



UNDER PRESSURE:

A Detailed Report into Insecure
Work in New Zealand

He tangata takahi kaimahi, he wāhi mahi puehu

A person who mistreats workers has a turbid workplace

Acknowledgments

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FOREWORD

Workers in New Zealand are under pressure – and much of this pressure comes from insecure work. This is the insecurity of not having definite hours of work, of not knowing if you are an employee or a contracted worker, of not being sure you will have a job next week or next year, of having no protection against sudden redundancy, of experiencing the absence of a collective employment agreement protecting your pay and conditions. This insecure work often leaves workers feeling that they are not wanted, not valued, not really needed. It is damaging for them, for their families and for our communities.

Insecure work, for most people, means their lives are dominated by work: waiting for it, looking for it, worrying when they don't have it. They often don't have paid holidays – which can mean no holidays at all. They lose out on family time. They often don't have sick leave. They are vulnerable if they try to assert their rights or raise any concerns. They are exposed to dangerous working conditions and have to accept low wages. They can't make commitments – to family time, to sports teams, to church activities, to mortgages, or even to increasing their skills.

In this report, the NZCTU exposes the extent of insecure work in New Zealand. We speak to workers and share their experiences. We discuss the drivers of insecure work, its impact, and the extent to which it has become a feature of the world of work.

Insecure work was widespread over a hundred years ago, before protections were put in place across the developed world to promote greater security and to ensure that work benefited both employer and employee. But there is now a concerted trend to turn the clock back, to move once more towards a world of insecure work, one in which the risks in the employment relationship are shifted still further from businesses and more and more on to workers.

We know there is a place for flexibility at work; we recognise that technological developments and different work practices will be introduced, and that they can result in positive changes. But we are saying that workers must have as much security as *is possible* – and that more steps must be taken to reduce job insecurity and promote secure jobs in the twenty-first century.

Our main recommendations are:

- Stronger legal protections to prevent insecure work
- Improved income support mechanisms for insecure workers
- Support for the Living Wage with greater security of hours
- Government procurement to promote decent work
- Union campaigns and bargaining to support secure work

A summary version of this Report, *Under Pressure: Insecure Work in New Zealand* is available on the NZCTU website.

We also want to hear your views about insecure work. How widespread is it? What are its worst forms? What do you think can be done to promote secure jobs? And how can we ensure more workers' voices are heard on the effects of insecure work?

This issue needs the full attention of a wide range of stakeholders, including unions, employers, and government. These groups will hold different views – but we hope that everyone can see the benefit to the economy and our society of improving the quality of jobs, both now and into the future.



Helen Kelly
NZCTU President



INTRODUCTION

This Report examines insecure work in New Zealand.

It defines insecure work and outlines its scope. It discusses the rise of insecure work and its drivers. It examines the prevalence of insecure work, looks at who is affected, and the impact insecure work has on people.

The Report analyses the legal context and dimensions of insecure work, and finally it includes a detailed set of recommendations on how we can both reduce the incidence of insecure work and mitigate its effects.

The Report states that:

- Insecure work affects at least 30% of New Zealand's workforce – over 635,000 people – and probably far more than that
- Insecure work is most often found in casual, zero-hours, seasonal, contracting (including labour hire) and fixed-term types of work, but it also affects many other kinds of work
- Insecure work includes uncertainty over how long the job lasts, fluctuating hours, low and/or variable pay, limited access to benefits such as sick leave and domestic leave, limited opportunities to gain skills, and a lack of rights and union representation
- Insecure work is not about high-paid contractors and other people who want to be working flexibly
- Insecure work imposes real and severe costs on workers, their families and our communities. It damages income, health, family time and people's long-term prospects
- Insecure work touches just about every part of our labour market, but particularly affects Māori and Pacific workers, women, children and young people, migrants, and people with disabilities
- We can fight insecure work with greater legal protections, better income support mechanisms, a Living Wage with greater security of hours, government procurement that promotes secure work, and stronger union campaigns and bargaining.

WHAT IS INSECURE WORK?

Insecure work is any job that denies workers the stability they need for a good life and reduces their ability to control their own work situation, with damaging consequences for them, their families and their communities. It is work where the variable and changing nature of a job suits the employer but not the worker. It is work where the burden of adjustment falls on the worker, and the inequality of power in the employment or contractual relationship disadvantages the person doing the work.

Insecure work is most often found in casual, seasonal, contracting (including labour hire) and fixed-term types of work. There is no hard or fixed line between secure and insecure work. But a number of things make work more insecure, and where a job has many of those features, or one of them to a great degree, it is more likely to be insecure.

Insecure work is characterised by the following:

- uncertainty over how long the job lasts if the job can be terminated with little or no notice, or there is no contract for ongoing work, or there is a high risk of job loss
- limited worker control or voice over hours of work, tasks, safe work practices, and work arrangements
- low pay and/or fluctuating pay
- no or limited access to benefits such as sick leave and domestic leave
- no or limited opportunities to gain skills
- lack of rights, such as protection against discrimination and unfair dismissal, and a lack of union representation.

Insecure work is not about workers who, on the whole, genuinely choose to work variable hours or on contracts, and who:

- earn a reasonably high income on a regular basis
- have transferable skills that will allow them to deal relatively easily with redundancy
- have a reasonable expectation of ongoing permanent work
- have a significant say and control over any variations in their hours of work.

Insecure work is not new. It was a feature of employment over a century ago in New Zealand. As a result of campaigns and pressure from unions, community, church and social justice groups, which brought about change in both legislation and employment relationships, matters gradually improved and protections for workers were introduced, but now jobs are becoming less secure. And for an increasing number of workers, the experience of insecurity is for years and years, not just a short period before a secure job is found. This has led to a renewed focus on the most vulnerable of insecure workers – those now called the ‘precariat’, workers who lack any of the forms of labour security in their income, employment, skill development or representation. In this report, we mainly use the term ‘insecure work’ to describe this growing trend, though there are other closely related terms, such as ‘precarious work’, ‘casualisation’ and ‘non-standard work’.

Some people argue that if we abolish insecure work, we will remove work options for young people, or women, or older workers. We disagree. Jobs can be flexible but also provide a reasonable level of security. This requires strong minimum standards as well as genuinely mutual agreement about how a job will be performed, rather than weak standards and the power resting almost entirely with the employer.

We recognise that we live in a changing world, and that the pace and variety of modern life affects the types of jobs that are offered. We do not oppose that. But we want to stop businesses making work insecure when there is no good reason to do so. And where some insecurity is inevitable, we want to ensure that the flexibility and variety of modern work benefits those doing the work, not just their employer.

THE RISE OF INSECURITY

The standard form of employment in the post-war period began to deteriorate in many of the OECD countries from the late 1980s onwards for a number of reasons (Quinlan, Mayhew, & Bohle, 2001; Connelly & Gallagher, 2004; Auer, 2006; Burgess, Campbell, & May, 2008; Kalleberg, 2009; MacEachen, Polzer, & Clarke, 2008). Increasing globalisation, mounting competitive pressures, an expanded labour market and the growth of the service industries created the need for greater labour flexibility, further threatening standard employment and traditional tripartite employment relationships. Structural phenomena, such as a downturn in the economy and the resultant unemployment, weakened trade union presence, and so forth, have also created a climate of insecure work and “a perceived powerlessness to maintain desired continuity in a threatened job situation” (Greenhalgh & Rosenblatt, 1984, p.438).

However, the emphasis on achieving a flexible labour market has now significantly shifted, for many, to concerns about the negative aspects of employment flexibility and job insecurity (Burchell, Ladipo, & Wilkinson [Eds.], 2001; McLaren, 2001; Kalleberg, 2009; Reisel & Probst, 2010). There is now a substantial body of evidence that shows that the effects of insecure work are pervasive and overwhelmingly negative (Dorman, 2009; Quinlan & Mayhew, 2001; Tucker, 2002; Bohle, Quinlan, Kennedy, & Williamson, 2004; Connelly & Gallagher, 2004; McLaren, Firkin, Spoonley, deBruin & Inkson, 2004; Burgess et al., 2008; Lewchuk, Clarke, & de Wolff, 2008; Seixas, Blecker, Camp, & Neitzel, 2008; Probst & Ekore, 2010). Research has consistently shown that employees who perceive their jobs to be insecure report more negative job-related attitudes and lower levels of job satisfaction than do secure workers (Smithson & Lewis, 2000; Reisel & Probst, 2010). In addition, insecure work arrangements are increasingly being adopted for cost-cutting reasons, thus placing the worker at a disadvantage (Lamm, 2002). In other words, a key feature of insecure work is that it shifts the power in the relationship even more to the employer or principal contractor and away from the worker (De Cuyper, De Witte, Kinnunen, & Nätti, 2010).

Insecure work is also at the centre of reframing full-time, permanent work into precarious employment such as temporary, seasonal, casual, labour hire (agency) and fixed-term employment (Connelly & Gallagher, 2004; Vosko, 2008; Boocock, Hannif, Jamieson, Lamare, Lamm, Martin, McDonnell, Robertson, Schweder & Schulruff, 2011; Quinlan, 2012). It also includes forms of contracting such as dependent contracting and home-based piece work. It includes the informal economy, such as cash in hand, payment in kind and under the table arrangements. These forms of insecure employment, as well as creating problems for the workers directly affected, undermine the status of permanent full-time employment and the associated benefits and entitlements (Dorman, 2009; Donahue, Lamare & Kotler, 2007).

Where flexible work has been genuinely and mutually agreed upon, there are significant pay-offs for flexibility, such as high pay rates (Frenkel, Korczynski, Donoghue, & Shire, 1995; Newell, Robertson, Scarbrough, & Swan, 2002; MacEachen et al., 2008). We are of course aware that there are people who contract their labour at a high price, can lead ‘portfolio’ lifestyles, and have skills which are in high demand. But while it is important to acknowledge that this is an aspect of the labour market, these workers are not necessarily ‘insecure’ or precarious, for the purposes of this Report. Moreover, there are some forms of work that by their very nature are sporadic and variable in terms of when work is required, and are frequently the domain of the self-employed. In these sectors, some insecurity of work may be inevitable, and the central question is how to minimise its impact.

THE RISE OF INSECURITY

WHAT IS DRIVING INSECURE WORK?

Insecure work is not a new phenomenon. As Quinlan, Mayhew, & Bohle (2001) noted, insecure or fluctuating employment (now labelled as contingent work or precarious employment) was widespread in most if not all industrialised countries in the 19th and early 20th centuries, and was the subject of major government enquiries into ‘sweating’ and other forms of gross exploitation of labour. In the latter part of the 20th century, changes to mass production methods, the growth of collective bargaining, the role of government employment practices, as well as better welfare support, combined to reduce the prevalence of insecure work (Quinlan et al., 2001; Quinlan, 2012). Moreover, mechanisms that supported collective bargaining and secure employment were introduced in order to reduce the adverse social and economic effects of unregulated markets, including precarious work and secondary labour markets (Evans & Gibb, for the Global Union Research Network [GURN], 2009).

However, in spite of these efforts, insecure work has increased substantially in recent decades. Quinlan (2012) gives four main reasons for the re-emergence of insecure and precarious employment:

- Cuts to operating costs to enhance shareholder value
- Competitive tendering and outsourcing through government budget cuts
- Weakened union rights and employment laws
- Subordination of labour rights to the interests of trade liberalisation and flexibility

Evans & Gibb (2009) also note that job insecurity and precarious employment related to wage labour is not a new challenge. What is new is the ‘great risk shift’ that has occurred in recent years, whereby key social risks are increasingly transferred away from governments and employers and onto the individual. This, together with corporate and public policies giving a greater role to market forces within the workplace, has been a key determinant in the erosion of the standard employment relationship.

As mentioned above, there are a number of drivers of insecure work, including globalisation (trade liberalisation and global supply chains) creating a greater global division of labour and reducing wages and conditions. There have also been a number of fundamental changes that have together increased the level of job insecurity (ACTU, 2011). First, there have been changes to institutional frameworks as well as structural changes to the economy, with employment shifting from certain industries and occupations to other industries (such as the service sector) and occupations. Second, new technologies have changed how and when work is performed. Third, there have been significant changes in the way people are employed, with an increase in the number of workers in ‘non-standard’ or ‘atypical’ forms of employment. The underlying employment practice here is a just-in-time approach to staff hiring. In addition, there have been changes in the distribution of working hours, with full-time jobs increasingly associated with longer hours and part-time jobs associated with irregular and unsocial hours of work. Finally, there has been a dramatic increase in the volatility of income for the individual worker and a deterioration of employment, which has contributed to a widening wage inequality within countries (Pickett & Wilkinson, 2009).

Some researchers argue that the drivers for insecure work are not so much on the demand side (that is, what employers want) but on the supply side (that is, what workers offer to do). In this view, work flexibility and insecurity are depicted in a positive light, touted as being able to accommodate diverse employee needs and as contributing to ‘organisational justice’ (MacEachen et al., 2008). This posits that workers are increasingly choosing autonomy, risk and greater potential rewards over the routine and security of full-time, permanent jobs. MacEachen et al. (2008) and Evans & Gibbs for GURN (2009) note that a small number of so-called ‘entrepreneurial’ workers belong to this group. Typically they are male and highly educated, and do not meet many of the criteria that would define their employment situations as ‘precarious’. Other claimed benefits of insecure work are an increase in perceived autonomy, increased ability to negotiate alternative work schedules, and the creation of a route from unemployment to regular employment. However, the evidence (as outlined below) is that many if not most insecure workers would in fact prefer to be in secure employment. And for the large majority of insecure workers, the ‘stepping stone’ argument is not a reality. They simply go from one insecure job to another.

THE RISE OF INSECURITY

INSECURE WORK: A DETAILED DESCRIPTION

Characteristics of insecure work include uncertainty over how long the job will last, fluctuating pay and irregular hours. Other characteristics include limited or no access to paid leave, lack of a job description, and lack of voice at work on wages, conditions and work organisation, resulting in inferior rights and conditions of work (Connelly & Gallagher, 2004). Insecure work can also result in limited or no investment in training, situations where workers may need to provide their own tools and protective clothing (Connelly & Gallagher, 2004) and unwilling acceptance of working unsocial hours. One of the common features of insecure work is a sense of 'grieving' on the part of the workers and a perceived powerlessness to achieve or maintain continued permanent employment in the context of a diminishing job market (Virtanen, Kivimaki, Elovainio, Vahtera, & Ferrie, 2003).

In defining 'insecure work', Greenhalgh & Rosenblatt (1984, 2010) note that it is a multi-dimensional construct that includes four essential elements. The first element is desired continuity (the proviso being that the employee wants to continue in a permanent position). The second element is the threat that the job may not in fact have that continuity. The third element involves features of the job that are at risk. For example, the risk that as a result of restructuring, significant parts of the job would no longer exist, thus making the job redundant.

The fourth element is powerlessness. If an employee encounters the threat of being forced to work under certain conditions, but has the power to resist it, job insecurity will not result. Employment agreements, managerial procedures, unions, or political connections can protect workers. But those people in insecure work who do not have access to such support mechanisms, or who are unable to negotiate to keep their permanent job, will experience powerlessness and a feeling of vulnerability. Increasingly, insecure work arrangements are being applied in businesses where there is continuous work, and the only reasons for these arrangements are unreasonable cost-cutting and the desire to place the worker at a disadvantage. This highlights a key feature of insecure work: the way that it further shifts the power in the relationship to the employer or principal contractor, and away from the person doing the work.

The absence of collective bargaining coverage makes insecure work significantly more likely. For those on individual agreements (a large majority of private sector workers in New Zealand), there is no requirement that any individual terms of employment must be consistent with the collective agreement. This puts the worker in a much less secure position than otherwise. In a move that would further exacerbate the situation, the current Government is seeking to remove the provision that new workers are covered by an applicable collective agreement in their workplace for the first 30 days of their employment, even if they do not join the union in that period. This move would worsen the vulnerability of the new employee considerably.

When it comes to counteracting insecure work, while it is acknowledged that full-time, permanent work cannot always be guaranteed, there are a number of mechanisms that can reduce the burden of job loss (threatened or actual) and powerlessness. These include employment protections, such as lengthy notice periods, requirements for consultation on any issue that could affect continuity of employment, and compensation provisions. In addition, some countries, for example Denmark and Norway, have much greater income and retraining options, as well as more generous support for people when they lose their job.

In recent years, these concerns have been reflected in a shift of focus from job creation to creating decent jobs. The OECD 1994 Jobs Strategy, for example, was revised in 2003 and 2004 to focus on 'better' jobs as well as 'more jobs' (Organization for Economic Co-operation and Development [OECD], 2003, 2004). The OECD noted that some working-time arrangements tend to make it more, rather than less, difficult for workers to reconcile their work and family life. Thus, workers who are on the job during evenings, nights or weekends, as well as those with unpredictable work schedules or particularly long hours, report significantly greater conflicts between their work hours and their family responsibilities. Further moves to raise employment rates, particularly among certain groups, need to go hand-in-hand with initiatives to better reconcile work and family life. This is an issue which was underplayed in the original Jobs Strategy.

THE RISE OF INSECURITY

The International Labour Organisation's (ILO) Decent Work Agenda (2006) also provides a platform for achieving sustainable jobs. Secure employment in the decent work paradigm refers not just to wage jobs but to work of all kinds: self-employment, wage employment and work from home, as well as full-time, part-time and casual work, etc. Decent work also encompasses adequate employment opportunities for all those who seek work. Work should yield a remuneration (in cash or kind) that meets the essential needs of the worker and their family members. As such, employment creation is a primary objective in the promotion of decent employment. A central element of the Decent Work Agenda is social protection, with the aim of providing security against a variety of contingencies and vulnerabilities. A comprehensive social protection strategy would address the needs of vulnerable groups and aim to reduce suffering, anxiety, insecurity and material deprivation. A social protection strategy would also promote health, confidence and a willingness to accept technical and institutional innovations for higher productivity and growth.

One approach to combatting the level of insecure work in New Zealand would be to supplement the Decent Work Agenda principles with locally derived measures that reflect the culture, aspirations and resources of a given region or industry. Government economic and labour policies play a central role in influencing the pattern of work opportunities (Quinlan, 2012). Policies affecting the rate and pattern of economic growth, labour intensity of production and labour flexibility and mobility have an important impact on work opportunities and their distribution among different types of employment (Dorman, 2009).

INSECURE AND PRECARIOUS EMPLOYMENT: THE CONNECTIONS

As stated above, there is agreement that precariousness is intimately related to insecure work (Barker & Christensen [Eds.], 1998; Campbell & Burgess, 2001; Kalleberg, 2009; Sargeant & Tucker, 2009; Standing, 2009, 2011; Quinlan, 2012). The literature often treats insecure work, precarious employment and non-standard work differently but as inseparable parts (Burgess & Campbell, 1998; Tucker, 2002).

Standing (2011) has described the plight of the 'precariat'. He sees a new class structure. At the top is an élite of billionaires and such like. Below them is a salariat, comfortable but limited in number, with employment security and an array of non-wage benefits. Then there is a growing body of what could be called proficians – professionals and technicians usually receiving high incomes, but without employment security. Below them in terms of income is the old core, a shrinking industrial working class, not yet dead, but dying. Those in the core are fearful of dropping into the next and rapidly growing class fragment which should be seen as the global precariat. Below the precariat are the chronically unemployed and a 'lumpenised' minority of socially wretched people.

Although the literature suggests that insecure work may not necessitate precariousness, it does indicate that insecure work is more likely to be precarious. In an attempt to clarify the distinction between insecure and precarious employment, Deborah Tucker (2002) developed an integrated model that incorporates all the key aspects of precarious employment as discussed by Rodgers (1989), Burgess & Campbell (1998), Campbell & Burgess (2001), Cranford, Vosko, & Zukewich (2003), Standing (2011), Quinlan (2012), and others. Based on an extensive review of the literature, the framework draws attention to determining the extent to which employment is precarious, as outlined in Table 1. By measuring the extent to which a job is precarious, the nature of the working conditions can be analysed in relation to worker characteristics and preferences. As a result, it is possible to link the fundamental characteristics of the employment relationship with Tucker's specific indicators, which, taken in combination, can be used as a means to assess precariousness in any employment arrangement. For example, certainty (or the lack of it) of ongoing employment is linked with the corresponding indicators of precariousness, that is: earnings are uncertain or irregular; there is a high risk of job loss; there are few or no career prospects; and there is a strong likelihood of the job being terminated with little or no expectation of further work. Tucker's framework also operates as a continuum, with workers in less precarious employment arrangements occupying the lower part of the scale and those in highly precarious positions (indicated by precariousness on all measures of the framework) occupying the upper reaches.

THE RISE OF INSECURITY

Table 1. Indicators of Precariousness

1. Certainty of ongoing employment	<ul style="list-style-type: none"> • There are no short-term or long-term career prospects. • There is a high risk of job loss. • The job can be terminated with little or no prior notice by the employer. • There is no explicit or implicit contract for ongoing employment. • The earnings are uncertain or irregular.
2. Degree of employee control	<ul style="list-style-type: none"> • Employees have a low level of control/ bargaining power over employment processes and working arrangements (wages, pace of work, working conditions). • Hours of work are uncertain or can be changed at will by the employer. • Functions of the job can be changed at will by the employer. • The task performed or the health and safety practices at the workplace make the job dangerous or unhealthy.
3. Level of income	<ul style="list-style-type: none"> • The job is low income – at or below the minimum wage. • The level of income is insufficient to maintain the well-being of workers and their dependents.
4. Level of benefits	<ul style="list-style-type: none"> • There is little or no access to ‘standard’ non-wage employment benefits such as sick leave, domestic leave, bereavement leave, or parental leave. • There is limited or no opportunity to gain and retain skills through access to education and training.
5. Degree of regulatory and union protection	<ul style="list-style-type: none"> • There is, in practice, no protection against unjustifiable dismissal, discrimination, sexual harassment, unacceptable working practices, including hazardous conditions. • Union representation is non-existent or low and discouraged by the employer.

