For the people: Employment and education promises at the 2017 Election

The history of workplace relations in New Zealand features a number of dramatic twists and turns, many of which have been shaped by political agendas and promises.

A newly elected National government overhauled industrial relations with the Employment Contracts Act in 1991 that introduced the notion of employment being a contractual relationship and saw the decline of union membership and influence. This was then replaced in 2000 by the newly elected Labour government with the Employment Relations Act that introduced obligations on employers and employees to deal with each other in ‘good faith’ and reasserted the influence of unions in the workplace.

The last couple of years have seen a number of further shifts that challenge the shape of employer-employee relationships - “pay equity” has become a prominent concern, health and safety has been revitalized, and getting a job relies on higher levels of skills and education than ever before.

Pay equity - a new frontier?

A landmark court decision and subsequent law reform has made pay equity and how to implement it in New Zealand an election talking point for the first time in New Zealand’s history.

This focus on pay equity was sparked by the legal success of aged-care worker Kristine Bartlett. With the support of the Service and Food Workers Union (now E Tū), Bartlett argued that, after 20 years on the job, her wage of $14.44 per hour was gender based discrimination because her work in a female-dominated profession was undervalued. The Courts agreed.

Bartlett’s success triggered a wave of hundreds of other claims from similar working sectors, including nurses, midwives, and teachers. As our country’s largest employer, the impact of such claims on the Government has been - and will be - significant.

To avoid the expensive and inefficient prospect of pay equity being fought out in the courts, the Government set up a Joint Working Group and accepted the resulting recommendations in November 2016. A $2 billion ‘Care and Support’ pay equity settlement was reached and Kristine Bartlett will now be paid $23.50 per hour; for the unions and many low paid women workers, it was a ‘historic’ moment. This was met with widespread support from the public.

The Bartlett decision has had a wide ripple-effect, and negotiations are ongoing, including a possible extension of pay equity to disability support workers.

Further reform in this area

There have been a range of political responses to pay equity. Ahead of the election, there have been rallies and considerable media attention.

One of the National Party’s “top priorities” is to close the gender pay gap. To achieve this, the National Government introduced the Pay Equity Bill in July 2017. Submissions for the Select Committee stage are currently being accepted (closing 1 November 2017). This is intended to make it easier for employees to directly file pay equity claims with employers rather than rely on going to court. Despite the Government’s best intentions - and the popularity of the preceding settlement - the Bill passed very narrowly. Labour, Greens, New Zealand First, and Māori Party MPs all voted against it.

The Bill has been strongly criticised for introducing requirements that could make claims more difficult.
women - for example, establishing a very high threshold for comparisons between different working sectors, and a requirement that the employees establish the merit of their case before making a claim. Pay Equity Coalition groups, including the Auckland Women Lawyer’s Association and Human Rights Commission, do not support the Bill. Labour has stated that the Bill would result in New Zealand “never again” seeing a pay equity settlement for women because it prevents rather than supports future pay equity claims.

If Labour, the Greens, New Zealand First, or the Māori Party were elected, each would start the legislative reform again and reconsider the Working Group’s recommendations:

- Labour has promised to overhaul the Government’s Pay Equity and Equal Pay Bill, vowing that Labour “will not rest” until New Zealand has achieved pay equity.
- The Greens have released a new pay equity policy that includes requirements on employers to collect information on wage differentials between men and women (a policy already used in Scandinavian countries), and an obligation on public sector CEO’s to achieve pay equity within government departments. This policy has been met with support from the New Zealand Council of Trade Unions.
- New Zealand First has also called for removing confidentiality clauses in employment contracts and argued that as an employer of 47,500 people in the Public Service the Government should lead by example.

While the parties assert they all want to see pay equity, the way to achieve this is not proving to be straightforward.

**Education - a new imperative?**

Faced with increasingly competitive working environments, education, training and work experience have become essential stepping-stones to employability for our young people. While our total unemployment is low, in 2017, 90,000 young New Zealanders are both unemployed and not undertaking any education or training.

How do the parties propose to help these young citizens? National largely attributes the figures of youth unemployment to specific pockets of young people in targeted regions, such as Hawke’s Bay and Northland, and points to the role of drug abuse in unemployment among youth. In July, the Government announced a strategy aimed at providing young people most at risk of long-term unemployment with the skills and opportunities needed to avoid such an outcome. The initiative will be delivered as part of the Regional Growth Programme, funding locally designed projects in four regions (Hawke’s Bay, Northland, the Eastern Bay of Plenty and East Coast) that have the highest proportion of young people who fall into the ‘most at risk’ category. In addition, there will be further initiatives aimed specifically at providing young Māori with the skills and tools they need to find work.

