



## **NATIONAL'S EMPLOYMENT BILL ATTACKS WORKERS' FUNDAMENTAL RIGHTS**

*CTU Submission Guide to the Employment Relations (Probationary Employment) Amendment Bill*

This Employment Relations (Probationary Employment) Amendment Bill is a major attack on the rights of all workers. The Bill introduced by the National Party last month would enable employers to sack workers without reason and removes all personal grievance rights for all workers in their first three months of employment.

The Bill removes fundamental employment rights, recognised by international law – i.e. that workers have a right to be told of concerning issues in the employment relationship, the right to be listened to and the right to fair process before being dismissed.

If this Bill were passed every time a worker started a new job, basic employment rights would be denied. Although this Bill will particularly affect the vulnerable workers (such as short term, casual and seasonal work) **it would apply to every one of us each time we start a new job.**

The Bill undermines key features of fairness and good faith established in the Employment Relations Act (ERA). The good faith provisions in the ERA establish a duty to be communicative and responsive in the employment relationship. This Bill is not conducive to building communicate or responsive employment relationships. The result of this Bill would be to create a climate of fear and suspicion in the workplace.

The National Party has introduced this Bill saying that the removal of personal grievance procedures for new employees will encourage employment opportunities. But unemployment has gone down substantially in the last ten years and New Zealand now has the lowest unemployment rate in the OECD. It is blatantly deceitful for the National Party to use this as a reason for the need for this type of legislation.

This Bill is only one of many attacks the National Party wants to make on workers. Given the chance, National would also do away with the highly successful network of workplace health and safety representatives, throw up the fourth week of annual leave for negotiation and abolish time and half for working on public holidays.

It is essential for all workers, all unions, and all families and for our communities that this Bill is overthrown. It is essential for fairness and justice.

The Employment Relations (Probationary Employment) Amendment Bill can be downloaded from:

<http://www.knowledge-basket.co.nz/gpprint/docs/bills/20060241.txt>

## **The Select Committee and Submission Process**

The Bill passed its first reading in Parliament with a slim majority. It has now been referred to the Transport and Industrial Relations Select Committee.

The deadline for written submissions is the **19th of May 2006**. Unions and workers who make written submissions to the Select Committee also have the opportunity of appearing to give an oral submission before the Select Committee. Following the hearing of oral submissions, the Select Committee considers the submissions and then prepares a report on the Bill.

Submissions from unions, delegates, union members, workers, their families and community groups will make a difference to the passage of this Bill. A united and strong message is needed for all MPs that this type of legislation is unjust, unfair, unwanted and unnecessary. This Bill will not be improved by amendments to make it better. It is fundamentally unjust.

In order for this Bill to be overthrown, we need to start preparing arguments and submissions and presentations for the Select Committee. We also need to lobby MPs. It is especially important to lobby MPs in minor parties who voted for it to go to Select Committee.

This NZCTU kit provides information on the major points in the Bill and the arguments used by the CTU for our opposition to this Bill. As well as information about making a submission this kit provides a sample submission, and contains information about the NZCTU submission process.

More guidance for the submission process can be found on the [Parliamentary guide Making a Submission to a Parliamentary Select Committee](#). (This link opens a PDF file, also accessible from this page:

<http://www.clerk.parliament.govt.nz/Programme/Committees/Submissions>).

## **Community Groups and NGO Submissions**

It is also very important that unions encourage and support community groups to make submissions and that we demonstrate how this Bill breaches fundamental human and employment rights.

In order to assist this process, the CTU has prepared some points (overleaf) about why this Bill must be opposed.

## **Sample Submissions**

This kit contains a sample submission that could be used by delegates and union members. Unions (or NGOs) may wish to put their own logos on the submission. Parliamentary rules require that 20 copies of each submission are sent.