Source: Tucker, D. (2002). ‘Precarious’ Non-Standard Employment – A Review of the Literature. Labour Market Policy Group. Department of Labour. Wellington, New Zealand.

Tucker’s framework is useful in advancing our understanding of the factors that place workers in vulnerable situations. For example, as with precariousness, there are degrees of vulnerability whereby some individuals and some groups are more exposed to abuse than others (Sargeant & Tucker, 2009, p.1). What is missing from Tucker’s framework is the lack of opportunity to gain and retain skills when operating in the insecure, precarious labour market. That is, opportunities to gain and retain skills through access to education and training are often impeded when the worker is employed in an insecure or precarious position. The lack of opportunity for training illustrates the trend of shifting the responsibilities and risks associated with hiring permanent staff from employers to employees (Kalleberg, 2009). As noted in the recent ILO (International Labour Organisation [ILO], ACTRAV, 2011, p.5) report ‘Policies and Regulations to Combat Precarious Employment’:

In the most general sense, precarious work is a means for employers to shift risks and responsibilities on to workers. It is work performed in the formal and informal economy and is characterized by variable levels and degrees of objective (legal status) and subjective (feeling) characteristics of uncertainty and insecurity. Although a precarious job can have many faces, it is usually defined by uncertainty as to the duration of employment, multiple possible employers or a disguised or ambiguous employment relationship, a lack of access to social protection and benefits usually associated with employment, low pay, and substantial legal and practical obstacles to joining a trade union and bargaining collectively.

THE RISE OF INSECURITY

Not only have there been attempts to expose the working conditions of vulnerable workers but there have also been attempts to identify particular groups of vulnerable workers, as outlined below (see the British Trades Union Congress's Commission on Vulnerable Workers, 2007):

Table 2: Groups of vulnerable workers

<ul style="list-style-type: none"> • Agency workers and other 'atypical workers' (for example, casual workers and some freelancers) 	<ul style="list-style-type: none"> • Young workers: who are not entitled to the same rates of the minimum wage as others and are more likely to face exploitation
<ul style="list-style-type: none"> • Industrial home-workers: who are often denied even the most basic employment rights 	<ul style="list-style-type: none"> • Unpaid family workers: employed across a range of businesses with no legal protection at work
<ul style="list-style-type: none"> • Recent migrants: who are more likely to face extreme discrimination, dangerous working conditions, and a range of other abuses – including forced labour 	<ul style="list-style-type: none"> • Informal workers: working across many industries, with those already facing disadvantage the most likely to be exploited

Cranford et al. (2003), Vosko, MacDonald, & Campbell (2009) and others have added to the framework by highlighting gender differences in precarious employment. Viewed from a feminist political economy perspective, they investigate the relationship between gender and other social relations of inequality, changing employment relationships and insecurity in labour markets, and in doing so have produced a conceptual guide to precarious employment. They focus on five core dimensions: firm size, union coverage, hourly wages, benefits, and work arrangements (also refer Fudge, 2006).

What we can see from the above is that there is a wide literature describing insecure work, but also that different terms are used, such as precarious work and non-standard work. There are many types of insecure work with different features. And the extent can vary. It is perhaps easier to say what insecure work is not, rather than what it is. A secure worker is someone who is receiving at least a sufficient income, has a transferable skill, has a reasonable expectation of ongoing permanent work and has significant say and control over any variations in hours of work. Insecure work is best defined as a continuum that ranges from some elements of insecurity, even where someone has a degree of permanence and reasonable pay and conditions, through to extremely insecure work such as highly casualised work.

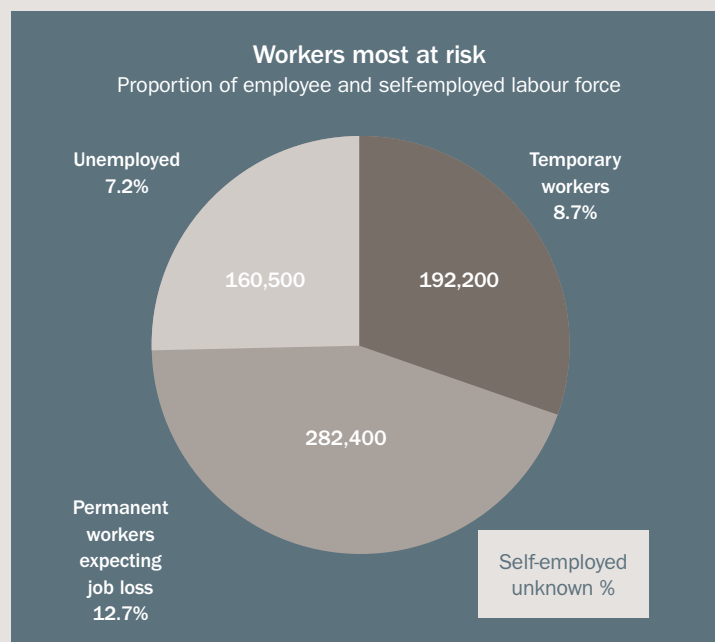
INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?

In this section we outline some of the most recent information available about the forms and extent of insecure work in New Zealand. Though information is scarce and shallow we can draw some useful conclusions – but it is important to bear in mind its limitations. For example, published sources give us little clue as to the extent of dependent contracting – self-employed people dependent on a single client and thus having little control over their work. We have recent data on numbers in permanent or temporary employment arrangements but little that tells us which of them are de-unionised, on low wages and with few other rights and protections. There is little historical data on these forms of work, but Statistics New Zealand’s Survey of Working Life (SoWL) was designed with this kind of analysis in mind, and provides snapshots in March 2008 and in December 2012. Unfortunately, care must be taken in comparing even these two sets of figures, because temporary work can be very seasonal. In what follows the December 2012 survey is our source unless otherwise stated.

What does it add up to? We can say with some confidence that as of December 2012, at least 635,000 workers – mainly wage and salary earners (employees) – were in insecure work. They were in various forms of temporary employment (192,200) – casual work, fixed-term, temp employment agency, or seasonal work – in permanent work where there was a medium to high chance of job loss in the next year (282,400, some of whom would have been on a 90-day trial), or were actually unemployed (160,500 according to the Household Labour Force Survey). These made up 28.6% of the workforce of 2,221,900 employees and self-employed.¹ It takes no account of the most at risk self-employed such as dependent contractors because no data is available, so it is fair to estimate that at least 30% of our workforce are insecure workers who are most at risk.

The Australian Independent Inquiry into Insecure Work in Australia found that 40% of Australian workers are in insecure work. While our definitions of insecure work may differ at the margin, the evidence is that the proportion in New Zealand is unlikely to be less.

For many workers, insecurity takes the form of hours of work being uncertain or the hours being able to be changed at will by the employer. At the end of 2012 there were 94,700 workers (66,400 of them permanent) who had ‘no usual working time’ and 118,400 (permanent and temporary) who had less than two weeks notice of their work schedule. In all there was a group of 184,500 permanent employees with no usual working time and temporary employees for whom hours change from week to week to suit their employer’s needs. More broadly, we don’t know how many employees felt the insecurity of low levels of control over their employment processes and working arrangements, nor the numbers for whom functions of the job could be changed at will by their employer, but we know from daily experience that this is common in New Zealand workplaces. It is also evidenced by the findings of recent workplace health and safety inquiries which document common fears by workers that prevent them reporting health and safety concerns. For example the Independent Taskforce on Workplace Health and Safety reported that “employees often lack awareness of their rights and, if they are aware, fear reprisals if they exercise them” (Independent Taskforce on Workplace Health and Safety, 2013, p. 24). We do know that 60,700 employees had no written employment agreement in 2012. What we cannot tell from the available statistics is how much overlap there is between these people and the ones we have already counted, but it clearly increases the count.



¹ The standard labour force definition used by Statistics New Zealand includes employers. We discount employers for our current purposes because our focus is on control or dependency of work.

INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?

There were 497,300 part-time workers in 2012. Many of these may be permanent employees. However, some part-time workers, even though they are permanent, have employment conditions that allow considerable flexibility in hours worked each week, and varying degrees of employee say in any variation. We do not include a job in our definition of insecure work simply because it is part-time, but as can be seen above in the number of workers who have ‘no usual working time’ or less than two weeks notice of a change of schedule, there could be a large number of permanent part-time workers who are in fact insecure. It is also evident that part-time workers are more subject to variation in contracted hours than full-time workers (see for example McLaughlin & Rasmussen, 1998, p. 248).

Then there are people experiencing the insecurity of unsafe or unhealthy workplaces whose unacceptable extent has been documented in recent official inquiries. The Independent Taskforce on Workplace Health and Safety estimated that “each year, around 1 in 10 workers is harmed, with about 200,000 claims being made by people to ACC for costs associated with work-related injuries and illnesses” (Independent Taskforce on Workplace Health and Safety, 2013, p. 12). Again, good data are notoriously rare but 608,400 people in our labour force sometimes, often or always had physical problems or pain because of work in 2012, 226,900 had experienced discrimination, harassment or bullying, and 572,300 worked in one of the five high priority sectors for addressing workplace health and safety problems (Agriculture, Forestry, Fishing, Construction and Manufacturing) or worked in Mining. Workers in these conditions constitute between 25% and more than 50% of the labour force but again we do not know how much they overlap with our initial count.

Low pay also contributes to job insecurity. Two out of five children living in poverty in 2012 were in households where at least one adult was in full-time employment or self-employed (Perry, 2013, p.138). The Ministry of Business, Innovation and Employment estimates that 84,800 workers are on the minimum wage and that there are 573,100 workers on less than the Living Wage of \$18.40 an hour. Again we do not know how many they add to the count.

Inability to access in practice ‘standard’ non-wage employment benefits such as sick leave, domestic leave, bereavement leave, or parental leave is another aspect of job insecurity. Again, there is little data on this because it frequently reflects practical conditions of employment rather than the letter of the law. Temporary workers who frequently change jobs are particularly vulnerable as they may find themselves almost permanently without paid leave entitlements because they never build up sufficient time in a single job to be eligible for them, or receive only pay in place of leave they are never actually able to take. Another aspect of job conditions leading to longer term insecurity is limited or no opportunity to gain and retain skills through access to education and training, again difficult to quantify.

Finally, unions and collective bargaining provide a degree of protection for workers against many aspects of insecurity. But in many New Zealand workplaces, union representation is non-existent or low and discouraged by the employer. According to the SoWL, 1,319,000 employees (71.5%) say they are not union members (a smaller number than official union registration statistics suggest). Union membership is even lower among casual employees, at 15% compared to 28% for permanent employees. Collective bargaining rates are low: 1,100,000 employees (59.7%) are on individual employment agreements,² another 302,100 aren’t aware of any agreement or don’t know if they are on one, and an estimated 1,231,000 (66.8%) work in businesses which have less than 10% coverage by collective employment agreements which de facto provide a base of conditions for workers on individual agreements in those firms.

We can therefore say with some certainty that at least 30% of New Zealand’s workers are in insecure work, but keeping in mind the Australian experience, the above evidence and that which follows it would be surprising if the total numbers were less than 40% and may well be 50% or more.

² Estimated from Business Operations Survey and Business Demography Statistics for 2012, Statistics New Zealand.

INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?

THE TRANSIENT NEW ZEALAND WORKFORCE

New Zealand has a highly transient workforce. In any one year, the number of wage and salary workers leaving a job is almost two-thirds of the number of existing jobs. In good times more than that number find a new job; in bad times some do not. However this does not mean that two-thirds of workers are changing their jobs every year because some change jobs more than once in a year – but it does mean that there are many workers whose working life is in constant flux.

In the year to June 2012, for example, Statistics New Zealand's linked employer-employee data (LEED) series recorded 1.089 million 'worker separations' looking only at jobs that had changed between the four quarters of that year. Many shorter lived jobs may not have been counted (on the other hand, the count included moves between geographical locations within one employer – not true 'separations'). There were an average of 1.812 million filled jobs over that year and 1.115 million 'worker accessions' – employees starting a job.

In such a job market, it should not be surprising that many jobs are insecure, short-lived and temporary.

One way this shows itself is in the average length of time jobs are held by New Zealand workers. Job tenure in New Zealand is among the shortest in the OECD. According to the SoWL and similar surveys in OECD countries, almost twice the proportion of people have been less than a year in their job in New Zealand compared to the Netherlands.³ Only Denmark, Australia, Mexico, Turkey and Korea have a greater proportion of people in jobs for less than a year. Not far below are Canada, Finland, Iceland and the US. They illustrate two extremes of an insecure job market.

Mexico, Turkey, and the US, for example, have poor social support for those losing their jobs. The consequences in loss of income and future opportunities unless another job is quickly found can be immense: in the US it is the second most frequent cause of bankruptcy (after medical expenses).

In contrast, while levels of benefits have often fallen since the global financial crisis, countries like Denmark and Finland still provide strong support to those losing their jobs with active labour market policies that provide high rates of income replacement along with support (and pressure) for training and finding a new job, recognising that the cost is one that should be born predominantly by society rather than the individual. New Zealanders like to think that we have a similarly generous welfare system, but OECD comparisons also show that New Zealand has one of the least generous income replacement rates for unemployed people in their early stages of unemployment – between 20th and last out of 33 countries depending on family circumstances (OECD, 2013a). The consequences of job loss in New Zealand fall heavily on individuals and their families.

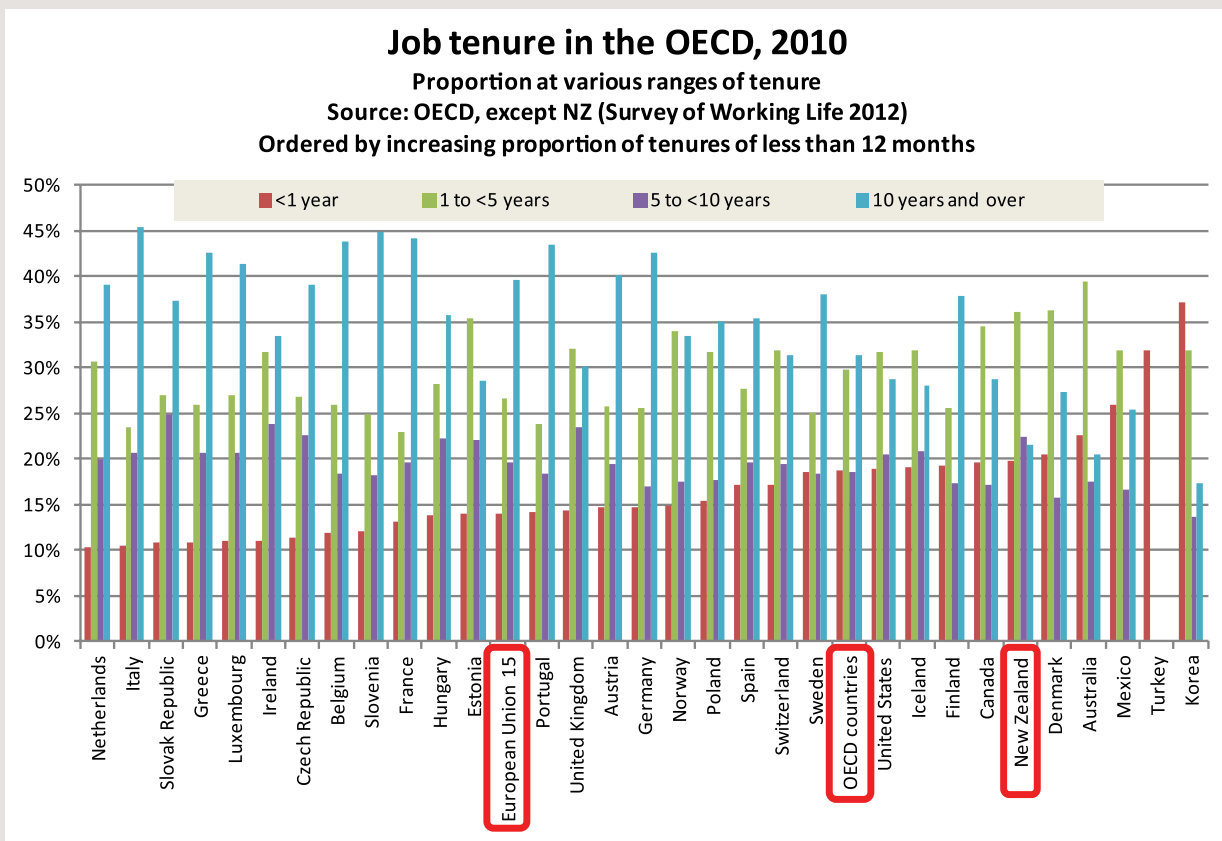
Job security is crucial for most employees in judging the quality of their jobs. Even Kelly Services, a global provider of outsourced, consulting and labour hire services, found in a survey of 122,000 employees in 31 countries including over 3,500 New Zealanders that:

"In the eyes of the employee, there is one issue that dominates when it comes to evaluating an employer's reputation – employment stability. Globally, an overwhelming 75% of respondents say that a stable employment environment is their prime consideration in judging the reputation of a potential employer." (Kelly Services, 2013, p.18)

³ An alternative source of data on job tenure in New Zealand is Statistics New Zealand's LEED series. It shows an even more extreme concentration of New Zealand employees with short tenures. For the year ended 31 March 2011, for example, it estimated 38.7% of employees were in their first year of a job, and only 7.9% had over 10 years of service – compared to the 2012 SoWL which showed 19.9% in their first year and 21.5% with over 10 years of tenure. There are methodological differences that explain some of the disparity, but it lends further weight to the evidence of short job tenure in New Zealand.

INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?

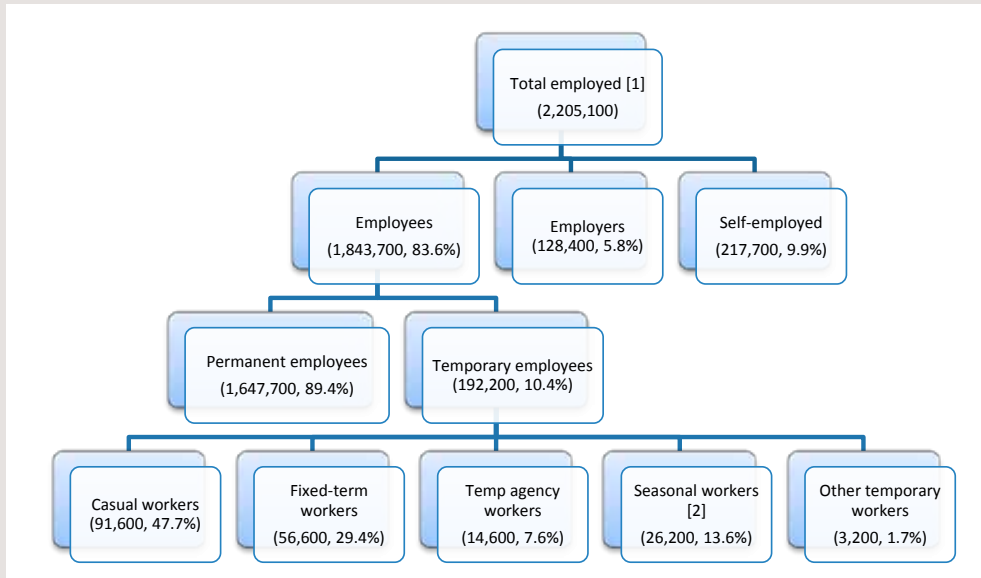
Short job tenure also has an economic cost. Earnings rise with length of time on the job. The 2012 SoWL showed that average weekly earnings for someone in the second six months of a job were \$854. For someone over 15 years in the job it was \$1,295 – half as much again. Shorter tenure is likely to mean lower earnings. But in addition, those higher earnings reflect higher productivity for the employer. Loss of skills, experience, firm-specific knowledge and the higher productivity that goes with them are a cost to the economy. Though countries like Denmark and Finland have proportions in short tenure jobs comparable to New Zealand, they have a much greater proportion in jobs with tenure of 10 years and over – 27% and 38% compared to New Zealand’s 22%. They are arguably getting the benefits of both flexibility and productivity while retaining a higher degree of employment security.



INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?

TEMPORARY WORK

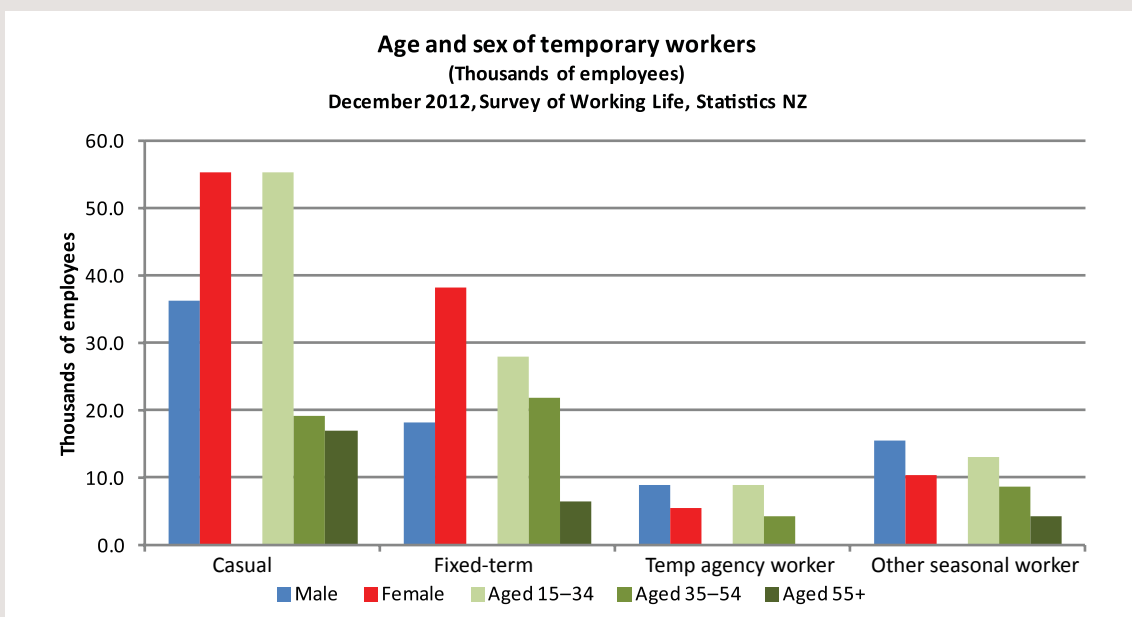
As already noted, temporary work, including casual, labour hire, fixed-term and seasonal work, is the heart of insecure work.



