



20 Reasons Why The 90-Days Bill Is Bad For Workers

1. Probationary employment is already allowed under the current law

The Employment Relations Act (ERA) already allows for probationary employment. What it doesn't allow for is probationary employment where you have no rights as an employee. What is the point of a trial period if no one has to tell you if you're doing something wrong or how you could do it better? National's bill isn't about probation – it's about taking away the rights of workers.

2. It takes rights from every single Kiwi worker

This bill doesn't just target young workers or workers who have been out of employment – it affects everyone. The average person changes job six times in their life. That means under National's bill, every worker will have a year and a half of their working life without any employment rights. In any 90-day period 297,000 New Zealanders change job – under National's bill there will be nearly 300,000 Kiwis with no rights at work.

3. Some employers will use the bill to sack workers unfairly

This bill will allow some employers to create "disposable workers" on 89-day rolling contracts. As well as no job security, these workers would not qualify for holidays or sick leave. In the US – which has a similar lack of employment rights – studies say 200,000 workers a year get the sack unfairly. Similar new laws in Australia saw a worker at an engineering firm sacked for "smirking at the boss".

4. It could stop workers from claiming a benefit

When employees are dismissed, Work and Income use the odds of a successful personal grievance to help decide whether someone should face a 13 week stand down for a benefit. If it's impossible to take a personal grievance, they won't be able to avoid a stand down. Workers may also have a difficult time when going for a new job - if you were dismissed during the first 90 days, whether the dismissal was fair or not, you could have to declare that when you apply for your next job. No matter how unfair, you wouldn't be able to clear your name.

5. Employers don't actually have a problem with new workers

There's no real evidence that employers have problems with 'risky' employees. The number of cases in the Employment Relations Authority in the first 90 days is very small.

6. Seasonal or temporary workers will have no rights ever

For anyone employed in seasonal work or on short-term contracts, 90 days without rights might mean they never have rights at work again.

7. It's already hard when you start a new job

When you start a new job you are under a lot of pressure. You've got to remember new information, learn new tasks, adjust to new hours and travel arrangements – and try to get along with a whole new group of people. Does that sound like the right time to take away your rights? Changing jobs can be financially tricky too – would you ever question the boss when your livelihood was on the line?

8. The bill encourages discrimination by employers

Don Brash says National's bill reduces the risks to employers when they take on new staff. He has said in the past: "a rational employer will take care not to hire people perceived as a bit 'risky' – people who may be 'too young', or 'too old' or 'too brown'". It is illegal to discriminate against workers based on their age or their ethnicity under the Human Rights Act and the Employment Relations Act. Your age or the colour of your skin has nothing to do with being good at your job. But instead of opposing discrimination, National want to reward it.

9. The bill denies natural justice

If you're dismissed from a job it should be for a fair reason. But under National's bill a new worker cannot appeal an unfair decision. They can't even go to mediation to try to talk about it. National's bill lets employers sack workers without notice –in the heat of the moment you could be fired immediately and there would be nothing you could do.

10. Current employment law works well

The Employment Relations Act promotes good faith employment relationships and the use of mediation to resolve problems. It also recognises an inherent inequality between employers and employees and that some workers are especially vulnerable to exploitation.

11. It risks health and safety at work

Since the Health and Safety in Employment Act was passed, the number of workplace deaths in New Zealand has dropped significantly. One reason is that it requires workers to have a greater say in health and safety. That sort of partnership won't work if employers can sack workers who raise problems and not have to give a reason why.

12. It leaves workers with no way to respond

In New Zealand it's illegal to strike over the dismissal of another worker. That's because, currently, a worker can raise a personal grievance for unjustified dismissal. National's bill takes that away and leaves workers with nothing they can do.

13. It strips away rights when negotiating

Currently employers have to consider the age, health, disability and emotional state of an employee when they negotiate an employment agreement. They must not unduly influence a new employee or stop them seeking independent advice. They must provide a written copy of any agreement and must respond to issues an employee raises. Under National's bill that's not the case. The bill also stops the Employment Relations Authority or Employment Court from enforcing any compliance or imposing any penalties.

14. Labour market flexibility will be reduced

Faced with a 90-day no-rights period, changing jobs is a big risk. Even highly-skilled workers will think twice. As a result workers will be less likely to move to the jobs where their skills are needed most.

15. Attitudes in the workplace will get worse

Getting workers involved in decisions at work is vital to raising New Zealand's productivity. Instead National's bill forces workers to keep their mouths shut or risk losing their new job.

16. Comparisons with other countries don't stand up

Supporters of the bill say New Zealand is out of step because we don't have compulsory probation periods. But without them New Zealand has some of the highest economic growth and lowest unemployment in the OECD. Also, countries that do have probationary employment don't remove all of a worker's rights. In Germany the only change is a reduction in the notice period from four weeks to two. Many other countries also have stronger employment protection laws to start with.

17. It won't create jobs

With low unemployment, National argue their bill will help people "too risky to employ otherwise" to get a job. But they'd argue the same if unemployment was high. If National want to help people find a job why not help them to get the right skills rather than hurt them by taking away their rights.

18. It is an attack on union rights

Under National's bill it won't be illegal to sack someone because they're involved with a union, or to pressure someone not to join a union. During the SuperSizeMyPay campaign some fast food workers on flexible hours who were involved with the union found their hours were reduced – under National's bill some probably would have been sacked completely.

19. National rejected this approach already

When National was in government in 1998 they considered a similar no-rights period but decided against it. They noted that some employers would adopt a policy of firing workers just before they ended their probation period and that the proposal would particularly disadvantage non-Pakeha, women and young workers.

20. There is a better way

There are much better ways to promote employment opportunities for long-term unemployed or disadvantaged groups of workers. An investment approach is needed, with general and targeted schemes to invest in the capability of such workers rather than regard them as disposable workers. A strong economy with active labour market arrangements is the best way to ensure there are good employment opportunities rather than the removal of fundamental employment rights.