## KEY ARGUMENTS FOR OPPOSING THE BILL

- The National Party Bill, the *Employment Relations (Probationary Employment) Amendment Bill* would allow employers to sack workers without reason.
- This Bill is an attack on the good faith provisions in the current Employment Relations Act. The Bill rides roughshod over the internationally recognised right of freedom of association for all workers. It means that employers could sack workers because they are members of a union, asked for a wage rise, complained about health and safety or discrimination or for any other reason.
- Every time a worker started a new job, there would be no access to personal grievance procedures for the first 90 days of employment. Personal grievance processes ensure that workers are treated in a procedurally fair way and that there are substantive grounds for dismissal.
- The removal of access to dispute resolution in the first 90 days of employment would mean that there is no mechanism to pursue an issue like wages arrears or any other breach of contract.
- This Bill would increase the likelihood of 'recurrent probationary periods' and increase the numbers of workers in insecure and precarious employment.
- **All workers would be affected by this Bill.** This Bill would turn all New Zealand workers into casual workers at one stage or another in their working life. Teachers, care givers, bank tellers, surgeons, cleaners, factory workers – every worker would be affected by this Bill.
- Hundreds of thousands of new workers start jobs every year. Most workers have about 6 jobs in a lifetime. So 6 times in a lifetime, the average worker would be denied their employment rights.
- The National Party states this Bill will stimulate employment. But unemployment has gone down over the last few years without probationary periods. Instead of stimulating employment, this Bill would mean those workers who are already vulnerable to abuse and exploitation in the labour market, would be more at risk as their employment rights are denied.
- The pressing issue in the labour market now is how to retain workers with skills, not how to sack workers. Why will workers take on a new job when they know they can be sacked for no reason whatsoever in the first 3 months?
- The 90 days bill is unjustified. Employers can already employ people on a casual basis. They can already employ people for a fixed term. And they can already start someone on a genuine probationary period, provided it is conducted and terminated fairly.
- The National Party says that this Bill will reduce expensive court costs. But the Mediation Service established by Employment Relations Act provides for employment grievances to be resolved without the need for court cases. Disputes during the first 90 days and/or regarding probationary periods are vary rare.
- This Bill increases the likelihood of workers taking on jobs with unacceptable wage rates and conditions. This Bill is sending a message to employers that it is okay to discard workers at employers' whims and deny workers their employment rights.

SAMPLE SUBMISSION ONLY

13 April 2006

From:

Jane Smith  
23 Major Street  
Te Awamutu

To:

Committee Clerk  
Transport and Industrial Relations Committee  
Parliament Buildings  
Wellington

Dear Sir/Madam

The Employment Relations (Probationary Employment) Amendment Bill

I oppose this Bill.

I enclose 20 copies of my submission.

My reasons for opposing this Bill are:

1. This Bill gives employers the power to sack workers with no reason.
2. This Bill denies fundamental employment rights by removing personal grievance procedures in the first three months of employment. It removes the right to be told of any problems in the employment relationship and the right to be listened to before being dismissed.
3. This Bill affects people when they are at their most vulnerable point in their employment relationship and makes it more likely they could be sacked. The Bill will make it more likely that workers will have recurrent probationary periods of employment.
4. There are already fair processes in place in the Employment Relations Act to have probationary employment periods. This Bill is not only unjust, but also unnecessary.

I wish (do not wish) to make an oral submission

Yours sincerely

(Signature)

Jane Smith

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From:

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To:

Committee Clerk  
Transport and Industrial Relations Committee  
Parliament Buildings  
Wellington

Dear Sir/Madam,

**The Employment Relations (Probationary Employment) Amendment Bill**

I am making a submission in opposition to this Bill.

I enclose 20 copies of my submission.

My reasons for opposing this Bill are:

1. This Bill gives employers the power to sack workers with no reason.
2. This Bill denies fundamental employment rights by removing personal grievance procedures in the first three months of employment. It removes the right to be told of any problems in the employment relationship and the right to be listened to before being dismissed.
3. This Bill affects people when they are at their most vulnerable point in their employment relationship and makes it more likely they could be sacked. The Bill will make it more likely that workers will have recurrent probationary periods of employment.
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