National also promises to invest $72 million over the next four years into supporting beneficiaries under 25 years of age. The funding is intended to:

- Guarantee work experience or training for those who have been on a jobseekers benefit for at least six months, and financial management training;
- Provide rehabilitation services to the young person if drug use is linked to their unemployment; and
- Ensure all young people under 25 who are on a jobseekers benefit receive intensive one-on-one case management to get a job.

Labour has identified what it says is a ‘vicious cycle’ for young people in the 18-24 age bracket; tertiary education is increasingly important but it is becoming so expensive that many are deterred from pursuing it. Labour argues that as a result, young people who can’t afford to undertake further study are unqualified and lack the experience they need to enter the workforce.

To break the cycle, Labour proposes to:

- Incentivise young people to study by providing three years of free post-school education by 2024. This is, unsurprisingly, popular with New Zealand Union of Students’ Associations (NZUSA);
- Provide young people on the dole with work-experience by supplying 10,000 jobs of six months duration doing work of community or environmental value. This is a two-birds with one stone arrangement, as the organisations for whom they work will benefit from the much-needed provision of government-funded labour; and
- Incentivise employers to play their part by paying the equivalent of the unemployment benefit to employers as a subsidy to take on an apprentice. These apprenticeships would be followed by the offer of a full-time job with the same employer.

Labour has adopted a further policy that is targeted at young people who have no interest in undertaking further education, or in taking on an apprenticeship, but who are business-minded and innovative. Called the Young Entrepreneurs Policy, the policy would allow Kiwis aged 18-23 to trade in their ‘three-years-free’ and apply for up to $20,000 to start a new business based on an innovative idea.

Act also identifies improvement of education as a fundamental issue for increasing employment chances for youth. Leader David Seymour says that both Labour and National have ‘missed the point’ when it comes to classifying the issue of youth employment. He identifies the issue as a “lack of basic life skills”, such as literacy, among local employees. Act sees the solution to be open more Partnership schools and to pay some teachers more. Act also announced earlier this year that it would give prisoners discounts off sentences if they gain functional literacy.
Health and Safety - a new norm?

The recent change to New Zealand’s health and safety law is one of the most sweeping reforms experienced by the country in the last twenty years, if not in its history. Embodied in the introduction of the Health and Safety at Work Act 2015, and triggered by the tragedy of Pike River, the reform is ambitious. There was criticism at the time of introduction. Many argued that the Act was too ‘watered down’ to be effective, there were concerns about a punitive impact on small businesses, and scepticism that worm farms were classified as ‘high risk’ (and cattle farms were not).

Workplace deaths remain high, yet ‘health and safety’ has not been a focus for the parties election campaigns - does this indicate that the reform is working?

Not according to the New Zealand Chambers of Commerce’s Business Election Manifesto, released in August. This indicated that nearly 1,000 businesses surveyed wanted health and safety compliance costs to be cut by an incoming Government. A key recommendation to the next government is to review and address the burden of the Health and Safety legislation on small and medium sized businesses.

The Labour Party’s election manifesto echoes this and includes a promise to work with small businesses to ensure that health and safety compliance is appropriate to the size, activity, and resources available to that organisation. Yet there has been little mention of any other potential tweaks. At the time of the Act’s introduction, Labour was very vocal about the changes, criticising the provisions concerning workers’ ability to appoint health and safety representatives and a lack of provision for health and safety training in the Act.

The Green Party would extend health and safety obligations to taking care of victims of domestic violence at work. Employers would be required to consider any risk posed to their employees who have experienced domestic violence as a health and safety hazard and take steps to ensure these employees are safe while at work. The Greens have also previously expressed a commitment to changing requirements around health and safety representatives if elected to govern. Leading up to the election, however, the party has not indicated whether this will still happen, though it has proposed some other alterations.

The National Party has promised as part of its Workplace Relations and Safety policy further investment in safety compliance and cultural change to meet its 2020 target of reducing workplace deaths and injuries by 25%. This includes putting an extra $36.6 million into WorkSafe and rolling out a new ‘Workplace Health and Safety Performance Improvement Toolkit’ to provide businesses with more information on how exactly to be compliant.

Want to know more?

Our Employment Team has published a summary of the two major parties’ main proposals for change in employment including adjustments to parental leave, minimum wage, and employees’ rights.

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