The New Zealand labour force at December 2012 (Survey of Working Life, Statistics NZ)

Notes: [1] This includes approximately 15,000 people who were working without pay in a family business. [2] These are seasonal workers who are not casual, fixed-term or temp agency workers. In all there were 51,000 seasonal workers, making up 26.5% of temporary employees.

Among the 192,200 temporary workers in December 2012, the largest category was casual workers, making up 91,600 or 47.7% of them. Fixed-term (56,600), Temp Agency (14,600) and Seasonal workers not classified in one of these other categories (26,200) made up the rest. In all, there were 51,000 seasonal employees, spread across the different categories, making up 26.5% of all temporary workers. The graph below shows that women were in the majority among casual workers and fixed-term workers, but males were the majority in the other two groups and among seasonal employees in general. Temporary employees tended to be younger than permanent workers.

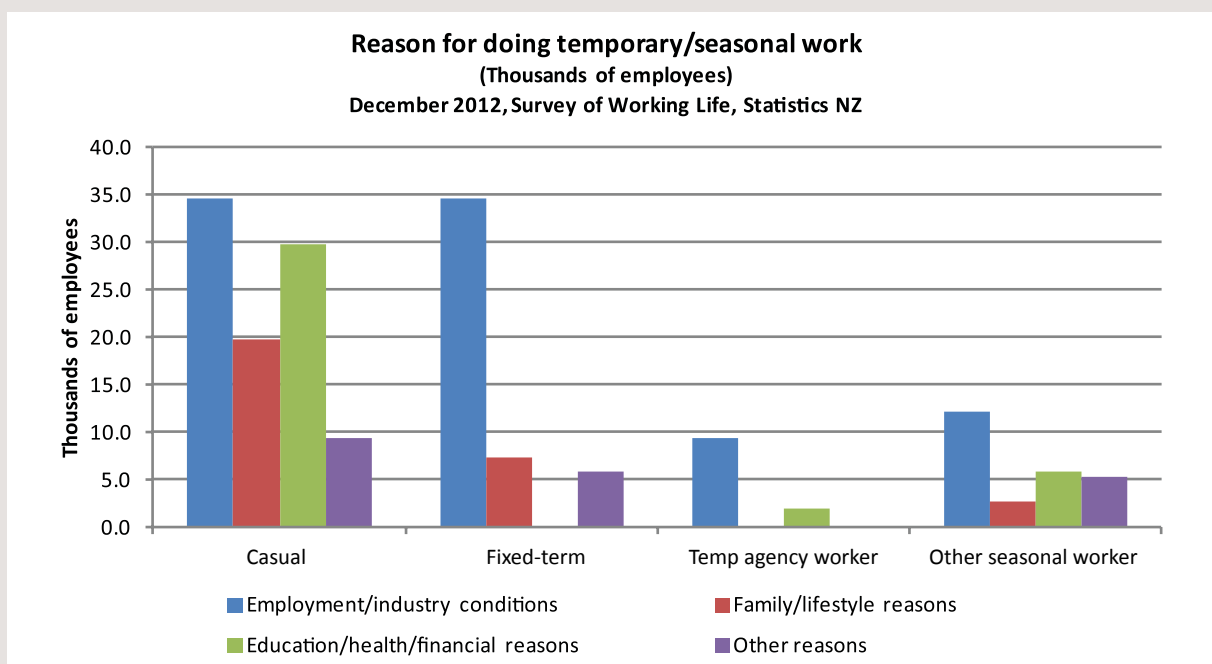


INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?

As the next graph sets out, many temporary workers would prefer permanent or ongoing work – 70.5% of temp agency workers, for example.

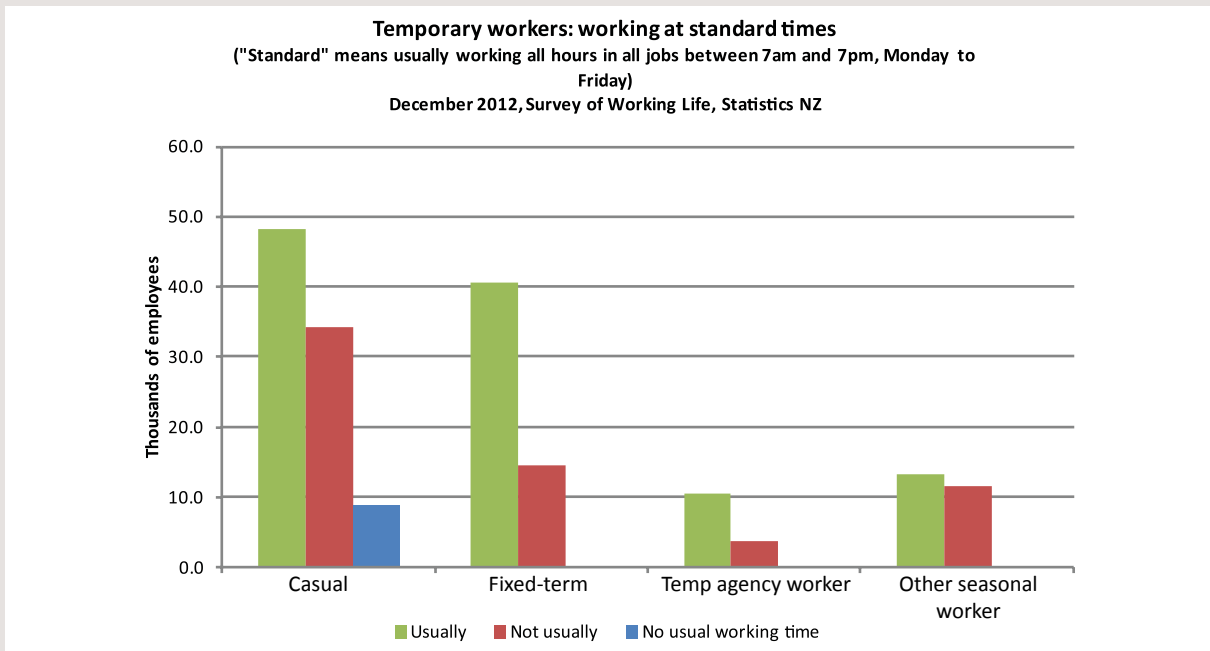


Furthermore, a substantial proportion – 61.1% in the case of fixed-term workers and 64.4% of temp agency workers – are doing temporary or seasonal work because of ‘Employment/industry conditions’, suggesting that it would not be their choice if other work were available.

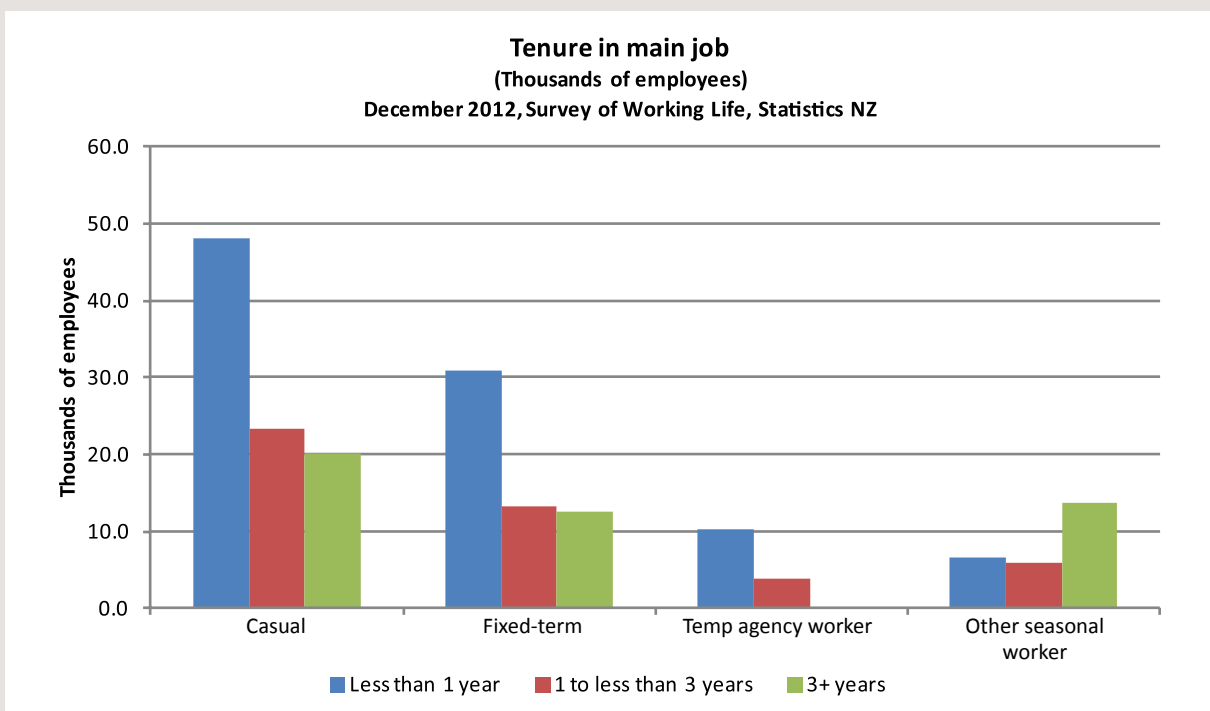


INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?

Temporary work also often means working at ‘non-standard’ times. Workers are deemed to be working at ‘non-standard’ times if they do not meet the Statistics New Zealand definition of ‘usually working all hours in all jobs between 7am and 7pm, Monday to Friday’. Whether these non-standard hours help or hinder the worker’s work-life balance will depend on their circumstances. The Survey of Work Life found that 37.3% of casual employees and 41.0% of seasonal workers (and 44.3% of seasonal workers who were not defined as casual, fixed-term or temp agency) were not usually working all hours at standard times. About a quarter of fixed-term workers (26.5%) and temp agency workers (25.3%) were in the same position. In addition, about one in eleven casual workers (8.9%) had no usual working time.



Despite these being ‘temporary’ jobs, half (49.7%) of the workers had been in the job for more than a year, and a quarter (25.1%) for three years or more, suggesting widespread misuse of this form of employment.



INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?

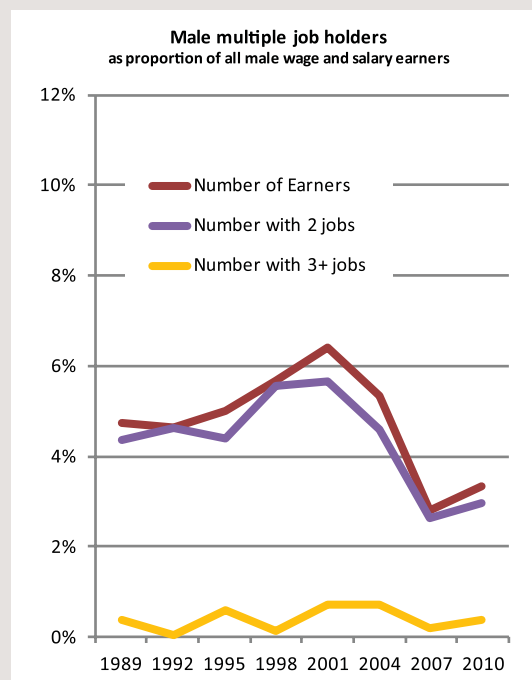
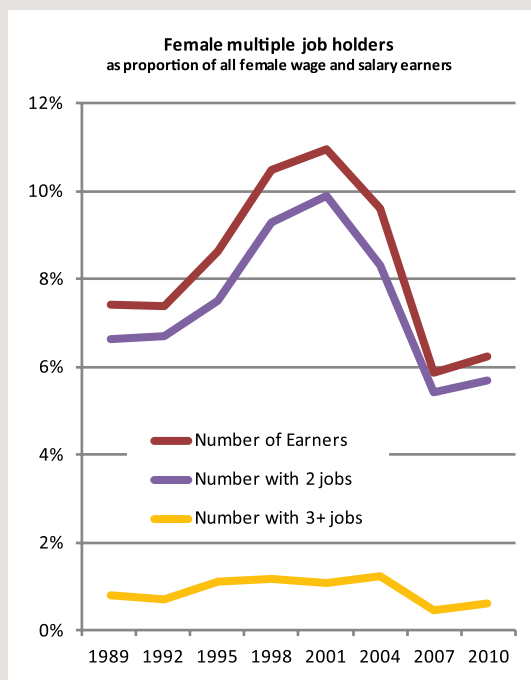
MULTIPLE JOB HOLDING

Work by James Baines, James Newell and Nick Taylor in the early 2000s found that there were varied reasons for people holding multiple jobs, including building sufficient household income, and, for certain professionals, the motivation of “benefits from flexible employment for their personal and family lives”. Using multiple data sources (including the Household Labour Force Survey (HLFS) and Censuses but not the Household Economic Survey (HES)), they found that “multiple job holding rates increased over the period 1981-96 but this growth appears to have levelled off over 1996-2001”. They found that 9.7% of those aged 15 years or over and engaged in the workforce held more than one job at March 2001. Three groups of people had a relatively high incidence of multiple job holding: those involved in full-time unpaid work, those involved in part-time unpaid work, and the self-employed (where the level was 22.1% for women and 15.6% for men). Wage and salary earners, both full-time and part-time, and both male and female, had the lowest rates.

Baines, Newell and Taylor also found that “people at both extremes of the personal income range are represented in above-average levels of multiple job holding activity” – that is, people in decile 10 and people in deciles 1-5. In all but the lowest two deciles, women’s multiple job holding rate was higher than men’s.

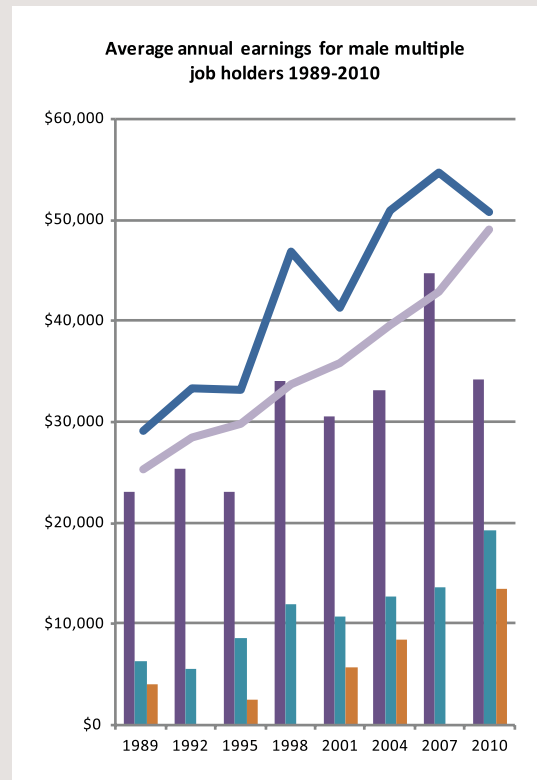
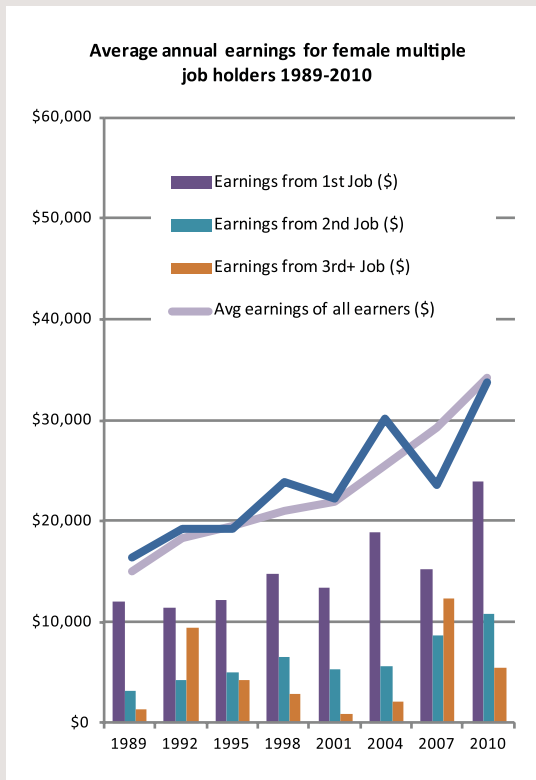
In this Report, our concerns regarding insecure work largely lie with the lower deciles. If people are putting together two or more jobs to make ends meet it is likely that, for some of them, one or more of the jobs is taken to fit in with the other job(s) or responsibilities, giving little choice as to their quality and security. We hear frequently of cleaners in this position, for example. While holding multiple jobs is not necessarily a symptom of insecurity, it may well be an indicator or warning sign.

In looking further at multiple job holding, we used two sources of data. One was a special data request provided by Statistics New Zealand from the Household Economic Survey (HES), the other was from LEED (Linked Employer-Employee Data). The graphs below come from the HES.⁵ They show a picture consistent with that painted by Baines et al. but extended into the 2000s: rising multiple job holding by employees until the early 2000s, then falling, but with the suggestion of an upward turn in 2010. There are higher multiple job holding levels among women than men. Average incomes for women multiple job holders are not much higher than the average income for all women employees, so there is evidence for many, probably most of them, being low income earners. On the other hand incomes for multiple job holding men appear to be somewhat higher than for all male employees. It appears to be rare to have more than two jobs, although multiple job holding is likely to be a frequent part of the informal economy with undeclared income and job holders reluctant to report such jobs in official surveys.

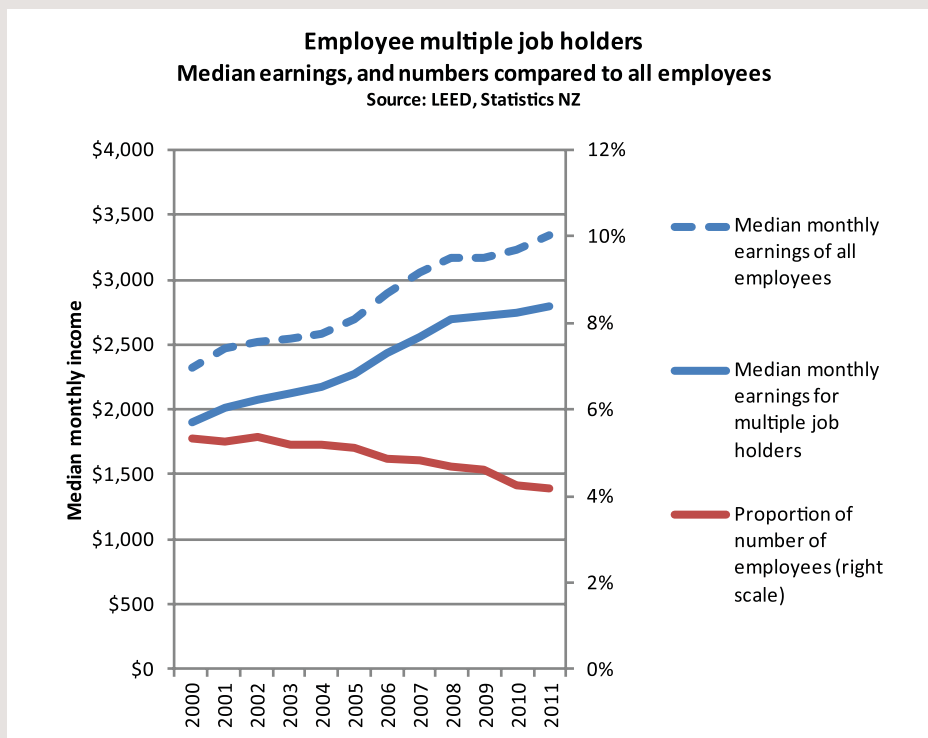


⁵ Note that they include only wage and salary jobs: multiple self-employed job holding data was available only up to 2004 (and was only a small proportion of jobs held for those years).

INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?



The picture painted by the LEED data, which has only been available since 1999, shows a consistent pattern but different in its extent. It shows considerably lower and falling levels of multiple job holding, and median incomes for multiple job holders being lower than that for corresponding groups of all employees. So to the extent that it suggests that for wage and salary earners multiple job holding is concentrated among low income earners, it is consistent with the findings of Baines et al.

