

# EMPLOYMENT RELATIONS

Building a stronger economy



## Building flexibility and creating jobs

A flexible and fair labour market is critical for building a stronger and more competitive economy and creating jobs. It helps increase wages and encourage innovation.

National will continue to improve employment law. We want to give businesses the confidence to take on new staff, help resolve workplace disputes more quickly, and provide more choices for workers. We also want to protect the rights of employees while encouraging businesses, and to grow the New Zealand economy.

### Bringing balance to labour market rules

Over the past three years, National has brought a better balance to labour market rules.

We have introduced the voluntary 90-day trial period for new employees, and improved the Holidays Act. We've streamlined the personal grievance system. We've repeatedly raised the minimum wage to protect our most vulnerable workers. And we've kept the Hobbit movies in New Zealand.

National will continue to improve the flexible rules that govern our labour market to help build a stronger economy and create more jobs.

## Key points

- Established a voluntary 90-day trial period for new employees. This created 13,000 jobs in small businesses, according to the New Zealand Institute of Economic Research, before we extended it to all employers.
- Increased flexibility in the Holidays Act.
- Reformed the personal grievance system to reduce delays, costs, and vexatious claims.
- Raised the minimum wage every year since coming into office.
- Kept the Hobbit movies here and saved thousands of high-value jobs.
- Will introduce a 'starting-out' wage to lower the barriers to work for our youngest workers who are being priced out of the job market.
- Will extend flexible working arrangements to all employees.
- Will improve collective bargaining to reduce bureaucracy and costs.
- Will review constructive dismissal.

## National has...

### Established a 90-day trial period for new employees

- ✓ Introduced the voluntary 90-day trial period for new employees in small businesses.
- ✓ Expanded the 90-day trial period to all businesses following its successful implementation.

### Increased flexibility in the Holidays Act

- ✓ Introduced the right for employees to trade their fourth week of holidays for cash.
- ✓ Tidied up the calculation of relevant daily pay.
- ✓ Provided flexibility around public holidays so employers and employees can agree to transfer observance to another working day.
- ✓ Introduced tougher penalties for employers who don't comply with the Holidays Act.
- ✓ Allowed employers to seek proof of sickness or injury.

### Reformed the personal grievance system

- ✓ Granted the Employment Relations Authority (ERA) more discretion to filter out vexatious or frivolous claims early on, and penalised behaviour that delays the ERA making a ruling.
- ✓ Required unions to gain an employer's permission before entering a workplace. Such permission cannot be unreasonably withheld.

### Further improved employment law

- ✓ Clarified the law relating to communication between employers and employees during collective bargaining.
- ✓ Provided certainty over the distinction between employee and contractor in the film industry, to secure the Hobbit movies and our film industry's future.

### Raised the minimum wage

- ✓ Increased the minimum wage every year. We've taken a careful and balanced approach that has helped prevent workers being priced out of the market.

### Implemented adventure tourism regulations

- ✓ Put in place regulatory requirements for health and safety in the adventure tourism sector.

### Established a new High Hazards Unit

- ✓ Boosted the resources of the Department of Labour to attract and retain highly-skilled inspectors for the petroleum production and mining industries.
- ✓ Allocated an extra \$1.5 million a year to fund the unit, which will include three inspectors and a chief inspector for each industry along with three further research and support staff.

## National's results

### Created jobs

- Created 13,000 jobs in small businesses thanks to the 90-day trial period, according to research by New Zealand Institute of Economic Research. This research did not include the extension of the 90-day trial period to all businesses on 1 October 2010.

### Kept the Hobbit here

- Ensured the Hobbit movies are made in New Zealand, preserving thousands of jobs and our reputation as a hub for the valuable film industry. This will be worth up to \$1.5 billion for our economy, according to ANZ-National economists.

### Increased the minimum wage

- Continued to increase the minimum wage each year in a way that is balanced and fair.

### Reformed the personal grievance system

- 96% of all employment mediations resolved without escalation to the Employment Relations Authority or the Employment Court.

## What we will do next...

### I. Introduce a Starting-Out Wage

→ Establish a new Starting-Out Wage set at 80 per cent of the minimum wage.

→ Make the Starting-Out Wage available for:

- i. 16- and 17-year-olds in their first six months of work with a new employer.

This is an extension of the existing New Entrant's Wage, which is set at 80 per cent of the minimum wage.

The New Entrant's Wage is currently available for 16- or 17-year-olds in their first three months or 200 hours of employment, so long as they are not supervising or training other workers.

We are making the Starting-Out Wage available until the 16- or 17-year-old has worked for six months with the same employer. If they change employers, they are eligible for the Starting-Out Wage again, until they have worked six months with the new employer.

- ii. 18- and 19-year-olds who have come directly off a designated benefit (including the Independent Youth Benefit), having been on that benefit continuously for more than six months before starting work.

This is another change to the existing New Entrant's Wage.

These 18- and 19-year-olds will be eligible for the Starting-Out Wage for the first six months of their employment, or until they turn 20 (whichever comes first). The Starting-Out Wage will not apply if they are supervising or training other workers.

Once they have completed six months of continuous work with a single employer they must be paid at least the full Adult Minimum Wage, even if they change employers while still under 20.

- iii. 16- to 19-year-olds in training in a recognised industry training course involving at least 40 credits a year.

This is a change to the minimum training wage.

The minimum training wage is available to people who are required by their employment agreements to undertake recognised industry training involving at least 60 credits a year. The minimum training wage is not age specific.

We are reducing the requirement from 60 credits to 40 credits for 16- to 19-year-olds.

### Helping young people into jobs

Department of Labour research suggests that abolishing the Youth Wage in 2008 has seen up to 9000 jobs disappear for 16- and 17-year-olds.

