

Where do the main players stand on workplace relations policy?

Workplace relations policy often becomes a political football around election time with parties towards the “left” of the political spectrum ordinarily promoting enhanced workers rights vs. the more “right” leaning parties being more concerned with business interests. With advance voting now having opened, we examine some of the parties’ plans for reforming the employment laws.

Wage subsidies/support for businesses

The coalition Government introduced a series of wage subsidies to help businesses retain staff during the March lockdown. If re-elected, Labour plan to extend their Flexi-Wage scheme to encourage businesses to re-hire somebody who has lost their job and is on a benefit (they would double the average subsidy payment under this scheme to \$7500). Labour would extend their interest-free loan scheme for small and medium enterprises affected by COVID-19 for another 3 years. This scheme is currently available to employers who have 50 or fewer staff and eligible employers can receive a loan of up to \$100,000 based upon the size of their workforce.

National announced its JobStart policy in May. This would give businesses a \$10,000 cash payment for each new full-time employee they take on (\$5000 up front and \$5000 after 90 days). National’s BusinessStart program aims to encourage people to start their own business and allows entrepreneurs with a viable business plan to access \$20,000 from their KiwiSaver funds which then gets topped up with a \$10,000 Government tax credit.

Minimum wage

Labour remain committed to increasing the NZ minimum wage from \$18.90 to \$20 an hour by 2021 despite concerns that this would heap pressure on businesses already reeling from the effects of COVID-19. The Greens wish to abolish the youth minimum wage entirely and increase the minimum wage annually in line with the NZ median wage and to reduce income inequality. Under a National-led Government the planned increase to the minimum wage in 2021 will be postponed, while ACT have gone further and would freeze any minimum wage increases for three years to

make it easier for businesses to hire new workers. The Maori Party would like to see the minimum wage raised to \$25 per hour.

Pay equity

The Greens have long campaigned on pay equity and this is no different in 2020. Their manifesto includes a promise to introduce pay transparency legislation and support pay equity settlements in the public sector, although the policy is light on detail. It is likely Labour and the Greens would share common ground in this area as Labour have already set up a Fair Pay Working Group, amended the Equal Pay Act and now plan to progress the implementation of fair pay agreements between unions and employers in unspecified industries (which they say would also cover independent contractors). The Opportunities Party are concerned with the broadening pay gap between workers and executives and want to increase pay transparency to make it clear how much workers and executives are being paid respectively.

Holiday and leave entitlements

Labour (supported by the Greens) have already announced the creation of a new Matariki public holiday from 2022 if re-elected which would shorten the gap between the existing Queens Birthday and Labour Day public holidays. National do not necessarily oppose the concept but do not agree that now is the time to do it. The New Conservative party would stop all forms of trading on the Good Friday and Easter Sunday public holidays.

Labour and the Greens would increase employee sick leave entitlements to 10 days per annum, an idea rejected by National and ACT. No party appears to be proposing any new types of leave, such as domestic violence leave which was introduced during the last parliamentary term. The Greens are the only party supporting increased annual holiday entitlements (up to five weeks per annum from the current four).

90 day trial periods

Labour reversed changes made under National and now only employers with 19 or fewer employees are permitted to use a 90 day trial period provision. National

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are planning to reinstate 90 day trial periods for all businesses as they believe it discourages larger companies from employing new staff. New Zealand First are proposing an interesting variation where employers with over 50 employees would be able to use a 90 day trial period but only for certain types of job seekers, such as newly released prisoners and at risk youth. ACT's Alternative Budget moots the idea of voluntary 12-month trial periods for new employees which they say will allow employers to let employees go if COVID circumstances change, even though this would fall more neatly within redundancy or force majeure law.

Union involvement and workers rights

Unsurprisingly Labour and the Greens are in favour of increasing Union influence in New Zealand. The Greens would amend current union rules to provide that employees would automatically join a Union when they start a new job (having to "opt out" rather than the current "opt in" rule). National have vowed to repeal Labour's 2018 amendments to the Employment Relations Act, which presumably would include rolling back the obligation on parties to conclude collective bargaining and the 30 day rule which stipulates that new employees must be employed under terms consistent with any relevant collective agreement for the first 30 days of employment. The Maori Party want contractors to have access to collective bargaining provisions.

National and ACT both wish to simplify the employment dispute resolution process. National claim they will remove the "no win no fee" provisions from the Employment Relations Act, although it is unclear what provisions they are referring to. Interestingly for employment lawyers, ACT wish to make more information about personal grievances available to SME's so that they don't have to "resort to expensive legal advice".

Health and safety

Although the Health and Safety at Work Act is still relatively new, the Opportunities Party are promising a review of health and safety legislation which they believe makes it more cumbersome for infrastructure to be built. National are

promising a full-scale review of WorkSafe, which they say is taking a "draconian" approach to enforcement of health and safety law. ACT are concerned with the health and safety compliance costs for small businesses and would allow employers to dismiss an employee immediately for major or irresponsible safety infringements. Labour would increase the age for workers allowed to perform hazardous work from 15 to 16 years.

Of course, under MMP New Zealand has never had a party command a high enough percentage of the vote to govern alone, so it is unlikely that Labour or National would be able to push through their entire workplace relations agenda and they will likely have to negotiate policies with at least one coalition partner. With parties promising various reforms of key pieces of legislation like the Employment Relations Act and Health and Safety at Work Act, the next three years again promises to be an interesting time for employers and employment law experts.

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