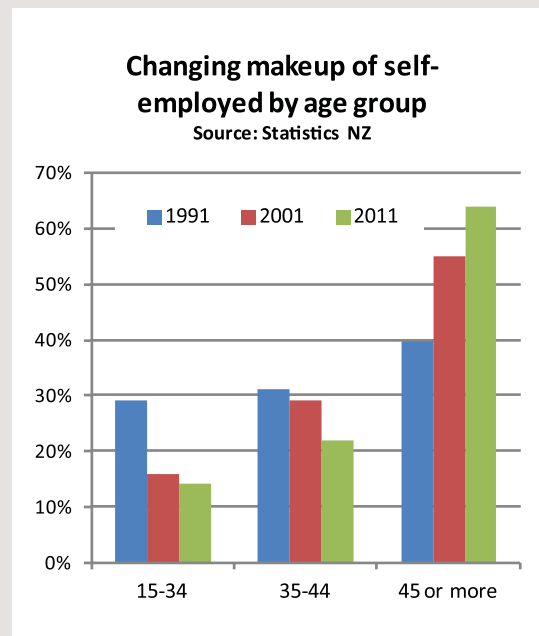
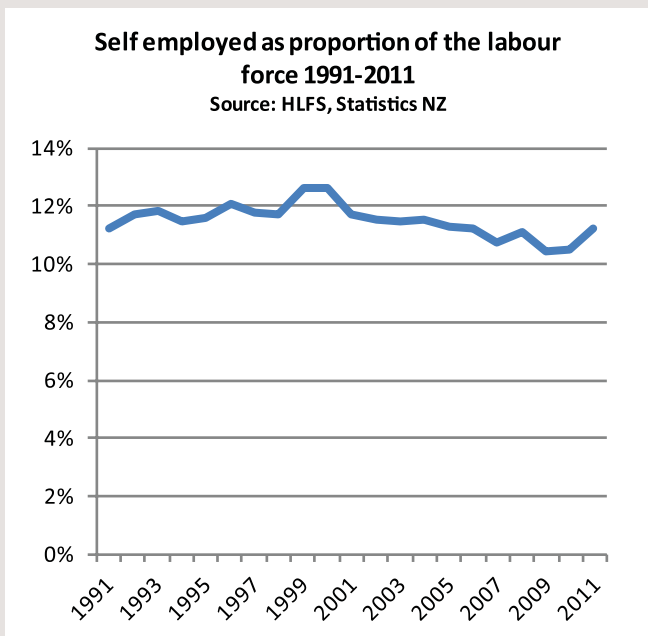


INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?

SELF-EMPLOYMENT

Self-employment (referring here to pure self-employment, with no employees) can provide high incomes, as in the professions or farming, but can also be highly insecure with little assurance of future work or income. It is particularly subject to exploitation in circumstances where all or most of the work is through contracting to a single large company which can dictate terms. There have been numerous cases, including in the telecommunications, film, courier and road freight industries, where some employers have deliberately shed their responsibilities as employers while retaining the services of their workers by requiring them to either enter into dependent contracting arrangements or lose their jobs. There are variations in the dependency of contracting by self-employed tradespeople, particularly in the construction industry, but others such as taxi drivers and franchise holders can find themselves in similarly vulnerable positions.

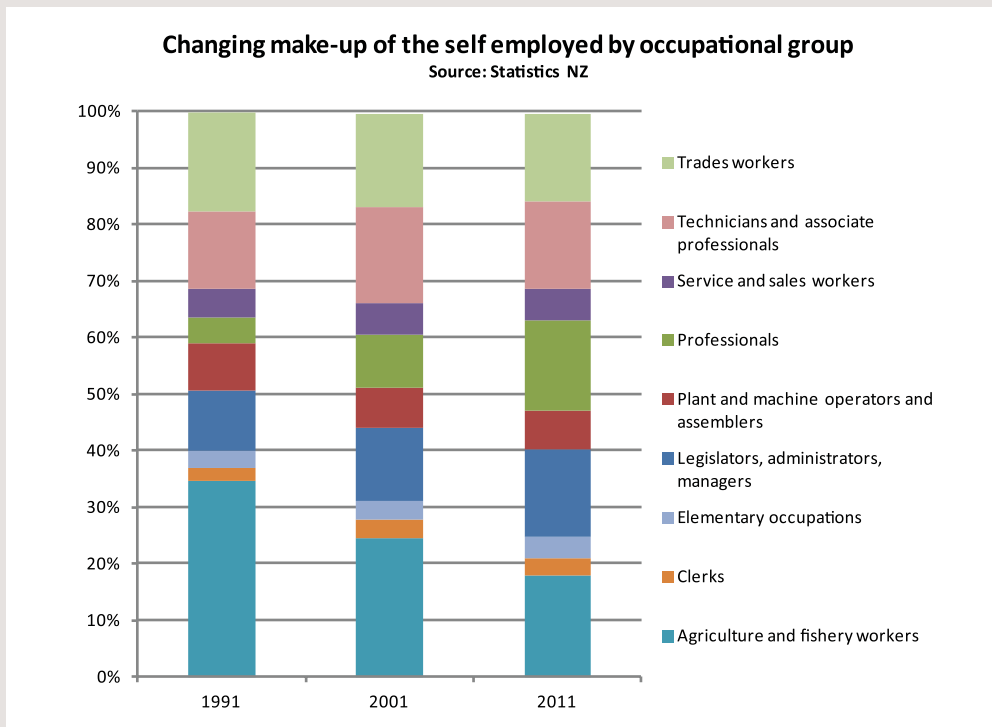
The statistics⁶ do not give us any hint as to the dependency of contracting and thus the insecurity of this work. The graph below shows that self-employed numbers rose as a proportion of the workforce from 1991 until 2000 and then fell, finishing in 2011 at the same level as in 1990 only because of a rise since 2009.



However, the occupational make-up of the self-employed has changed markedly over that period, with agricultural and fishery self-employment falling significantly as a proportion of all self-employed, while the proportion of professionals and managers rose to take their place. There has also been a marked shift in ages, with the 45+ age group growing as a proportion of the self-employed, while the 15-34-year-old and 35-44-year-old groups shrank. This occurred in almost all occupational groups. It suggests that success in self-employment is increasingly dependent on high levels of experience.

⁶ Special data request from Statistics New Zealand from the HLFS.

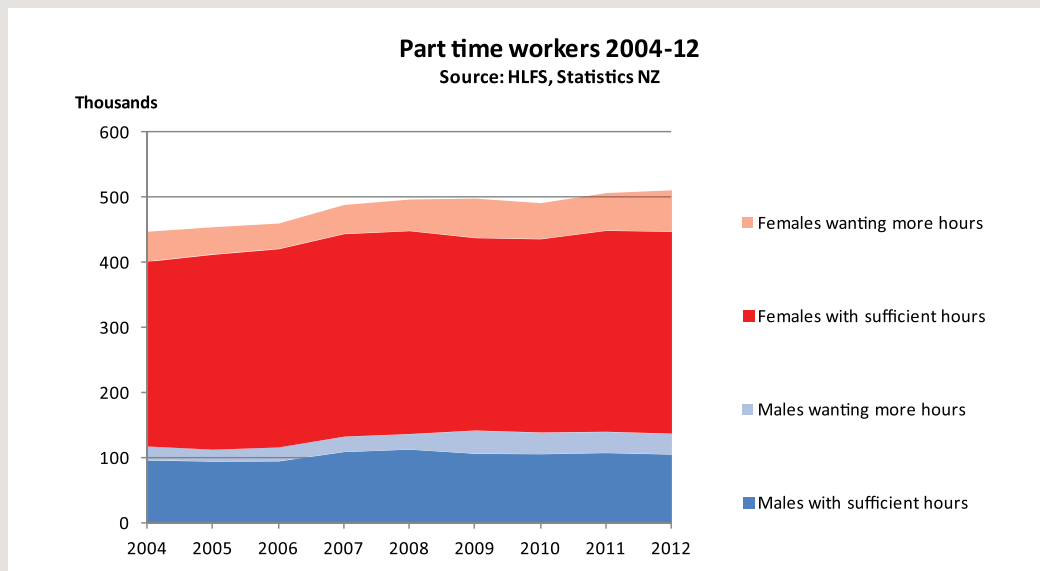
INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?



PART-TIME WORK

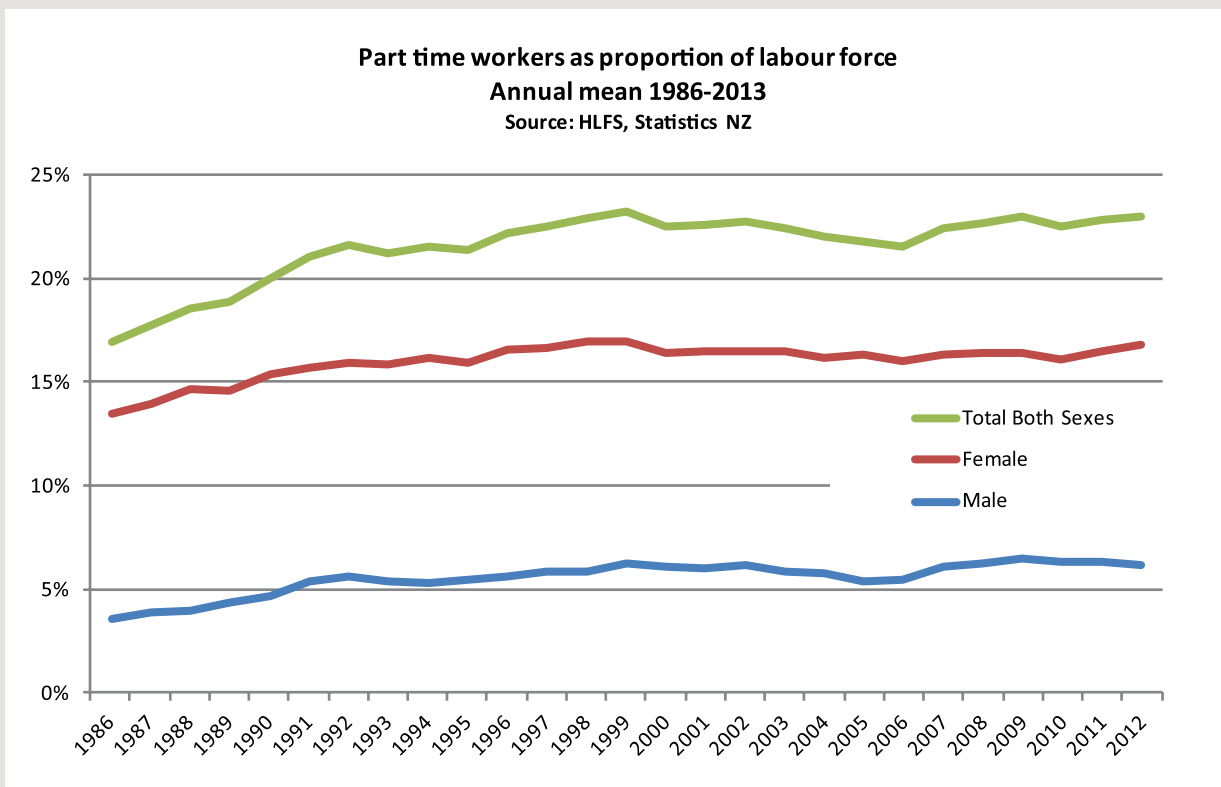
Part-time work is not necessarily insecure. For some workers it is an ideal way to balance work with the rest of their lives. However, some forms of part-time work (such as temporary and casual work) are often insecure, and for some people part-time work is all they can get. That could be because they cannot work longer hours even though they wish to, or because they are reluctant to go to work because of other commitments (such as having dependent family members) but are forced to by financial or government pressures. In such circumstances, workers may feel they have little choice of job and end up in an unsatisfactory situation which cannot be sustained. According to the December 2012 SoWL, 35.8% of part-time workers were parents of dependent children, and 5.6% were sole parents, in both cases most of them women. Of the mothers who were working, 39.8% of sole mothers and 41.8% of mothers in two-parent families were in part-time work.

Of the 510,900 people employed part-time in 2012, some 95,700 or almost one in five (19%) wanted more hours of work.



INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?

Part-time workers rose rapidly as a proportion of the labour force in the late 1980s and early 1990s. Women have been a much larger part of the part-time workforce than men. As a proportion of the labour force, part-time work peaked in 1998 for women and 1999 for men, and women part-timers fell as a proportion of the workforce until 2010 when the proportion began to rise again. Men part-timers reached a low of just over 5% of the labour force in 2005, but peaked again in 2009. At around 23% of the labour force, New Zealand's part-time rate is one of the highest in the OECD. This is not a sign that New Zealanders work shorter hours than most: they worked the 14th longest hours out of 32 OECD countries in 2012. The year after part-time work peaked (1999), full-time workers working 45 hours or more a week reached a peak of half the full-time labour force.



AGENCY WORK/LABOUR HIRE

There are few reliable official statistics on the number of agency workers, or even the number of agencies. In 2004 (based on figures from the Recruitment and Consulting Services Association) Burgess, Connell and Rasmussen estimated that the industry might constitute over 1% of the workforce, while acknowledging that agency work “undoubtedly involves more people than publicised” (Burgess, Connell, & Rasmussen, 2005, p. 357).

The most complete official statistics on agency work come from the SoWL. In 2008 it recorded that 0.7% of employees at the time worked for a temporary employment agency. Some 30.3% of those workers were male and 69.7% female, and agency workers were more likely to work in large firms. By 2012 the agency workers made up 0.8% of employees and 38.4% were male, though some of the change may have been due to seasonal effects. The most common areas of employment in 2008 were clerks (26.4%), professionals (16.7%), service and sales workers (14.4%), elementary occupations (14%), and technicians and associate professionals (12%). Some 51.2% of jobs lasted less than six months, while the next most significant period of tenure was one to three years (25.4%) (Dixon, 2011).

These survey figures contrast with data from the global labour hire industry lobby group, the International Confederation of Private Employment Agencies (Ciett), which suggest a similar rate of 0.6% in 2008, the same in 2009, and then falling to 0.3% in 2010 and 2011. Ciett’s figures estimate a New Zealand daily average of 7,570 full-time equivalent agency workers in 2011, and 98,500 individuals being employed by an agency at some point in that year (International Confederation of Private Employment Agencies, 2012, pp. 25–27). This figure of 0.3% is significantly lower than the global average of 1%. The differences may be due to the way agencies record their numbers as compared to ‘point in time’ survey information. If the industry’s reported figure is correct, it would suggest that the incidence of agency work dropped dramatically after the global financial crisis, indicating the transient and insecure nature of these employment relationships.

Other than by survey, there is no current way to ascertain the number of agency workers in New Zealand, how their employment varies during the year, and the work they do. There is no legal requirement on employment agencies to pass information to the Ministry of Business, Innovation and Employment on their operations. The situation is particularly difficult because temp agency worker numbers are known to fluctuate greatly, which also creates challenges in accurately surveying them.

Temp agency workers

The temp agency industry has been founded on a set of claims not justified by the evidence, including:

- that temp agencies create jobs, although in fact jobs with reduced employment security often come at the cost of permanent jobs, and indeed have been used in deliberate campaigns to de-unionise firms and reduce the number of secure, better-paid jobs;
- that temp agencies are an effective way of finding permanent employment, although a 2010 study of agencies found that they do not improve workers’ prospects (Autor & Houseman, 2010);
- that agency services deliver decent work, although experience indicates that not only do agency positions carry inferior conditions, but these positions also drive down conditions across the whole labour market; and
- that agency work is a lifestyle choice, when research indicates that most agency workers prefer permanent positions. The 2012 SoWL showed 70.5% of temp agency workers would prefer permanent or ongoing work and almost two-thirds (64.4%) worked through agencies for reasons of “employment/industry conditions” rather than for lifestyle or other reasons. (For another example see also Equality and Human Rights Commission, 2010.)

New Zealand has the lowest level of temp agency regulation and protection for their workers in the OECD (OECD, 2013b, p. 90).

INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?

CONCLUSION

We have noted that some forms of ‘non-standard work’ such as part-time work, multiple job holding and self-employment may be chosen by some workers because it genuinely suits them. But we have also noted that for other workers these are second choices which provide undesirable, low quality and insecure jobs. While the weak data available in New Zealand makes it impossible to quantify where the balance lies, the evidence here suggests that the use of these forms of work is also a reaction to the availability of employment, what jobs pay, and changes in employment law. With improved employment protections, falling unemployment and earnings rising somewhat faster starting from the beginning of the 2000s, part-time work, multiple job holding and self-employment all decreased as a proportion of the workforce, but began to rise again with the recession and reduced employment protection beginning around 2008.

During the 1980s and 1990s, the increased incidence of part-time work was driven in part by social changes – women wanting to work – but also in part by stagnant household market incomes which were only maintained by both parents working, usually with one working part-time. It is wrong to assume that increased proportions of insecure work are an inevitable outcome of the ‘modern economy’. Its level and nature can change with economic circumstances and political will.

Finally, some forms of insecure and non-standard work – such as temp agencies – are used reluctantly by most of their workers because of lack of other choices. Indeed, they can be used deliberately to undermine more secure work.

INSECURE WORK: WHO IS AFFECTED?

“Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection from unemployment”

Article 23 (1), Universal Declaration of Human Rights

High unemployment rates, employment uncertainty from the economic downturn, widespread restructuring in the public sector, and private sector job losses have all had an impact on workers. The loss of job security is now affecting more and more people. The most recent Survey of Working Life, from December 2012 (SoWL), showed that workers’ perception of job insecurity has risen in the last four years, with 17% of permanent employees thinking that the chance of losing their job in the next 12 months was ‘medium’, ‘high’ or ‘almost certain’, compared with 11% in 2008.

Insecure work is spreading across sectors. Fixed-term agreements are becoming more common in government departments, when prior to 2008 they were relatively rare. And new forms of insecure work are appearing, including zero hours contracts whereby workers have to be available for work but are not guaranteed any set number of hours. The Chartered Institute of Personnel and Development estimate that there could be four times the number of workers on these contracts in the United Kingdom than has been officially recorded (Morris, 2013). Reports are emerging of this type of work increasing in New Zealand, and recent publicity about their use in Britain is thought to be fuelling their introduction here.

Casual workers, according to an analysis of the SoWL (Ongley, Lum, Lynch & Lu, 2013 p,12) are “the most vulnerable of temporary workers, because they are younger, work in lower-skilled occupations, are less likely to be protected by employment agreements and union membership, work fewer and more variable hours, have shorter job tenure and lower earnings”. But across all kinds of insecure working conditions, some groups of workers are more frequently affected than others – in particular, low-paid women workers, young workers, migrants and people with disabilities. (Certain sectors also have high levels of insecure work, as discussed further below.)

WOMEN AND INSECURE WORK

The gendered nature of insecure employment is very strong: women are more likely than men to be affected by insecure work conditions. This results from a direct relationship between insecure work and entrenched levels of occupational segregation in the labour market. Women workers are concentrated in a small number of traditionally female-occupation jobs and in the lowest paid sectors of the labour market: caregiving, cleaning, retail and the food service sectors.

The SoWL confirms the gendered nature of, for example, temporary work. Temporary workers are more likely to be female than permanent workers, with women making up 58% of temporary employees. There are differences in the gender balance between the different types of temporary workers: women make up almost seven in every 10 people in fixed-term jobs and six in 10 casual workers. This compares with men, who make up six of every 10 workers in temp agency and seasonal work.

Not only are women less likely to be in full-time permanent employment, they are also more prone to being in insecure forms of work, given their higher prevalence in part-time, casual and low-paid work. Using the term ‘non-standard’ to describe work that is not full-time and permanent, a 2002 literature review by Deborah Tucker for the Department of Labour found that, in New Zealand as in other countries, “men are more likely to be in the higher end of non-standard employment while women are predominant in the lower end” (p. 8) .

While women’s participation in the labour force has steadily grown over the last five decades, this growth has been concentrated in jobs with part-time hours and in the low-paid retail, hospitality and service sectors. Part-time workers are more likely to be in work that has the characteristics of insecure work, such as lower wages and fewer employment protections.

The proportion of women in part-time work is around 35%, three times the rate for men. Many of these women are likely to be doing this for involuntary reasons, and one in six want to be working more hours. In June 2013, 87,500 people were underemployed – in other words, they want more hours of work – 60,100 of them women.

INSECURE WORK: WHO IS AFFECTED?

The 2012 Caring Counts Inquiry (Human Rights Commission, 2012), which examined the conditions of work in residential aged care, found that the sector's insecure hours of work, combined with minimum or near-minimum wages, made for very precarious incomes for its overwhelmingly female staff. The Inquiry was told that workers are employed for less than 40 hours but then have variable additional part-time hours in their employment agreements. This creates double insecurity: insecurity about work hours and insecure income.

A recent example in the care sector shows the increased vulnerability of these overwhelmingly female workers. Some 120 workers at the Oceania-owned Elderslea rest home in Upper Hutt were told in June 2013 that the home's management wanted to remove permanent rosters, employ workers on a casual basis, and roster care workers according to the home's occupancy levels. The management claimed the changes would make the rest home more efficient and workers would not lose many hours if they were flexible about when they worked. The result, however, was that these caregivers, who are all on wages close to the minimum wage, would no longer be able to depend on an adequate income and would have no security in relation to their hours of work.

A 2013 survey by the Tertiary Education Union (TEU) of over 2,000 of their members in casual employment in the tertiary education sector found that women are more likely than men to end up in casual, insecure and non-permanent employment (Tertiary Education Union, 2013 (1)).

YOUNG WORKERS AND INSECURE WORK

Younger workers are more likely to be affected by insecure work. (For the legal protections, or lack thereof, for younger workers, see 'Insecure work: the legal context'.) The SoWL found that 55% of temporary workers were under 35 years of age, compared with just 36% of permanent employees. The very large number of young people employed in the service sector, and especially the large number of young people in the hospitality sector, means they are at high risk of being in insecure employment. Work for young people in these sectors is characterised by very low rates of pay and no certainty or knowledge about hours of work, with the fast food sector having led the way in the casualisation of the workforce.