The Starting-Out Wage will help our youngest and most inexperienced workers get a foot on the employment ladder.

Just as the voluntary 90-day trial period is providing thousands of job opportunities for inexperienced workers, the Starting-Out Wage will help young people who would otherwise be locked out of a job.

For many, it will provide an opportunity to gain skills, earn money, and get the valuable work experience they need to compete in the open labour market and get work. It will also encourage employers to give a young worker a job, where they would have been unwilling to hire them on the Adult Minimum Wage.

## 2. Extend flexible working arrangements

- Allow flexible working agreements without invoking a formal process.
- Extend the right to request flexible work arrangements to all employees.
- Remove the six-month period before an employee has the right to request a flexible working arrangement.
- Remove the limits on the number of requests an employee may make for flexible working arrangements over a 12-month period.
- Promote the benefits of flexible working arrangements and flexible workplaces more widely to employees and employers.

Flexible working arrangements are good for workers, good for businesses, and good for overall productivity. They allow people to work when it best suits them, and around arrangements they have made for childcare and their other caring responsibilities.

Many workplaces already have flexible working arrangements, either formally or informally. But at the moment, the formal request mechanism applies only to those with caring responsibilities.

National will extend the right to request flexible working hours to all workers, and raise the profile of flexible working arrangements. We want to see more workers and employers benefiting from flexible working arrangements.

## 3. Improve collective bargaining

- Remove the 'requirement to conclude' collective bargaining.

The Employment Relations Act originally required collective bargaining to simply be done in good faith. This was later changed by Labour to insist that once started, a collective agreement must be reached unless there are genuine reasons not to.

The change has led to protracted negotiations in instances where agreement clearly isn't going to be reached. In many cases this has resulted in workplace disruption and the deterioration of relationships between employers and unions.

We will return the Act to its original form, retaining the requirement to bargain in good faith, while removing the requirement to conclude a collective agreement.

It is in the best interests of unions and employers to settle negotiations quickly and fairly, and avoid workplace disruption and strike action.

- Remove the requirement that non-union members are employed under a collective agreement for their first 30-days.

Employers are currently forced to offer the terms of the Collective Employment Agreement for the first 30 days, regardless of whether the employee wishes to become a union member or not.

Being unable to agree to lesser terms in some areas, in return for a higher base salary for example, means that this can have the effect of lowering base salaries.

In the majority of instances, particularly in the private sector, employees immediately shift to Individual Employment Agreements (IEA) once the 30 days are up. However, having already started work, their negotiating position is weakened.

Removing the 30 days requirement will enable employees to agree to the exact terms and conditions they want from the outset through either negotiating individually or by joining the collective and becoming a union member. The choice will be the employee's.

- Allow employers to opt out of negotiations for a multi-employer collective agreement.

We want employers to be able to opt out of multi-employer collective bargaining when they begin, rather than force them to enter into negotiations with their employees, their competitors, and their competitors' employees.

Employers should be able to decide whether a multi-employer collective agreement is the right option for them. Enabling them to opt out of the negotiations before they begin will allow them to save their resources at the outset should they already consider they are not best served by this form of agreement.

- Apply partial pay reductions for partial strikes or situations of low-level industrial action.

Currently, employees can engage in partial strike action, such as refusing to answer email or do any paper work, while continuing to receive full pay.

This action can go on for years and distorts the balance of power in negotiations.

Allowing partial pay reductions for partial strikes will even this balance and create a fairer bargaining environment.

#### 4. Review constructive dismissal

- Take a close look at how allegations of constructive dismissal can be better managed.

Constructive dismissal is the term used when employers are not directly fired, but where the work environment is such that they are effectively forced out of their job.

Constructive dismissal can be a difficult charge to defend even where the allegation is unfounded. There is evidence that it is often used inappropriately in employment disputes.

National will look at ways to make sure that people who have been hounded from their job retain access to justice, while ensuring that constructive dismissal is used less often as an allegation of last resort.

## Labour would take New Zealand backwards

### Labour would:

- ✘ Remove the successful 90-day trial period. 13,000 jobs were created when the 90-day trial period came in for small businesses. Opportunities like these would be lost.
- ✘ Choke the economy by reinstating 1970s national awards and create a bureaucracy to centrally fix wages – a step back in time by more than 30 years, and a recipe for strikes and industrial action. In times like these, the last thing we need is an economy controlled by a small cadre of union leaders.
- ✘ Put 6000 low-paid workers out of a job with an unaffordable minimum wage. The Department of Labour calculates that a \$15 minimum wage would harm small businesses and put 6,000 low-paid workers out of a job.
- ✘ Change the law that kept the Hobbit films here. Labour would kill off New Zealand's film industry on the whim of the unions.

National's balanced Employment Relations Policy is helping build a flexible economy that creates higher-paid jobs, encourages innovation, and provides opportunities for people to get ahead.

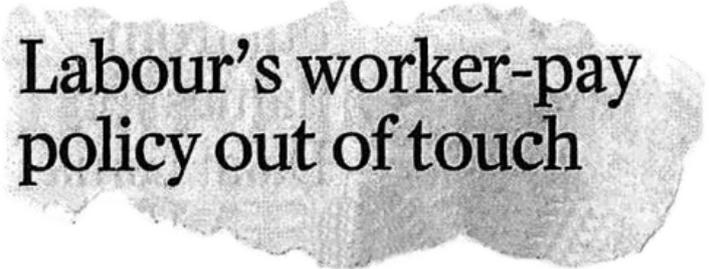
Labour would throw that all away to secure support of the unions.

**We can't afford another dose of Labour.**



Labour wage  
policy revives  
bad old days

*New Zealand  
Herald*  
Editorial  
20 October 2011



Labour's worker-pay  
policy out of touch

*Dominion Post*  
Editorial  
20 October 2011