuinely in a position to accept or reject offers of employment.

We believe these measures will improve the level of certainty for casual workers. It will also encourage investment in skills training that has a positive impact on the productivity of a workplace and brings about positive change for the firm in which the employee works.

It is also important for security of employment that workers can be protected from 'disguised' dismissals or sudden changes in their working conditions. We know that developing higher levels of security in employment is not only positive for workers, but also for employers and the economy.