Young people under the age of 16 are particularly vulnerable to health and safety risks and employment abuse from insecure employment. They are also without the statutory protections that older workers enjoy, such as minimum wage levels. Examples of the difficulties they face are evident in, for instance, the Survey of Children in Employment, carried out by Caritas in 2003, which uncovered:

- Schoolchildren working between 10pm and 1am
- Children carrying up to 20kg loads of newspapers and pamphlets in the rain
- 12-year-olds driving tractors, diggers and forklifts
- Children with cuts, burns, dog bites and broken bones from their work
- Children who say their best work experiences involve access to machinery, guns and alcohol
- 11- and 12-year-old cleaners of other people's homes to supplement family income
- Working children without contracts who have never heard of unions

In 2006, Caritas surveyed children delivering leaflets and newspapers with similarly shocking results. As the Labour MP Darien Fenton (2011) noted:

Based on a crude assessment of the data, Caritas estimated that most of the pay rates fell somewhere between \$1.67 and \$6.25 per hour. In 2007, Fair Go ran a story about children employed as independent contractors to deliver junk mail. The children, some as young as 12, others aged nearly 16, were earning as little as 25c per hour.

INSECURE WORK: WHO IS AFFECTED?

ETHNICITY AND INSECURE WORK

There is a clear ethnic and racial divide between those more and less likely to be in insecure employment. Māori and Pacific workers in particular are disproportionately represented in temporary work. The SoWL showed that temporary workers made up 12.9% of Māori workers, 10.7% of Pacific workers, 8.9% of Asian workers and 8.2% of European workers. Seasonal work was the main factor contributing to the relatively high proportion of Māori workers in temporary employment.

Māori and Pacific peoples have been heavily hit by manufacturing downturns stretching back into the 1980s, and Pacific peoples' employment rate (measured by labour participation) has still not returned to its mid-1980s level. Though we lack good data, multiple job holding especially at the lower end of the Labour market has been described as a particular issue for Māori workers (Department of Labour, 2004).

MIGRANTS AND INSECURE WORK

Migrants are particularly vulnerable to insecure work and exploitative work practices, as they search for employment in unfamiliar environments and in an unfamiliar country. The Commission on Vulnerable Employment in Britain established by the Trades Union Congress looked at the causes of and solutions to vulnerable employment in the United Kingdom. It found that migrants were more at risk of vulnerable employment. Migrants are more commonly found in various forms of insecure work as they search for an entry point to the labour market (McLaren, Firkin, Spoonley, de Bruin, Dupuis & Inkson, 2004). The Unite union reports that migrants "often feel unable to stand up for legal rights such as taking breaks, joining a union and ensuring they are paid for all the hours that they work" (Unite, 2013)

A case that went to the Employment Relations Authority in 2010 found that a Chinese national, who came to New Zealand in October 2009 to work in a noodle shop in Auckland, worked for six months 10 to 11 hours a day, seven days a week, for less than the minimum wage ("Immigrants held hostage to visas", 2011). In another case an Indian man, Pardeep Kumar, was paid only \$12,445 for nine months work, much of it working more than 40 hours per week and sometimes up to 86 hours per week with no holidays or holiday pay (ibid). Both of these cases went to the Employment Relations Authority.

The Caring Counts Inquiry found that migrant nurses and caregivers in the residential aged care sector are more likely than non-migrant carers to be on shorter contracts, have irregular hours and be working broken shifts, and be undertaking lower classified functions. The Inquiry also reported on the vulnerability of migrant workers who depend on a specific employer for work and who feel obligated to work additional shifts whenever they are asked, without negotiation, and this included agreeing to double shifts of 15-16 hours. The inquiry was told that "work permits are used as a threat to gain compliance on work conditions such as hours of work and pay" (p. 107).

The New Zealand Nurses Organisation reports that there are many cases of Filipino-registered nurses being lured to work in New Zealand, and being signed up to two-year contracts without realising that they would be working in caregiver roles. Employers have the benefit of trained workers who are being paid at caregiver rates. Migrante, a settlement support agency that provides employment support, says that tales of exploitation among the Filipino community are rife ("Agents 'trick' nurses into signing bonds", 2012).

DISABILITY AND INSECURE WORK

People with disabilities have many additional barriers in the workplace. However their biggest issue is accessing and maintaining decent employment. Disabled people are estimated to have twice the unemployment rate of their non-disabled peers (Human Rights Commission, 2011). The Commission held that "this figure may be an under-estimate" (p. 5).

The advocacy group CCS Disability Action reports that, while there is clear evidence that disabled people are being discriminated against, the lack of any official data collection on the employment of people with disabilities makes it difficult to get traction on tackling their employment issues (CCS, Disability Action, 2013).

INSECURE WORK: WHO IS AFFECTED?

The current Government's benefit reforms have re-categorised many people who were on the Invalid's Benefit as 'Jobseekers' who are required to undertake a certain number of paid hours of employment per week. Disability advocates are increasingly reporting that disabled people are being pressured into insecure employment by Work and Income staff and employers with little understanding of disability needs, in order to fulfil the work requirements.

One such example concerned a young person without independent means of transport being required to present himself each morning at 6.30am at a labour hire company depot several kilometres from his home. He was required to be available for a job which might or might not last for a day, a week or a month. This kind of pressure and insecurity can be especially stressful for people already dealing with the effects of a disability. In other cases, employers without any understanding of disability are subsidised by Work and Income to take on disabled workers.

THE SPREAD OF INSECURE WORK

Some industries make more use of temporary labour than others. The SoWL found that temporary workers are more likely to work in low-skilled occupations, in the primary sector, manufacturing, retail, accommodation and food services, education and training, or other parts of the service sector. Industries with a greater prevalence of precarious work include agriculture, forestry and fishing, retail, restaurant and hostels and the service sector. The SoWL reported that just over one in five workers in the combined category of 'agriculture, forestry, fishing and mining' were temporary workers.

FIRST Union reports that "many land based workers are in short-term contracts and casual work with very low pay" (FIRST, 2012). Many direct employees have employment agreements with no guaranteed hours. In forestry, for example, workers will not be paid if the work is called off due to bad weather.

Cleaning and catering

Certain occupations are chronically less secure than others: industries such as cleaning and catering, for instance, have exceptionally high rates of contract turnover. Employees in these industries often have to change employer regularly or lose their jobs. (For the legal issues this raises, and the further weakening of these workers' positions, see 'Insecure work: the legal context'.) The 2001 Report of the Public Advisory Group on Contracting Out and Sale of Business includes an NZCTU survey of affiliate unions on the issue of transfer, sale and contracting out. The survey found that the impact on workers included:

- inferior terms of employment
- redundancy
- deterioration in quality of service provided and work standards
- long periods of stress and uncertainty
- concern about continual re-letting of contracts undermining job security

The survey also asked whether those workers who transferred to the new employer had seen changes to their terms and conditions of employment and, if so, what these changes were. Transferring workers experienced:

- fewer hours
- lower wage rates
- reduced holiday entitlements
- higher workloads
- 'culture' changes

INSECURE WORK: WHO IS AFFECTED?

Retail

The union representing retail workers, FIRST Union, reports that retail workers increasingly tend to have limited fixed hours, for example 24 hours a week, with the other 16 hours offered only on a casual basis and confirmed at the end of the day by a phone call. Some supermarkets are making more and more workers part-time with irregular shifts; these workers cannot take on other employment because they need to be available for these shifts.

Education and training sector

The SoWL reported that the education and training sector also has high numbers of temporary workers, with more than one in six workers engaged temporarily, mainly on fixed-term contracts or as agency or casual workers. A survey by the TEU, previously referred to, confirms the high prevalence of fixed-term agreements and casual employment in the tertiary education sector. It also showed that fixed-term agreements are commonly being rolled over year after year. One in six respondents said they were currently in an insecure, casual or fixed-term position, and a further one-third said they had been in such a position in the past.

The TEU survey is further evidence against the idea that most workers like casual, short-term or insecure jobs because they offer more flexibility. As the union commented (Tertiary Education Union, 2013(2)):

The reality is that most of these non-permanent jobs only offer the employer more flexibility. They save the employer money but offer no job security or career paths for people working in tertiary institutions.

Other education unions report that many new teachers are now employed on fixed-term agreements which are likely to be in breach of the Employment Relations Act 2000. These teachers, who are effectively finishing off a training that leads to registration, are the first to go or have their hours reduced in the event of a reduction in school rolls.

Public sector

In a 2013 survey by the Public Service Association (PSA) of nearly 16,000 public sector workers, one in five of these workers reported job insecurity (Plimmer, Wilson, Bryson, Blumenfeld, Donnelly & Ryan, 2013). Insecure work in the core public sector is a relatively new phenomenon, but fixed-term contracts are becoming more prevalent due to budget constraints and pressure on senior managers to cut jobs. In 2012, over 40% of new entrants were employed on fixed-term contracts; many of them will be working alongside someone on a permanent job doing the same work (PSA, 2012). PSA union delegates report widespread use of fixed-term contracts, which generally have inferior entitlements.

Home-based care workers

There has been a significant increase in people working in home-based care with more care for older people, people with disability and children being delivered in the home. In home-based early childhood education there was a 33% increase in the number of home-based services in the education sector between 2001 – 2005 (Education Review Office, 2009). In 2005 it was estimated that there were 18-20,000 support workers delivering home-based health care services (National Advisory Committee on the Employment of Women, 2006). Both these workforces are likely to have grown in size since that time.

Home care workers face particular employment risks related to isolation, training and lack of certainty of hours. Employment risks for these workers were identified in a study into the quality of care services for older people (Faculty of Medicine and Health Sciences, the University of Auckland, 2004). They were found to have increased risks compared to those working in aged care facilities, had inadequate training, worked in isolation with minimum orientation, and lacked ongoing supervision. The study found that support workers' high turnover was due to low rates of pay, not enough guaranteed hours of work, and uncertainty about career paths.

INSECURE WORK: WHO IS AFFECTED?

Other sectors

The SoWL reported that the healthcare and social services industries are less likely than others to use temporary workers. However, there are a substantially higher proportion of temporary workers among community and personal service workers. In the social sector, the form that insecure work takes is outsourcing. This results in major job insecurity and poorer terms of employment, as providers struggle to meet their contract requirements with reduced government funding. There are several other groups of workers that are susceptible to forms of insecure work. This includes people being paid 'under the table' in the informal economy and outworkers who are at home working on piecework rates.

WORKERS UNDER PRESSURE: CASE STUDIES

This chapter presents worker experiences of insecure work. The stories from these workers tell the human side of the impacts of insecure work, the impact on family, community, faith commitments and also the way that people feel about themselves. These could be the stories of thousands of New Zealand workers and their experience of insecure work. They are workers under pressure.

We would like to thank the workers who have told their stories about their experiences of insecure work and the effect that it has on their lives.

HINEMOANA: “I can’t remember a proper weekend for a long time.”

If Hinemoana is looking relaxed it’s because she has just come back from her first holiday in “maybe eight years”. With her long string of casual short-term jobs, and her partner self-employed, it is not easy to align days off that overlap.

Many in Kāpiti know Hinemoana best as a musician and poet, but she is also a creative writing tutor at a polytechnic. It is a job she has had since 2006, in a string of semester-long employment agreements.

Each semester Hinemoana talks to her manager, asks about job security. Each semester her manager says the polytechnic does not know if it will have a sufficient number of students enrolled to offer the course. So, one semester at a time it is.

Hinemoana also edits the polytechnic’s literary review – again a fixed-term agreement that she is offered each year.

The rest of her income comes from a range of other small agreements, mainly with education institutions. Over the years, this has included supervising a Masters student, teaching a three-Saturday poetry course, and offering one-off workshops for arts festivals.

“I’m really grateful to be employed and I enjoy the work,” says Hinemoana.

Hinemoana’s passion is music and poetry but recently she has had to turn down gigs and readings to accommodate her competing short-term agreements and contracts.

All these jobs ‘cobble together’ an income. Hinemoana calls it a ‘portfolio career’. But it often means there is no work over summer from November to March when the students are gone.

So, recently Hinemoana answered an advert for a permanent job with Quitline, 15 hours a week doing an afternoon/evening shift on the phone lines.

“I didn’t want to be reliant on the teaching work. I needed something more reliable.”

“It’s hard to juggle all the deadlines and demands sometimes. But I’m lucky I have skills other than music.”

Hinemoana is never sure of what work awaits her semester to semester. She says she does not plan her future. Partly that is her personality, and partly it is her employment situation. She does not have huge debt, except for the ubiquitous student loan, and she does not have many assets.

“I don’t ever foresee being able to buy a house. I don’t have a savings plan or a retirement plan.” A bit of Kiwisaver and a bit invested with a Ngāi Tahu savings scheme - nothing much.

To get the jobs done Hinemoana is extremely disciplined about time management. Her busy times are May, June, July. But occasionally she suffers from depression. If that, or any other sickness or unexpected time out from work catches her then her carefully stacked pyramid of short-term jobs becomes a backlog of work. Because she is on casual employment agreements, she does not have sick leave she can fall back on.

“It can be gruelling. I can’t remember a proper weekend for a long time.”



WORKERS UNDER PRESSURE: CASE STUDIES

MIKE AND KEVIN: Meatworkers

Kevin and Mike have worked at the meatworks for 40 and 20 years respectively. They are third generation freezing workers, and have seen many changes.

The meat industry is hard on its workers – they don't know day to day how many hours they will be working, and because it's seasonal work, they don't know year to year how many months work they will have.

Mike worked 24 hours last week, this week 30. "We get rung on Friday and told if we're working on Monday or not."

Kevin described his usual day: "We go to work, and if we're there all day, you're there all day. You really can't plan for anything."

Typically, the off-season is 8 – 16 weeks a year, and there will be one week's notice of the end of the season and two or three days' notice of the 'call back.'

But Mike says that there are also lay-offs throughout the season – "half the workforce was laid off last week. They might get the call up again before Christmas. Nobody knows."

Pay at the works used to be good, and with planning, the offseason was survivable, but "sometimes you can pick up some off-season work – but once they hear you're at the works, they know you'll go back so it's hard to pick up work."

This is meant to work on seniority – where, all things being equal, it's first on, last off. These seniority clauses have been hard fought over several collectives to create some security out of the seasonal nature of the job. But that's not always happening. Kevin has recently had to fight for his right to be at work after being laid off despite his high rank on seniority.

He describes himself as a prime example of work insecurity, saying "there's no loyalty from companies anymore. It used to be an enjoyable place to work. But now you get up and think "aw God, what's today going to bring?"

Mike spoke about what it's like in the off-season. "Everyone's just hanging on a rope out there till they get the call. That's when you're at your most vulnerable – when we're laid off. They try and get you to buy your job back with increasing the kill numbers on the cards as part of the contract to get back for the next season. That just means you have to work faster for the same pay."

Mike – "everyone in this community relies on a meatworker – the dairy owner, the publican, families. You notice it when we're laid off."

Kevin says "you never know when you're going to get the call back. You can't go on holiday."

"It teaches you to be resilient. It hardens you to life," reflects Mike.



RENÉ: “You’re tied to the phone. You can’t plan anything.”

René and his family lived in Christchurch and René worked at the Port of Lyttelton for 11 years. He has a lot of experience and the ‘tickets’ for most jobs on a wharf. After the earthquake, they moved up to Auckland.

René tried to get a transfer at the level of his current job, but had to start again as a casual, a P24 – meaning he has only three shifts guaranteed. It also means that René is on call for extra shifts which he is always keen to pick up to top up the family income. It means he often works ‘splits’ – eight hours on, eight hours off.

“You get used to it, but it’s hard. It means you don’t have time for anything. Kids, family, house – everything is on the run.”

P24s are usually kept for the weekends. René can almost guarantee a Sunday shift, but he never knows. René gets a text at 11am to confirm work the following night. And for a day shift, he’ll get a text at 2pm to work the next day.

“Pretty much you’re tied to the phone. You can’t plan anything.”

René says life in Auckland is expensive, so he takes the work they offer – “I’ve got two kids. My wife is also a casual so some weeks has work, others she doesn’t. I have to make myself available for everything or else you can’t afford to live.”

“When you’re available for everything, you’ll even get a call at 2.45 to start at 3. I drop everything, call the wife and ask her to get the kids because I can’t and jump in the car. You’ve got to be able to change everything all the time.”

To make up for the varied hours, René often has to ‘top up’ his weekly pay by taking annual leave days to ensure he gets paid.

“I’ve finished all my leave for last year, and next year. I can’t take a holiday.”

Life on a P24 contract is hard, René says. “You get used to it, but it’s very frustrating. You can’t say no.”

“I have to tell the kids – sorry I can’t do this today. It’s frustrating. It’s because of the money, because of the way they employ people. It’s a hard place to be.”

“I think they should get rid of these casual contracts.”

WORKERS UNDER PRESSURE: CASE STUDIES

JOHN: Change of hours process hugely unsettling for retail workers

Having low wages is bad enough, but when your hours of work are taken away from you it can be shattering.

For workers in some big retail chains, they have a base level of hours, and then their hours are 'flexed up', or not, from week to week.

In other stores, workers are going through a company-wide review of hours which can be highly unsettling.

Retail worker John has just been through this process.

He's been in the industry seven years, and is a meat assistant in the butchery at a supermarket chain. It was a big change coming to retail, from a previous career in the human services sector.

The low pay and unsociable hours have taken its toll, he says.

"I don't get a chance to socialise with people who get weekends off. It can be very disruptive."

He is a permanent staff member, and works 29 hours. During an hours review, it was proposed he lose 4 of those hours.

Thankfully, with his union he was able to argue his case against the changes, and he retained most of his hours. But he said if the proposal had gone through and he had lost the hours it would have been devastating.

It's very tight already for John.

"There is no possibility I can progress in life financially at the moment. With rent, insurance, telephone, food, car and setting money aside for dental and medical emergencies, I am literally living pay cheque to pay cheque."

"If the change of hours went through as proposed and I'd lost 4 hours, that would have been quite dramatic. It would have had a big impact on my life."

WORKERS UNDER PRESSURE: CASE STUDIES

CHRIS: Forestry – an industry under pressure

Chris has worked in forests all his life. He fells the trees and pulls them out of the forest. He has been a contractor, and now is a waged worker running crews of people in the forests cutting trees. Chris has every ‘ticket’ available for the industry, and has recently completed the NZCTU Health and Safety Representative training.

Chris describes the industry as one under constant pressure: “all the guys on the ground, they all tell their wives and partners – ‘***** it’s getting dangerous’. The wives all say the same thing.”

Chris works Monday to Friday, nine-hour days. He says this is a choice he has made to spend time with his family. Plenty of other forestry workers out there either don’t or can’t make that same choice, and work much longer hours and six-day weeks. Chris describes it as an insecure industry because of the contracting nature of a lot of the work.

“There are inexperienced new guys out there who succumb to the pressure and work the long hours. They are constantly under pressure – it’s top down – from the forest owner who negotiates a contract with a contractor who takes that pressure and transfers it to the workers. There are more trees, more production, and fewer guys cutting.”

“It’s pressure, pressure, pressure. If you feel like something’s unsafe or should change you get told the same thing over and over – ‘we’ll sort it out’ or ‘we’ll look into it’. It’s not good enough. When grown men, men in their 30s and 40s are saying this, you know it’s bad.”

Forestry is a dangerous industry. Chris thinks that the prevalence of contract work and de-regulation has contributed to this. Since 2008 there have been 28 fatalities in the forestry industry and nearly 900 accidents causing serious harm.

“There are no regulations about wind, or rain. There are no clear rules around breaks, I get up at 5.20am, and our first break is at lunchtime. I don’t eat breakfast and neither do a lot of the guys. It’s dangerous and it’s gotten worse since they changed the two-break day down to just one at lunchtime. Because of the contracts, it’s all about the time and the money and how many trees we can cut. Not about safety.”

This is having a huge impact on communities around the country.

“We all fish, hunt and golf together. We all know each other and each other’s families. When one goes down the impact ripples through the whole community.”

“Too often I come home thinking ‘jeeppers that was lucky’. Coming home is the key thing; there are too many widows and kids without dads.”



WORKERS UNDER PRESSURE: CASE STUDIES

LEUTU

Leutu has worked in aged care for 14 years, and enjoys the work. Until recently, Leutu worked regular hours, Monday to Friday, 40 hours a week.

Leutu says “I love my job, I love looking after people, it’s like looking after my own people.”

But restructuring has brought big changes. Leutu now only gets 36.5 hours and the days have changed so that she has to work on alternate Saturdays or Sundays each week. To make up the hours to earn the same amount as before, she now has to work 6 days a week.

Leutu used to spend Saturdays with her grandchildren and Sundays at church. She is a very active church member. But things have changed now.

“To me you have another life outside of work as well, you have commitments, you have family, you have church, but now life outside work is hard.”

Leutu is trying to get back some regularity to her work schedule to be able to fit in church. “I told them I will not work on Sundays”. She now just sees her grandchildren at church rather than on Saturdays as well.

“The change in hours is not really good. But what can you do? You have to adjust your life to the work. Because it’s income, you depend on it for things that you need, not even the things you want.”

Set hours and normal days would make a big difference to Leutu’s life. And a decent pay rate of course.

With the new hours, Leutu says, “for the money it’s very hard. I have 14 grandkids and two great-grandchildren, and a mortgage. Power is going up, food is going up. It’s like you’re working hard for the same money you had before, 36 hours makes a big, big difference. I’ve lost hours but now there’s an extra day I have to come in to work.”

Leutu says that the need for income gives her employer unfair power over her to be able to change her hours and it has a big impact on the rest of her life.

“It’s like they hold everything against you, where is the human right? It’s like they can drag you wherever they want to.”

“I am not young; I’m getting old, and need my rest as well. But what can you do?”

Leutu: “You have another life outside of work as well, you have commitments, you have family, you have church... but now life outside work is hard”



STEPHANIE

“After the earthquakes we were quite worried about job security because of falling student numbers.”

As Stephanie knows, when jobs are threatened, insecure workers are the first to go.

“Even though my job was ‘permanent part-time’ I was aware when it comes to job losses that there are the casuals, and then next in line is the permanent part-time positions.”

Stephanie is a tutor at a polytechnic teaching English to migrants and refugees. She started in 2001 in a fixed-term position with variable hours. Each year she got a letter saying, “Thank you, goodbye”. Then a new fixed-term agreement the following year.

After five years of these revolving agreements, the polytechnic created a new type of job, which it called ‘permanent part-time’.

The polytech offered six or seven of these positions. At the time, Stephanie had about a dozen colleagues on fixed-term agreements and they had to compete with each other for the jobs. When Stephanie successfully got one of these jobs, though, she quickly learnt it was only one step up from the casual positions that she had previously held.

Unlike truly permanent tutors, Stephanie and her newly permanent part-time colleagues were paid hourly and limited to teaching 412 hours a year. There were minimal sick leave and professional development provisions, and no opportunities to advance to senior tutor positions. Because Stephanie was paid hourly, once the academic year finished she had a space of eight to 10 weeks during December to February when there was no teaching and thus no pay.

“Luckily I have partner who is working full-time, but there were single mothers who found it really hard. They had to plan to get through that summer period.”

“Some of us talked about the dole, but with the stand-down period, it wasn’t really worth it.”

Stephanie and her permanent part-timer colleagues did exactly the same work as their truly permanent colleagues on salaries, including course and assessment design. Over time expectations grew that they attend staff meetings, put in extra hours to relieve for tutors who were away, and step into positions of responsibility temporarily, all within their allotted 412 hours per year.

A little more than a decade after she first started working for CPIT, Stephanie now has the job security of a permanent position. However, she still has several colleagues in ‘permanent part-time’ jobs, working an hourly rate while others around them get a salary.

“It’s not really enough to live on, it creates ill-feeling,” Stephanie says.



*Stephanie:
“It’s not really
enough to
live on, and
it creates
ill-feeling”*

WORKERS UNDER PRESSURE: CASE STUDIES

NAYTE: “They use rosters to silently fire you.”

Nayte is a cinema attendant. In theory Nayte is employed full-time, up to 40 hours a week, but the reality is much different. Normally, he gets 30 hours a week. But sometimes just two shifts, sometimes one, sometimes up to six. The rosters are set on Monday and start on Thursday.

“I can’t calculate how much I’m going to get paid. I can’t plan for anything that takes money or time.”

Nayte says he’s lucky to be boarding with his dad, as he wouldn’t be able to regularly afford anything else – his dad charges him 20% of his pay as opposed to a flat rate with which Nayte would be faced if flatting.

The allocation of shifts is not evenly spread throughout the staff, and the workers feel like the allocation of shifts is used as a way of disciplining people.

“Some people do get regular hours, but everyone knows that if you call in sick too often or get offside with the manager, they will slowly cut your shifts. They silently fire you.”

“They don’t give you a reason, they just change your shifts.”

This year was supposed to be a gap year for Nayte before he goes into study, but because of his varied hours and low wages, he has nothing saved, and feels like he will have nothing to take into next year.

“Just be nice to know what days you’re gonna work. Even though I don’t have a family, it’s still pretty hard.”

“We’re easily replaceable, that’s the problem. If you stand up for yourself, they have no incentive to keep you or give you shifts.”

MOLI: “Every day is a struggle to provide anything for my children”

Moli struggles to make ends meet every day. For the last year she has been on \$13.85 an hour, but was recently promoted to supervisor and earns \$14.50. She says this is not enough to support her four children, aged from 4 to 17.

“I work full-time but I am broke,” she says. “Every day is a struggle to provide anything for my children.”

Moli says the family can only afford to eat vegetables once a week on pay day. “Otherwise all I can afford is bread and noodles and I have to ration how much I give my growing children.”

The family sleeps together in the lounge at night – the only time she uses the heat pump.

“It is heart-breaking when your child tells you they are sick or hungry or cold but you can’t do anything about it,” she said.



CORDELIA: “If it’s a choice, you would choose something somewhat regular”

Cordelia has been working through temping agencies for most of her working career, so it was a logical choice for her once she had completed university.

“After university I signed up to a temping agency. But the work just didn’t come. I was working very sporadic contracts, and earning less than \$10,000 a year. I really struggled. I got depressed.”

“It was crushing”.

While she was studying, she part-time worked most of the time, but even then the uncertain hours and days made it hard to organise other everyday activities like classes and appointments.

“You technically get four days’ notice, or whatever, but they can call you on Friday and say don’t come in on Monday.”

It hasn’t all been bad though, Cordelia says. “I’ve had good stories, but it’s really dependent on their good graces.” Temping, like many other forms of insecure work, is often on the employer’s terms.

Cordelia is now in permanent, full-time work, but it wasn’t an easy path to get there.

“I was recruited through an agency for six weeks, and then moved on to a different role within the same agency where I was told that there was a strong possibility of a permanent role. This went on for a year. In the meantime, I was living in an uncertain environment.”

Cordelia says, “part-time and flexible work is meant to be something that can be good for you. It can be empowering. But if it’s not regular or people change your shift on you then it’s unhealthy. Flexi working is meant to be something you can sit down with your boss and agree. Not something to be imposed because it got busy.”

Flexibility is also about power: “it’s nice when you’ve got the choice, but if you’re feeling like your employer has all the flexibility, then that’s no kind of a deal at all.”

“If it’s a choice you would choose something somewhat regular.”

“Also a worry in that your temping agency has a lot of power – they choose who to put up for what jobs. Sometimes it feels like they use hours and jobs as disciplinary tools.”

“My whole working life has sort of been a gamble. While I was a student, that suited me. But now, I’m glad to have a permanent job.”



WORKERS UNDER PRESSURE: CASE STUDIES

ANGELA: “I love the job; I just don’t like how it’s being run.”

Angela is employed as a housekeeper in a hotel. She is a casual worker, on call on a seven-day roster.

“I don’t know what days I’m working. I ring in when I’m on call and they tell me if I have work, then each day, just depends how many rooms. I worked on Sunday, and on call on Monday, Tuesday, then just found out I had no work today (Wednesday). Now I need to wait to see about next week.”

Angela says she works to help out her family – “I love the job, I just don’t like how it’s being run.”

Organisation of the work can help take away some of the insecurity for workers, Angela says. “I have worked in other hotels as a housekeeper – it doesn’t have to be like this. They can organise, things can run smoothly and then we wouldn’t have to be so on call.”

For Angela, it’s about what’s fair. “If they employ 10 people, they should distribute the hours evenly. But now, it’s the same three people who get regular hours and the same people who are on call. It’s about what’s fair.”

Angela has teenage twins and a busy family life and says she just wants some regular hours.

“You want to work in a place that is solid, you don’t want to have to worry about what day. I don’t mind working six days, or four days. I just want to know.”

“You want to take your skill and your time and take it to a place where they appreciate you. Not to somewhere they will just use you. I’ve never worked like this before. It shouldn’t be like this.”

BARRY: “I knew that they were forcing me out”

Lunch and tea breaks monitored, stress and anxiety building up and the horrible feeling of knowing that you are being slowly forced out of your job.

That’s the feeling of insecurity and powerlessness experienced by a former bank worker of 28 years, who felt pushed out by her bank for not meeting targets.

“Working at the branch was like being a cat on a hot tin roof. I knew that they were forcing me out,” Barry said.

“Lunch and tea breaks were being monitored. The pressure was on to meet targets. Any small mistake, I knew I’d be in for it at the weekly meeting with the manager.”

“They kept moving the targets – as soon as you started getting towards your targets they started increasing them.”

After three years of being on a performance improvement plan, the stress became unbearable, and after a period of stress leave he made the decision to resign.

“It really was a pretty cruel way of ending. I never thought I’d finish up quite like that.”

In recent years, bank workers have observed a significant shift from banks being primarily customer focused to being retail sales focused.

In many banks, branch managers have targets based on the sales of debt products from their staff. Regional managers have targets based on these branch managers. And area managers are on targets based on their regions – so all the way down the chain there is pressure on to meet targets.

WORKERS UNDER PRESSURE: CASE STUDIES

PENIATA: “I need to help mum, to help out running our family”

Low pay and insecurity impact in many ways on families. Peniata is 17 years old and in his final year at college. He gets paid just over \$14 an hour and works up to 20 hours a week, cleaning from Monday to Friday with his mother Emma, who works 35 hours a week on the same rate. He does his homework when he gets home at 10pm and gets up early the next day to go to school.

Peniata says he has no choice about working long hours because he has to help his mother look after the family and still they struggle to get by. His money helps pay school fees, school uniforms, and stationery for his two younger sisters. He says if they had a living wage they wouldn't miss out on school trips and he could take up music lessons and study at university.

Before he was working, Peniata used to play volleyball and touch rugby around the Glenn Innes community, and he took part in singing and other activities at his church.

“I need to help mum, to help out running our family,” said Peniata. “There's never enough for school fees, uniforms and other things for the kids. The bills are high, especially for food.”



TEACHERS: Not enough jobs forcing graduates into insecure work

Caitlin did a three-year Bachelor of Education online through Canterbury University. She's been looking for a job in Rotorua since December 2012. As students, her cohort was told there had been a baby boom so by the time they finished they wouldn't have any trouble getting work. There was only one student out of a class of 30 who got a job in Rotorua. "I'm a bit annoyed – so many of us expected to get jobs. You don't expect to finish a degree and have a huge student loan and not get a job – it's not even easy to get relief work because schools already have their relievers. I'm so sick of hearing: 'Sorry, we're looking for someone with a bit more experience'." Caitlin has had relieving work at an early childhood education centre – "it's all about survival at the moment" – but when we last talked to her she was over the moon to have a one-term relieving job in a school.

Melanie is looking for a teaching job in Auckland. She started looking for work in September 2012 and has lost count of the number of jobs she's applied for, but says it's at least 50. She has had some interviews – but "when you're up against hundreds of people and you're a beginning teacher..." There were 150 applicants for one job, and they wanted to meet her so she travelled two hours out to the school, but in spite of getting down to the top handful, and then the top two – she missed out. "Getting that close – it's really disheartening."

Now she's trying to get some experience by working for free, helping out in the library at her son's school. "I'll ask if I can sit in a class and help out." But it may not lead anywhere, given that she knows a woman who's been volunteering at a school for six years. "I can't afford to spend that amount of time out of the workforce and that amount of money on a degree and not get anything out of it," she says.

As it is, she worries about her \$30,000 student loan – and the prospect of starving.

Precarious employment in education

Of the jobs that do exist, many aren't permanent or full-time. One academic Executive Assistant spoken to says some schools have a 'try before you buy' attitude. TeachNZ manager Di Davies says almost half (45%) of the 30,000 primary teachers employed over the past three years were in 'flexible roles' – part-time, fixed-term, job share, casual relievers.

"Our forecast shows that each year over the next five years we will need 260 new teachers to meet roll growth, but patterns of employment show they are most likely to come from existing teachers in flexible roles."

But even relieving jobs are in short supply. Rebecca Elvy says between 2006 and 2011 the number of new graduates getting any kind of teaching work in their first year, including day relief, dropped from 3700 to 3000.

That said, the situation could change quickly. Although right now there's an "oversupply" it could return to a shortage. In 2012 the rate of teachers leaving the profession permanently was only 2% but it's been up to 20% at times.

The primary school population will keep growing – the Government's 2012 Budget forecast roll growth of 7% in primary schools between 2011 and 2016 – and a great swathe of baby boomers is likely to drop out of the workforce over the next 10 years.

THE COSTS OF INSECURE WORK

Insecure work has many costs for workers, families, workplaces and communities. The employment costs include job uncertainty, low and variable earnings, lack of adequate sick leave and annual leave (or indeed no leave entitlements), increased health and safety risks, and a lack of training and career development opportunities. But insecure work also imposes a much greater burden on society as a whole. This section describes the human costs, the workforce and workplace effects, and the economic and social costs of insecure work, in all its many forms.

INSECURE WORK IS NO STEPPING STONE

While some workers opt for jobs that are temporary or part-time because it suits their particular needs, such as meeting family commitments, more and more workers are being forced into casual, temporary, fixed-term jobs or involuntary part-time work because suitable permanent employment is not available. A report prepared in 2011 (ILO, OECD, 2013) found a significant and often growing share of the workforce is employed on temporary contracts across developed countries. In OECD countries from 1985 to 2007 permanent waged employment grew by 21 percent but temporary jobs grew almost three times as fast, increasing by 55 percent (ILO 2013).

In many forms of insecure work, there are often very few exits into satisfying work; much insecure work simply leads to other jobs that also fail to provide decent incomes, training or career opportunities and do little to enable a decent quality of life (McLaren, Firkin, Spoonley, de Bruin, Dupuis & Inkson, 2004).

The length of time that a worker is in insecure work is significant. Short periods of insecure work are more tolerable than years of insecurity. But extended periods of insecure or temporary work can close doors to better employment and can severely limit future employment opportunities. If jobs are not of a decent quality, workers can be trapped in a downward cycle of low-paid, poor quality work that embeds social and economic disadvantage (Sheen, 2010).

Low-waged jobs are frequently not the pathway to better outcomes, as is often claimed. Getting a job or being in work is no longer a way out of poverty, as is evident from the fact that two out of every five children living in poverty in New Zealand are in a family with one parent in full-time work or self-employment. Whether insecure work is better than unemployment depends on the quality of the jobs. As the review of health inequalities in England, “Fair Society, Healthy Lives” (Marmot, 2010), commented:

Work is good – and unemployment bad – for physical and mental health, but the quality of work matters. Getting people off benefits and into low-paid, insecure and health-damaging work is not a desirable option.

The evidence of the detrimental effects of participation in low-quality work was summarised in a report for the Department of Labour by Roophali Johri (2005) who stated:

Workers’ income can suffer from poor quality employment, as can their health (both at work, as well as outside of it), their training prospects and hence their productivity, [and] their ability to influence decisions about their job such as their working hours. Accepting any job does not necessarily improve a worker’s chances of getting into better quality employment. In other words, poor quality employment can adversely affect not only a worker’s quality of working life, but also their overall quality of life, including their family life. Employers can experience low quality employment in lower productivity, and recruitment and retention costs. Eventually, society and the economy can be constrained by such costs, reflected in productivity, business standards, economic growth and employment rates.

A study looking at eighty Australian women’s experiences of working in low-paid and insecure jobs found that these jobs did not offer a pathway to a job with better conditions. In addition, the women had difficult work conditions compared with others. For these women, even as their family responsibilities changed they were not able to effect changes in their job situation or access career development opportunities that would have enabled them to shift out of this low-paid and low-quality work. In effect, their low-paid and insecure jobs entrenched their social disadvantage (Sheen, 2010). This describes the reality for many insecure workers in New Zealand as well.

THE COSTS OF INSECURE WORK

LOWER EARNINGS

Wages and salaries are the major source of income for most households. In 2012, more than half (59%) of all people aged over 15 receiving income were getting wage or salary income from employment, and this income made up over two-thirds (68%) of their average total weekly income and almost three-quarters (74%) of the income of households with one or more members aged 18 to 64 years, according to Statistics New Zealand's New Zealand Income Survey. Adequate wages are therefore essential to people's standard of living, and low wages are a major factor in high inequality levels in New Zealand.

Workers in temporary employment have substantial differences in pay compared to workers in permanent employment (Dixon, 2009). This difference is not only because of lower wages but also because of fewer working hours and erratic and inconsistent work patterns.

The New Zealand Survey of Working Life (SoWL) recorded substantial differences between the earnings of temporary and permanent employees in 2008. In 2012 it again found that temporary employees were earning less than their permanent counterparts, through working fewer hours but also through receiving lower rates of pay. The median weekly earnings for temporary employees were \$487 compared with \$901 for permanent employees. Casual workers had the lowest median earnings at \$300 a week. Median gross hourly earnings were also higher for permanent employees than temporary workers at \$22.88 and \$17.00 respectively (Ongley et al, 2013).

This mirrors overseas findings that workers in temporary jobs are paid significantly less than permanent workers (Housemann, 2000). Studies in the United States looking at 'the contingent workforce' – people whose employment is contingent on the needs of the employer – concluded that contingent workers earned less than non-contingent workers and were less likely to receive employer-provided health insurance and pension benefits than non-contingent workers (General Accounting Office, 2000; Hipple & Stewart, 1996). Even when controlling for education and hours worked per week, wage differentials of 10-20% are found between the wages earned in temporary work and the wages earned in traditional work (Segal & Sullivan, 1998).

Low wages force many workers in insecure forms of employment to work very long hours or take on other jobs. It is very common for low-paid cleaners, for instance, to be working long hours, day and night, in multiple jobs. Having multiple low-paid jobs increases health and safety risks and creates household and family stress. Having multiple jobs affects family activities, participation in leisure and exercise, and community involvement (McLintock, Taylor & Warren, 2004).

Insecure employment also makes a large contribution to the gender pay gap. The European Parliament in 2010 adopted a resolution on precarious women workers which stated that the "over-representation of women in precarious work" is a key factor contributing to the gender pay gap. In New Zealand, the gender pay gap according to the SoWL, was 17% for average hourly earnings in 2012, but it increases to 32% when measured for average weekly earnings. The Annual Income Survey in 2012, comparing average hourly earnings, recorded the gender pay gap at 12.7%, but increasing to 23% when measured for weekly average earnings.

Many workers in insecure employment, but particularly women, are further financially and socially disadvantaged by not having the same entitlements to paid parental leave as permanent workers. Casual and seasonal workers are not entitled to paid parental leave under the Parental Leave and Employment Protection Act 1987; nor are people who have had more than one job within the eligibility period, because they do not have the required continuous workplace attachment through employment by the same employer.

THE COSTS OF INSECURE WORK

LESS ACCESS TO TRAINING

Both overseas evidence and New Zealand studies show significant differences in training between casual and permanent employees. Temporary workers are less likely than permanent employees to have received training (Dixon, 2009). It is harder for workers in low-paid and insecure work to access training. Employers view the training of casual and temporary workers as less important than for permanent workers. This adds to temporary workers' sense of feeling peripheral and like outsiders in their own workplaces. Fewer training and skill development opportunities for workers who are in insecure work will also have implications for their long-term career prospects, not to mention significant wider workforce impacts. One of the costs of this is a shortage of skilled workers. As of now the Government's long term and immediate skills shortage list contains large numbers of occupations where skilled workers cannot be found. This is at the same time that nearly 40% of people between 35-39 years old earn less than a full-time minimum wage (Dalziel, 2013).

DAMAGE TO HEALTH AND WELL-BEING

There is growing evidence of the negative impacts on health and well-being from the many forms of insecure work. This is unsurprising, given the effect that people's employment and working conditions have on their health. Overwork and a poor work-life balance, which are associated with insecure work, both negatively affect health and well-being. The Commission on the Social Determinants of Health (2008) reported that precarious employment was a major factor contributing to health inequalities, including mental illness and heart disease. Perceived work insecurity is a significant predictor of health problems, and people who report persistent job insecurity have significantly worse health and mental health symptoms, including depression, than those who have never perceived their jobs to be at risk (Ferrie, Shipley, Stansfield & Marmot, 2002). The Marmot review of health inequalities in England referred to above, "Fair Society, Healthy Lives", also commented on the association between insecure and poor-quality employment and poor physical and mental health. It noted a graded relationship between a person's status at work and how much control and support they have in their job, which in turn influences their likelihood of ill-health; the further down the workplace hierarchy one is, the greater one's risk of ill-health.

Conditions of employment which provide for annual leave, sick leave entitlements and childcare arrangements are very important for health and well-being. But workers in insecure employment are more likely to be excluded from such provisions. Employment agreements may have inferior provisions or workers may be entirely without entitlements because of a break in employment.

Workers in insecure employment have less influence, both individually and collectively, over their working conditions, less control over their work hours, and are more likely to have irregular and uncertain hours (Bohle, Kennedy, Quinlan & Williamson, 2004). Job insecurity can strain family relationships and result in less time for family and friends. Workers in insecure employment are more likely to be working unsociable hours during weekends and at night, and inflexible work schedules are more common for workers in insecure employment (Bohle et al, 2004).

Insecure employment that has uncertain hours has major impacts on family life and social relations. People who work outside the Monday to Friday daylight hours have reduced social interaction with friends and family in their leisure time and it is harder for them to plan attendance at recreational events and be available for family events. The timing of hours of work, in other words, has an important effect on workers' health and well-being and their family life.

There are also psychological consequences from insecure work; the experiences of those workers have been described by researchers as similar to those of people who are unemployed (Rodgers & Rodgers, 1989). Workers place a high value on job tenure because it provides security of income to meet basic needs. There is growing evidence about the negative psychological and other health outcomes from insecure income (Benach, Benavides, Platt, 2000).

THE COSTS OF INSECURE WORK

GREATER HEALTH AND SAFETY RISKS

International and New Zealand evidence confirms that insecure and low wage workers are especially at risk of injury and occupational disease. A recent European Parliament study (Belin, Zamparutti, Tull, Guillermo, Hernandez, Milieu Ltd, and Graveling, 2011) found that temporary workers face more difficult working conditions than permanent workers and are at higher risk of developing musculo-skeletal disorders. A study by Elsa Underhill (2007) of Deakin University noted the international and Australian research that confirmed temporary workers have a higher incidence of workplace injury and those injuries are more severe. It found for such workers in Victoria, Australia, that labour hire workers were more likely to be injured early in their placement than direct employees, despite similar qualifications.

The New Zealand Independent Taskforce on Workplace Health and Safety reported that “employees new to positions or engaged in temporary, casual or seasonal work may be particularly at risk” (Independent Taskforce on Workplace Health and Safety, 2013 p.13). The Taskforce reported from their submissions that casual workers, those on 90-day trials, short-term contractors and seasonal workers were all identified as less likely to report injuries or voice concerns for fear of not being re-employed in the future.

A report to New Zealand’s Minister of Labour (NOHSAC, 2009) stressed that employees in casual and insecure work are at greater risk of workplace injury than those who are employed in full-time fixed positions.

The dangers to health and safety from having a large number of contractors experiencing the features of insecure work were identified in the report on the Pike River Mine disaster (Royal Commission on the Pike River Coal Mine Tragedy, 2012). The report revealed the risks and failures caused by having multiple contracting firms and multiple employment arrangements in a business. At Pike River, the responsibility for health and safety training of the contractors was unclear. The report found that “the induction and underground supervision of the smaller contractors, in particular, was lax” (p. 19). The presence of nine different contracting firms is believed to have been partly responsible for the absence of clear-cut health and safety responsibilities, which in turn led to the tragedy that occurred.

Unions have drawn a relationship between the very poor health and safety record of the forestry industry and its employment practices, which rely heavily on contract workers. There have been 28 deaths in the New Zealand forestry sector since 2008, and 900 accidents causing serious harm. In the period January to August 2013 alone, there were six deaths. The conditions in this industry in respect of health and safety responsibilities, lack of continuity of employment, job insecurity and lack of regulation and work protection, are all features associated with insecure employment.

REDUCED KNOWLEDGE OF EMPLOYMENT RIGHTS

Workers in insecure employment have less knowledge about their working conditions and rights. A major effect of the growth in insecure work is reduced unionisation and reduced awareness of working entitlements.

The effect in the workplace of an increasing use of casual and temporary workers is that a larger part of the workforce becomes unattached to workplaces, to work colleagues and to unions. People who are uncertain about their employment are likely to be less motivated and involved in their employment. Casual and temporary workers are unable to build the same support networks as permanent employees; they thus miss out on forming the longer-term working relationships that are an important part of everyday working life.

One New Zealand survey found that casual employees tended to be less informed on minimum employment conditions than permanent employees (Department of Labour, 1997). In this study into conditions in the accommodation, wine-making and brewing industries, it was found that conditions were less favourable for casual staff than for the core of permanent staff (Whatman, Harvey & Hill, 1999).

THE COSTS OF INSECURE WORK

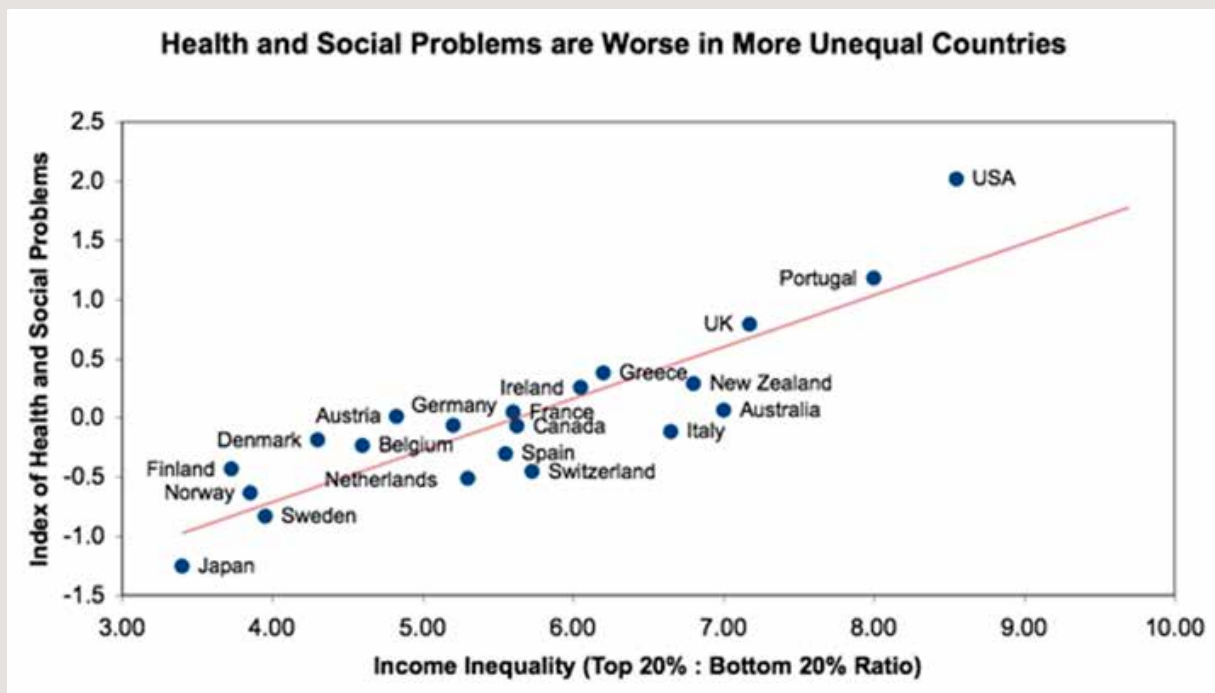
The increase in insecure employment is a contributing factor in declining trade union density. But it is also possible that a decline in trade union membership has contributed to the increasing number of people in insecure employment. It is much harder for unions to engage with workers in insecure forms of employment. This results in workers having less knowledge about their workplace entitlements and about minimum employment conditions. Casual and temporary workers can also feel marginalised and not part of the union process.

Statistics New Zealand's 2012 Survey of Working Life reported that temporary workers in general, and casual workers in particular, have lower rates of unionisation than those in permanent jobs, and that they are less likely to be covered by employment agreements. It reports that 22% of temporary employees were in a union, compared with 28% of permanent employees. However, variations between the different categories of temporary workers were reported, with just 15% of casual workers being a union member compared with 42% of seasonal workers.

THE COST TO SOCIETY

Uncertain, insecure and low-paid work all increase inequality, with major costs for society. Low wages, less training and fewer career opportunities contribute to growing inequality by limiting the earning potential of those in insecure work. This is of wider concern because of the link between high levels of income inequality and increased health and social problems. This relationship is well documented by Professors Richard Wilkinson and Kate Pickett in their 2009 book *The Spirit Level*. It provided evidence that many negative health and social outcomes – including high infant mortality, heart disease and obesity – can be linked to the level of economic inequality within a given population. The causal factor, as Wilkinson and Pickett set out, is the greater stress (especially psycho-social stress) that results from living in a more divided and hierarchical society.

The graph below charts Wilkinson and Pickett's Index of Health and Social Problems – which combines a range of problems in addition to those mentioned above – against income inequality in various nations.



Source: The Equality Trust

THE COSTS OF INSECURE WORK

Growing inequality in New Zealand is therefore a major social and economic concern. Having been one of the developed world's most equal countries, New Zealand has in the last 30 years experienced one of the fastest increases in inequality among developed countries. The last decade saw income gaps stabilise or decline slightly, but they are now set to widen again.

As the Index of Health and Social Problems demonstrates, New Zealand's high income inequality leads to significant problems: more than twice the prevalence of mental health problems than more equal countries such as Japan and Spain; obesity rates that are rising and are more than double those of more equal countries such as Sweden or Norway; a teenage birth rate that is five times higher than those of countries with lower inequality; an imprisonment rate that has doubled since the mid-1980s and is three times higher than in Japan and Finland; life expectancy rates that compare poorly with more equal countries; and higher rates of infant mortality than more equal countries. Although insecure work is far from the only contributor to this poor record, it is certainly one of them.

Low wages and uncertain incomes also have hidden costs. Deborah Littman, a London Living Wage Campaigner, argues that low wages affect society as a whole:

“You have your low-paid cleaner, she has children – because of the low pay she receives she can't feed them adequately; those kids go to school without breakfast; they have less of an attention span, they get sick more often ... people are doing two or three jobs and they're not around for their kids and [so] they get ill” (Littman,2013) .

As low wages place a cost on society, so does insecure work. Society pays for this in the form of increased child poverty, reduced participation from people in their communities, greater levels of debt, poorer health and educational outcomes because of family instability, and weaker local economies. As Max Rashbrooke (2013) argues in the recent book *Inequality: A New Zealand Crisis*: “Entrenched inequality can weaken the economy by depriving it of the ability of a broad spectrum of the population: a more equal population draws on the strengths of a wide workforce” (p. 16).

INSECURE WORK: THE LEGAL CONTEXT

This chapter concerns insecurity from a legal and regulatory perspective. The first part is a consideration of the international legal framework built around insecure work including New Zealand's commitment to realise workers' rights under the International Bill of Human Rights and attempts by the International Labour Organisation to regulate the effects of insecure work.

The second part reviews the legal status of different categories of insecure workers. Insecure work encompasses a number of distinct legal categories of worker (though there are some overlaps and areas of ambiguity). It is useful to consider the legal status and protections of each of these categories in turn.

INTERNATIONAL LAW

The International Covenant on Economic, Social and Cultural Rights

The part of the International Bill of Human Rights that deals with work rights in the most comprehensive way is the International Covenant on Economic, Social and Cultural Rights (ICESCR). Articles 6 and 7 of the ICESCR state:

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
 - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Article 8 of the ICESCR provides for trade union rights. New Zealand maintains a limited reservation on article 8 and has not ratified the Optional Protocol to the ICESCR allowing complaints to the Committee on Economic, Social and Cultural Rights where these rights have been breached and there is no effective domestic remedy.

INSECURE WORK: THE LEGAL CONTEXT

The New Zealand Government has committed to progressive realisation of economic, social and cultural rights under article 2(1) of the ICESCR:

Each State Party to the present Covenant undertakes to take steps individually and through international assistance and cooperation especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

As other sections of this Report demonstrate, insecure work poses a particular challenge to many of these basic rights.

The International Labour Organisation

The International Labour Organisation (ILO) is the specialised United Nations body tasked with regulating conditions of work. The ILO develops and promulgates recommendations, non-binding guidelines, and conventions. Conventions are binding international treaties that carry legal force when ratified by member states.

The ILO deals with insecure work in a piecemeal fashion across a series of conventions and recommendations dealing with subjects such as fair treatment at work, union rights, and rights to paid holidays or other types of leave (such as maternity or sick leave).⁸ Job security is one of the key components of the ILO's Decent Work Agenda.

As Fenton (2011) notes, an attempt was made at the ILO in 1997 and 1998 to extend protections to contract workers through the adoption of a new convention and recommendation.⁹ This attempt failed, but led to further attempts to address the underlying problem.

In 2006, the International Labour Conference adopted a new Recommendation No. 198 on the Employment Relationship (R198). R198 is intended to provide guidance on ways to define the employment relationship to avoid exploitation. The recommendation in R198 fundamentally resembles the 'real nature of the relationship' test in section 6 of the Employment Relations Act 2000. However as a recommendation (rather than a convention), R198 is guidance only.

In limited situations, the ILO Committee on Freedom of Association and the Committee of Experts on the Application of Conventions and Recommendations have recognised the right of contractors to collectively bargain and to take strike action.¹⁰

In 1997 the ILO created Convention No. 181 on Private Employment Agencies (C181). This convention is intended to guarantee and apportion employer responsibility for certain basic rights such as collective bargaining, freedom of association, working time restrictions and occupational health rights in relation to agency workers. New Zealand has not yet ratified C181.¹¹

Other ILO conventions deal with the effects of insecure work in a piecemeal fashion. Aside from the core conventions, those already mentioned, and Convention No. 158 (discussed below), there are some provisions dealing with insecure work in (among others):

- Convention No. 143 on Migrant Workers (Supplementary Provisions)
- Convention No. 156 on Workers with Family Responsibilities
- Convention No. 175 on Part-Time Work
- Convention No. 183 on Maternity Protection
- Recommendation No. 202 on Social Protection Floors

Disappointingly, New Zealand has not ratified any of these conventions.

⁸ For a useful summary of the ILO conventions relating to insecure work see Wage Indicator Foundation (2013)

⁹ For the proposed text of the Convention and recommendation see ILO (1998). Among other things, the Convention would have ensured that contract workers received equality of treatment with employed workers and rights (for example) to collectively bargain.

¹⁰ See CFA Cases No. 2430 and No. 2602 and CEACR (1997).

¹¹ C181 article 7.

INSECURE WORK: THE LEGAL CONTEXT

ILO Convention No. 158 on Termination of Employment

The ILO convention that deals most directly with security of employment tenure is Convention No. 158 on Termination of Employment (C158). C158 is complex, but in summary, it says that the employment of a worker shall not be terminated unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking. Several reasons for termination of employment are prohibited (for example, union membership, family responsibilities or temporary absence because of illness or injury). The Convention also sets out minimum procedural fairness and appeal requirements. Where a business proposes to dismiss workers for economic reasons, workers' representatives shall be consulted. Except in cases of serious misconduct, dismissed workers are entitled to reasonable notice and some form of severance allowance or unemployment insurance. Ratifying states may choose to exclude probationary, casual or fixed-term employees from the application of the Convention.

Unlike Australia, New Zealand has not ratified C158. However, as the Labour Court commented in *NZ Food Processing etc IUOW v ICI (NZ) Ltd* (1989) ERNZ Sel Cas 395, 408:

We understand that New Zealand has not ratified this Convention on the footing that safeguards already exist here which give effect to the Convention. This is understandable in view of the provisions of Article 1 of the Convention which does not require Member States to do anything if the provisions of the Convention are "otherwise made effective by means of collective agreements, arbitration awards or court decisions or in such other manner as may be consistent with national practice". The provisions which we have quoted from the Convention (which includes, also, the requirement that the burden of proving the existence of a valid reason for the termination shall rest on the employer) are already in force as part of the law of New Zealand. It is obviously the view of all civilised nations that that should be the universal law.

In *Smith v Radio i* [1995] 1 ERNZ 281, 308, the Employment Court quoted most of the passage from *ICI (NZ)* with approval and stated (in relation to the Employment Contracts Act 1991 regime):

To our knowledge, it has not since *ICI* been suggested that the foregoing is in any respect incorrect. If it had been, that would have been another persuasive reason for Parliament to have addressed the position and said otherwise. We are not, of course, saying that domestic law must be interpreted according to an international convention which has neither been ratified by this country, nor mirrored in any enactment governing the law of employment. Rather, where the reason for not ratifying the convention is that those protections which it purports to safeguard are already provided by nationally recognised means (including Court decisions), we would be loath to alter that settled position without legislative mandate to do so. The state of employment law in New Zealand is capable of being influenced by international minimum standards, the inspiration for some of which came originally from this country.

THE LEGAL STATUS OF INSECURE WORK IN NEW ZEALAND

According to the OECD (2013, p. 90-92) New Zealand's employment protection laws for insecure workers are relatively weak. New Zealand has the fourth lowest level of protective regulation in the OECD relating to temporary contracts (including the lowest level of regulation on temp agency work in the OECD).

The employment relationship can be seen as a bundle of rights and obligations between the worker and their employer, some of which are contingent on tenure or type of employment. Insecurity in a legal sense usually involves the subtraction of one or more of these rights from the worker. For example, a worker on a valid fixed-term agreement cannot challenge the end of their employment as an unfair dismissal if it occurs as a result of the expiry of that agreement. They may also be ineligible for sick leave if the term of their agreement is less than six months.

INSECURE WORK: THE LEGAL CONTEXT

Permanent employees

Even workers in New Zealand with permanent contracts and guaranteed hours have insecure employment by international standards. The OECD (2013, p. 86) notes that New Zealand has the lowest level of protection of permanent workers against individual and collective dismissal in the entire OECD.

Permanent workers are entitled to (among other things):

- Implied terms of employment which guarantee that their employer will deal with them fairly and in good faith (see s 6 of the Employment Relations Act 2000)
- The right to join trade unions to represent them in collective bargaining and to take industrial action in support of collective bargaining or on health and safety grounds
- Protection against unfair dismissal, unjustified disadvantage and discrimination, but note that the right to challenge unfair dismissal can be limited by the imposition of a trial period of up to 90 days at the commencement of employment
- Eligibility under the Holidays Act 2003 to:
 - o a minimum 4 weeks annual leave (which may be taken after 12 months of employment or earlier by agreement and is paid out at conclusion of employment)
 - o a minimum of 5 days paid sick or domestic leave per year (available after 6 months employment)
 - o bereavement leave
 - o 11 paid public holidays per year (where these fall on days that the worker would usually work) and additional payment where required to work on these days
- A right to request flexible working arrangements if caring for others (after 6 months)
- A right to request an employee participation agreement relating to health and safety and training in relation to health and safety and employment relations education
- A right to be paid a minimum hourly wage (the adult minimum wage is \$13.75 as from 1 April 2013) and to be paid in money without deduction unless consented to
- Access to low-cost specialist dispute resolution services and adjudication through the mediation service, the Employment Relations Authority and the Employment Court
- Paid and unpaid parental leave after qualifying periods of employment; paid parental leave is also open to self-employed workers who meet certain criteria

Fixed-term employees (including seasonal employees)

An employer will not be liable for a claim of unfair dismissal if the employee's contract comes to an end in accordance with a valid fixed-term.

Rules relating to fixed-term employees are primarily set by section 66 of the Employment Relations Act 2000. This holds that termination of a fixed-term agreement will not be valid unless there is a genuine reason based on reasonable grounds for the agreement to end, and provided that the employee is advised of when and how their employment will end along with reasons. Genuine reasons do not include a work trial or in order to limit their rights under the Employment Relations Act 2000 or the Holidays Act 2003. The way in which the employment will end and the reasons for it ending must be set out in writing.

The employer's failure to meet these requirements gives an employee two options. The first is to treat the fixed-term agreement as ineffective, so their employment is of indefinite term. The second is to treat the ending of their employment as a dismissal subject to the usual requirements of justification for a dismissal from employment of indefinite term. Justification will likely fail.

INSECURE WORK: THE LEGAL CONTEXT

Seasonal work is often fixed-term employment, though it is possible for seasonal employment agreements to continue in force during the off-season so long as the employment relationship is intended to be ongoing.¹²

In *The Salad Bowl Ltd v Howe-Thornley* [2013] NZEmpC 152 Chief Judge Colgan found that an unpaid pre-employment trial constituted an unlawful fixed-term agreement. Because work trials are not a genuine reason for a fixed term and the agreement was not in writing it did not comply with the requirements of section 66.

If the fixed-term agreement is less than six months duration, employees will not qualify for paid sick or bereavement leave,¹³ or occasional entitlements such as paid parental leave¹⁴ or flexible working requests.¹⁵

Fixed-term employment is inherently less secure than permanent employment. However, it is relatively more secure than other types of work.

Casual employees

Casual employees are employed on an 'as-and-when-required' basis and generally have no expectation of ongoing employment.

The leading case on casual employment is *Jinkinson v Oceana Gold (NZ) Ltd* [2009] ERNZ 255. In that case, the Court stated:

[40] ... The distinction between casual employment and ongoing employment lies in the extent to which the parties have mutual employment related obligations between periods of work. If those obligations only exist during periods of work, the employment will be regarded as casual. If there are mutual obligations which continue between periods of work, there will be an ongoing employment relationship.

[41] The strongest indicator of ongoing employment will be that the employer has an obligation to offer the employee further work which may become available and that the employee has an obligation to carry out that work. Other obligations may also indicate an on-going employment relationship but, if there are truly no obligations to provide and perform work, they are unlikely to suffice. Whether such obligations exist will largely be a question of fact.

Zero-hours agreements

A particularly pernicious type of agreement that appears to be increasingly prevalent in New Zealand is the so-called 'zero-hours' contract.

In a zero-hours contract, workers are not guaranteed any minimum number of hours before the roster is set (typically a few days before they are due to work) but must remain available in case they are rostered on (we have seen agreements requiring availability 7.30 am – 8.00 pm Monday to Sunday).

Zero-hours contracts (and their close cousin, minimum hours contracts that are 'flexed up' on a regular basis) therefore have some features of permanent employment and some of casual employment in terms of the criteria in *Jinkinson*. Whether they will be seen as permanent contracts or casual ones will depend on the facts of a case (and will require an application to the Employment Relations Authority). See, for example, *Kaye v North Beach Ltd* (26 August 2010) AA 386/10.

One of the most effective protections against unfair use of casual or zero hours contracts is restriction in collective bargaining. Unite Union has negotiated significant protections for casual workers into their collective agreements with various fast food chains including requirements to offer work to existing staff first, and dispute resolution provisions.

¹² The definition of employee in section 6 of the Employment Relations Act 2000 includes "a person intending to work" in s 6(1)(b)(ii).

¹³ Available after 6 months of current and continuous service or where an employee has worked an average of 10 hours per week (and at least one hour per week or 40 hours per month) for six months: s 63(1) of the Holidays Act 2003.

¹⁴ Available after working an average of 10 hours per week over the immediately preceding six or twelve months: s 7(b) Parental Leave and Employment Protection Act 1987.

¹⁵ Available after working for the employer for the immediately preceding six months: s 69AAB Employment Relations Act 2000.

INSECURE WORK: THE LEGAL CONTEXT

In *Jinkinson*, Judge Couch went on to summarise criteria used in Australia and Canada to establish casual employment. These criteria have been applied by New Zealand courts¹⁶ and include:¹⁷

- engagement for short periods of time for specific purposes
- a lack of regular work pattern or expectation of ongoing employment
- employment is dependent on the availability of work demands
- no guarantee of work from one week to the next
- employment as and when needed
- the lack of an obligation on the employer to offer employment or on the employee to accept another engagement
- employees are only engaged for the specific term of each period of employment

While some casual employees choose to work casually for lifestyle reasons, it is a lifestyle that is undoubtedly less secure. Casual employees will almost never qualify for service-based entitlements such as sick or bereavement leave. We discuss issues faced by casual employees further below.

The line between casual employment and fixed-term employment is a difficult one. In *Muldoon v Nelson Marlborough District Health Board* [2011] NZEmpC 103, Chief Judge Colgan highlighted this issue without determining it:

[36] ... Case law has yet to tackle the not altogether easy question of where casual and fixed-term employment intersect....

[37] The difficulty is that both casual and fixed-term employment are 'temporary' employment in the sense of being an engagement by the employer of the employee for a specified period at the conclusion of which that employment will end in a way that is agreed in advance, does not amount to a dismissal of the employee and does not entitle the employee to unjustified dismissal personal grievance rights. Given that temporariness is a common feature of both types of employment; their distinguishing characteristics include both the length of the arrangement but, most importantly, the absence or presence of predictability and regularity. Casual employment is characterised by irregularity of engagements and the shortness of their limited durations, in this case being potentially as short as a shift or a few shifts. That is to be contrasted with fixed-term employment which has set hours and days of work (albeit for a finite period) so that the employee and the employer may predict and rely upon when the employee will be at work.

[38] The other difference is that, unlike casual employment, fixed-term employment must be related to a specified project or situation such as the replacement of an employee on parental leave or long term accident or sickness. That said, however, some short casual engagements are to cover short and unexpected periods of sickness and like absences from work.

[39] Although for fixed-term employment... there can be no expectation of ongoing employment beyond the conclusion of the specified project or situation, there is no such requirement for a specified project or situation for casual employment. The employer need not justify to the employee why it needs him or her for the proposed work assignment.

[40] Another difference between these types of temporary work lies in the legitimate expectation of certainty of work. In the case of a fixed-term arrangement, the employer can have an expectation of work by the employee for the whole of the contracted period and the employee can likewise have that expectation with the consequences of certainty of income, unavailability for social activities during work time, and the like. In the case of casual engagement, that certainty is much more limited

¹⁶ See for example *Rush Security Services Ltd t/a Darien Rush Security v Samoa* [2011] NZEmpC 76.

¹⁷ List of factors quoted from *Baker v St John Central Regional Trust Board* [2013] NZ EmpC 34 at [20].

INSECURE WORK: THE LEGAL CONTEXT

temporarily. So although, for example, if an employee nurse is offered work on a shift and accepts, the employer can expect that the nurse will work that shift and the nurse can expect to retain the remuneration and other benefits of it, that is the end of those expectations unless and until there is express agreement on a further engagement. Neither party can have any additional legitimate expectation of offer or acceptance of such further engagement.

Given the relatively strict requirements and protections for fixed-term employees relative to casual employees, the dividing line is a significant issue.

In unionised worksites with current collective agreements, casual employees have a modicum of protection through being covered by the terms of the existing collective agreement for the first 30 days of employment. However, changes proposed in the Employment Relations Amendment Bill 2013 would remove even this protection.

It is well established that casual employees often have a poor understanding of their employment rights (WEB Research and Department of Labour (2004)). This finding is reinforced by data from Statistics New Zealand's 2012 Survey of Working Life (SoWL): for example, 33.1% of casual workers believed they had no leave entitlement and 15.3% said they did not know what their leave entitlement was. Only 41.2% said they had a leave loading added to their pay, the answer that best fits a truly casual relationship.

Issues with temporary and casual work

The Department of Labour (2007) has usefully summarised the legal issues relating to temporary and casual employment:

Redundancy

85 A recurring issue was employees' entitlement to redundancy compensation and whether the employer had followed the correct procedures e.g. notice and consultation, when implementing the redundancy. It was usually found that temporary and casual employees were excluded from redundancy compensation provisions.

Change in employment status

86 When moving from a casual or temporary position to permanent employment, problems were sometimes encountered, including:

- a conflicts caused when employees were unwilling to give up second jobs
- b the employment relationship not surviving the negotiation of new terms and conditions
- c the new status not being reflected in a new employment agreement
- d how to calculate an employee's length of service to determine eligibility to entitlements such as long service leave.

87 Employees moving from permanent to casual employment also experienced problems, including alleged duress to accept reduced terms of employment.

Personal Grievances

88 Casual and temporary employees faced a number of obstacles when attempting to bring a personal grievance before the Authority. Under the ERA only three casual employees have successfully brought personal grievances.

89 It has been difficult for a casual worker to show that they have been unjustifiably dismissed as opposed to the period of the engagement coming to an end. A casual employee cannot bring an unjustified disadvantage claim if an employer does not offer them further work. Between engagements a casual worker is not considered to be an employee and therefore they lack the standing to bring a claim.

INSECURE WORK: THE LEGAL CONTEXT

90 The obligation of good faith does not apply when there is no employment relationship (i.e. between casual engagements). This situation means expectations around communications between the parties between assignments can be unclear, and can result in a dispute.

91 Even if an employee was successful with a personal grievance or other claim, the results are not usually economically beneficial – reinstatement is unlikely for a casual worker, and when calculations around recovery of lost wages are made, wages recovered are often very low.

Leave

92 A public holiday will rarely be an ‘otherwise working day’ for a casual employee. This means they will not receive any payment for the day if they do not work, and they will not be entitled to an alternative holiday if they do work.

93 Casual and temporary employees are at risk of missing out on some of the other benefits of the Holidays Act 2003, and the Parental Leave and Employment Protection Act 1987 (‘PLEPA’) if they do not meet the threshold length of service requirements. Even if they are eligible for special leave it does not mean they are always able to access it. Some provision has been made in PLEPA to accommodate parents who, because of the nature of their jobs, would not meet the service requirements.

94 Casual and temporary employees repeatedly engaged by the same employer are also unlikely to qualify for long service leave if ‘continuous employment’ is a prerequisite.

Agency and subcontracted workers

Workers in so-called ‘triangular’ employment relationships, who are employed by one company to perform work for another, may find their rights split between two companies in a way that makes them difficult to enforce effectively. A worker may not have an employment relationship with the company that controls their day-to-day work. This can make enforcement of personal grievance or collective bargaining rights against that company difficult or impossible.

Multiple employers in one workplace can also create problems in relation to health and safety participation systems (under Part 2A of the Health and Safety in Employment Act 1992 the duty to agree to this system rests with each employer in relation to their employees). This situation was criticised by the Royal Commission on the Pike River Coal Mine Tragedy (2012, p. 33). The Commission recommended changes to the Health and Safety in Employment Act 1992 in order to fix this issue.

It is possible for two companies to be held to be joint employers of a single worker, if they share common control, by examining the real nature of the relationship in accordance with section 6 of the Employment Relations Act 2000. In *Hutton and Others v ProvencoCadmus Ltd (in receivership)* [2012] NZ EmpC 207 at [79], Judge Inglis held that the test was “who would an independent but knowledgeable observer have said was the plaintiffs’ employer?” These tests are restrictive and joint employment is rarely found.

In New Zealand there is no licensing of employment agencies’ conduct (other than by way of general employment law). In the United Kingdom, the Gangmasters Licensing Authority licenses and regulates labour agencies in certain industries (mainly primary industries like agriculture, horticulture and forestry). Agencies must be deemed ‘fit and proper’ to hold a licence, which regulates a variety of areas like pay and tax matters, working conditions, health and safety, contractual arrangements and subcontracting.

In June 2013, Labour MP Darien Fenton introduced into Parliament a private member’s bill aimed at redressing the legal confusion and lack of benefits that accrue around triangular employment relationships.¹⁸ The bill would ensure that those workers affected are not deprived of the right to be covered by a collective agreement, and that they may join personal grievance claims against both the controlling and employing businesses to prevent either escaping liability. At the time of writing, the bill has yet to be drawn from the ballot.

¹⁸ The Employment Relations (Triangular Employment) Amendment Bill 2013. A bill containing similar provisions, the Employment Relations Amendment Bill (No 3), was introduced by the Labour Government in 2008 but became caught by the change of government and was discharged by the new National Government before its first reading.

Contractors

Workers outside of the protections of the employment relationship are most vulnerable of all. They are not entitled to receive the so-called 'minimum code' statutory protections such as holidays and other types of paid leave, minimum wages or equal pay. Certain terms implied in every employment agreement by statute or common law are not present in ordinary contracts. For example, the obligation of good faith under section 4 of the Employment Relations Act 2000 requires the parties to be open and communicative and not to do anything likely to mislead or deceive one another.¹⁹

Contractors retain some rights (though they are excluded from others), including the right to a healthy workplace, some parental leave rights, and rights under the Fair Trading Act 1986 against misleading and deceptive conduct. They also retain rights and protections under general contract law.²⁰ These rights are the poor cousins of the detailed law built up to protect employees from what the Employment Relations Act 2000 calls "the inherent inequality of bargaining power in employment relationships".²¹

Contractors may have their contracts terminated in accordance with the terms of the contract without the terminating party being subject to a requirement of justification.²² Contractors will not have access to the low-level, low- or no-cost dispute resolution services provided under the employment framework such as the Mediation Service and Employment Relations Authority.²³

Certain industries are deemed to be essentially contractor-only. Section 6 of the Employment Relations Act 2000 contains specific provisions effectively excluding sharemilkers and film and television production workers from employment status.²⁴

While it is acknowledged that, for some, contracting works well, it can be exploitative for others. Fenton (2011) notes that:

- the median income for self-employed people in the June 2010 New Zealand Income Survey was \$575, versus \$769 for a salary or wage earner – a 33% wage gap. Updating Fenton's figures using the data from Statistics New Zealand (2012), the median income for self-employed people in 2012 was \$575 versus \$806 for a salary or wage earner;
- many workers forced into contracting situations (often by their employer restructuring their work) lose significant remuneration and any semblance of job security while assuming significant additional safety and financial risks. In many cases, these conditions are exploitative. Fenton provides detailed case studies of contracting out in lines engineering, truck driving, couriering and newspaper delivery

Employee or contractor?

Section 6 of the Employment Relations Act 2000 states that (with the exception of film production workers, real estate agents and sharemilkers) the Court must look at the real nature of the relationship between the parties to determine whether they are an employee or not. Statements by the parties as to the nature of their relationship are not to be treated as determinative. Rather the Court should look at the whole of the relationship including who has control over the workers' everyday work, their degree of independence, how integrated they are into the 'employer's' business and fundamentally whether they are in business on their own account.

The most comprehensive freely available (though technical) guide to the employee test is IRD (2011).

¹⁹ Unlike other systems of law, New Zealand does not impose a general duty on parties to deal with each other fairly and in good faith (good faith in this general sense should not be confused with the statutory duty of good faith set out in the Employment Relations Act 2000 though it is a subset of that wider duty). See Burrows, Finn and Todd (2007) at [2.2.6] and [6.3].

²⁰ Such as those provided by the Contractual Mistakes Act 1977 and the Contractual Remedies Act 1979.

²¹ Section 3(a)(ii) of the Employment Relations Act 2000.

²² As is required by section 103A of the Employment Relations Act 2000.

²³ Parties may access the Disputes Resolution Tribunal in some instances (if the sum sought is less than \$15,000 and other exclusionary criteria are not met).

²⁴ Real estate agents are also mentioned but may be employees or contractors under the Real Estate Agents Act 2008.

SPECIAL CATEGORIES OF INSECURE WORKERS

Some classes of occupation or worker are subject to circumstances or legal requirements that render them more insecure. We comment below on occupations where the employer changes frequently, employment of children, and those on 90-day trial periods.

Occupations where workers change employer frequently

In industries such as cleaning and catering, which have exceptionally high rates of contract turnover, employees often have to change employer regularly or lose their jobs. The enactment in 2006 of Part 6A of the Employment Relations Act 2000 provided much-needed protection to these employees, by requiring employers in these industries that acquire other companies (or take over their contracts) to continue employing ('transfer') the staff from those companies. However, their employment and conditions of work are set to be jeopardised again by proposed changes to exempt from the transfer requirements those businesses that, together with their associated persons, employ less than 20 workers.

Children and young persons

New Zealand's legal framework leaves children and young persons particularly vulnerable to income insecurity and exploitation. New Zealand is unusual²⁵ in having no minimum age of employment.²⁶ New Zealand has no minimum wage for children and young persons under the age of 16.²⁷ Further, 16- and 17-year-olds, along with 18- and 19-year-olds who have been on a benefit for six months or more, may be paid a 'starting-out rate' for their first six months of employment.²⁸ This rate is currently set at 80% of the adult minimum wage.

Workers covered by 90-day trial periods

Under sections 67A and 67B of the Employment Relations Act 2000, an employer may enter into a written trial period with a new employee whom they have not previously employed by placing a trial provision that meets certain formal criteria into their employment agreement. If an employer gives notice of dismissal to their employee within 90 days (or less as specified in the trial provision) of the commencement of their employment then the employee is not permitted to bring a personal grievance or legal proceedings in respect of the dismissal regardless of the reason for dismissal. According to the SoWL, 35.9% of employees starting their main job in the previous 12 months began that job with a 90-day 'no rights' trial period.

²⁵ 166 other countries have ratified ILO Convention No. 138 on Minimum Age. Ratifying this Convention requires commitment to the phasing in of a minimum employment age.

²⁶ Though young persons are restricted from certain types of work such as factory work (if under 15) and night work (if under 16) by the Health and Safety in Employment Regulations 1995; as sex workers (if under 18) by the Prostitution Reform Act 2003; as bar workers (if under 18) by the Sale of Liquor Act 1989; or as casino workers (if under 20) by the Gambling Act 2003. In addition, s 30 of the Education Act 1989 restricts the employment of young persons (under the age 16) during school hours or in a way that would interfere with their attendance at school.

²⁷ Section 4 Minimum Wage Act 1983.

²⁸ Section 4A Minimum Wage Act 1983.

SUMMARY CHART: LEGAL PROTECTION FOR INSECURE WORKERS

Permanent employment

- Subject to unfair dismissal / disadvantage law
- Good faith requirements
- Eligibility for annual leave, sick leave, public holiday pay
- Eligibility for parental leave and paid parental leave

Fixed term employment

Same as permanent employment except:

- Not subject to unfair dismissal rules if end of employment due to expiry of valid fixed-term agreement
- May not qualify for some service-based leave entitlements (such as sick leave) depending on length of engagement

Casual employment

Same as permanent employment except:

- No effective protection against unjustified dismissal
- No good faith requirements between periods of work
- Unlikely to qualify for service-based entitlements (redundancy, sick leave, long service leave)

Contract for services

- No protection against unfair dismissal or disadvantage
- No good faith
- Common law contractual protections only
- No minimum entitlements such as minimum wage and paid leave
- No access to low-cost employment institutions (mediation, Employment Relations Authority)

Greater protection

Less protection

SPECIAL CATEGORIES

Children and young persons

- No minimum wage payable to under 16 year-olds
- 16-19 year-olds may be subject to starting-out wage (80% of adult minimum wage)
- But some restrictions on type of work done

Subcontracted or agency work

Same as fixed-term employment except:

- Triangular employment relationship may limit ability to collectively bargain with or take personal grievance action against the 'host' employer

Trial periods

Same as permanent employment except:

- Not subject to unfair dismissal rules if dismissed during valid trial period (maximum of 90 days)

'Zero hours' employment

Hybrid of casual and permanent employment:

- No guaranteed hours (and therefore no protection against unfair dismissal)
- Continuing employment relationship may grant access to service-based entitlements

INSECURE WORK: WHAT CAN BE DONE?

Addressing insecure work involves a combination of measures. These range across employment law, expanding the minimum code, institutional arrangements, regulation and best practice, and the role of unions.

Of course we are not suggesting that we simply ‘turn back the clock to the 1950s’ as much has changed in terms of the nature of work, the composition of the workforce, and many other factors since then. There are some desirable elements of flexibility we want to keep. It is the insecurity we want to reduce.

Forms of insecure work have been growing in both ‘good’ and ‘bad’ economic conditions but employers are in a much better position to offer more secure work arrangements when the economy is in a period of sustainable growth, the outlook is positive and the particular enterprise is performing well. As a society, however, we have a duty to ensure that whatever the state of the economy, New Zealand workers no longer suffer from the levels of insecurity they currently experience. It is in bad times that security is most important.

Our main recommendations are that New Zealand should:

- Establish greater legal protections to prevent insecure work
- Improve income support mechanisms for insecure workers
- Support the Living Wage with greater security of hours
- Reform government procurement to promote decent work
- Strengthen union campaigns and bargaining to support secure work

The policy options and actions are discussed in more detail below. In some cases they aim to reduce the incidence of insecure work; in other cases, they aim to mitigate its effects.

1. IMPROVEMENTS IN EMPLOYMENT LAW

Legal changes should aim to eliminate insecure work, or where that is not possible, to minimise it. There are several measures that would ensure more protection for insecure workers and make the employment of workers or contractors on insecure terms less likely.

New Zealand should:

- 1.1 Develop an extension model for collective bargaining that would provide greater protection and coverage for more workers. This would mean that industry standard agreements would provide a basic floor of protections for workers throughout an industry.
- 1.2 Create triangular employment protections providing that, in appropriate cases, the principal retains responsibility for employment conditions and liability for unlawful employment practices. This prevents principal employers from avoiding their responsibilities and shifting risk to workers by contracting out work.
- 1.3 Use the concept of a ‘person conducting a business or undertaking’ from the Australian Model Work Health and Safety Bill (Safe Work Australia, 2011) as a definition of who has responsibility for the employment conditions of workers and/or contractors. This is similar to the triangular employment approach but would apply more broadly.
- 1.4 Strengthen the right to challenge an ostensible contract for service (as an independent contractor) as being in reality a contract of service (as an employee). This is well established in law through the examination of the ‘real nature of the relationship’ in section 6 of the Employment Relations Act 2000. However, the ability for a worker to have her or his status quickly determined at a low cost, the onus of proof, and the circumstances covered by this entitlement could be improved. For instance, it would be useful to make reference to the relative bargaining strength of the parties as a mandatory consideration and include reference to economic dependence.

INSECURE WORK: WHAT CAN BE DONE?

- 1.5 Expand the definition of 'employee' to include dependent contractors.
- 1.6 Expand the definition of 'vulnerable employee' to include a wider group of workers; in addition, the rights and protections for 'vulnerable' workers could be extended.
- 1.7 Strengthen employer consultation requirements so that contracting-out plans are negotiated, not imposed.
- 1.8 Repeal the 'Hobbit Law', a piece of legislation that effectively removes from all film industry workers the right to argue that they are in fact workers, not contractors.
- 1.9 Improve the provisions in employment law on flexible working hours. This would include a provision that workers have the same rights to request variations in hours as employers do. If employers wish to decline requests for flexible working hours, they should be required to show that it is unreasonable to grant the request, and workers should be able to appeal their decision.
- 1.10 Establish a right for workers to apply to a labour inspector for a determination that their incidence of hours worked constitutes regular hours of work and therefore they are not a casual employee.
- 1.11 Regulate hours of work to provide protection against zero-hours contracts, extremely long hours and other highly irregular hours of work.
- 1.12 Make it clear that the protections in the Employment Relations Act 2000 for fixed-term workers apply to casual workers.
- 1.13 Test current legal entitlements. The equal pay case between TerraNova Homes and Care Limited and Kristine Bartlett and the (Nelson) Salad Bowl case concerning unpaid work trials are examples. There could be other cases taken such as one testing the boundary between casual employment and fixed-term employment.
- 1.14 Apply more resources to enforce the law. Even our current protections are not adequately enforced. This includes the application of the minimum wage, the right to join a union, access to wage and time records, provision of written agreements, and application of holiday pay.
- 1.15 Strengthen penalties for breaches of the minimum code. This would allow workers to seek penalties for breaches of the Minimum Wage Act 1983 (currently only labour inspectors can do so).

2. EXTENSION OF THE MINIMUM CODE

The minimum code, which includes the minimum wage and holiday and sick leave entitlements, is an important protection for all workers. But if employers can deem someone to be on a 'contract for service' (a contractor) rather than a 'contract of service' (an employee), this undermines the minimum code. New Zealand should:

- 2.1 Apply the minimum code to work such as dependent contracting.
- 2.2 Consider a casual loading (additional pay rate) above the minimum wage which would effectively mean a specified higher minimum wage for casual workers.
- 2.3 Consider adding a requirement for a casual loading above the applicable rate for permanent workers.
- 2.4 Consider mechanisms so that interrupted periods of work with the same employer can accumulate for leave and other entitlements.
- 2.5 Ensure the Minimum Wage Review takes account of the needs of insecure workers by, for example, including the impact of intermittent hours on earnings. This could include consideration of a loading as well as the minimum wage level itself.

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3. HIGH STANDARDS OF HEALTH AND SAFETY

There is international evidence that insecure work increases health and safety risks. Casual and temporary workers, contractors and other insecure workers are less likely to be aware of hazards present in a workplace or to be trained appropriately in health and safety. It is harder to have good communication and a high standard of health and safety when there is such a lack of coordination and where there are many different agencies operating.

Some workers are understandably reluctant to speak up about health and safety concerns. Under current law, a worker on a 90-day trial period can be dismissed with no right of appeal if she or he raises a concern about health and safety. New Zealand should:

- 3.1 Repeal the employment law provision that allows employers to employ a worker for the first 90 days with no right of appeal against unfair dismissal.
- 3.2 Strengthen protections for whistle-blowers on employment issues.
- 3.3 Ensure that all workers are entitled to meal and refreshment breaks.
- 3.4 Implement all the recommendations of the Independent Task Force on Health and Safety.
- 3.5 Ensure that, wherever practicable, Health and Safety Representatives include workers that are involved in agency work, or other forms of insecure work.
- 3.6 Ensure that Health and Safety Inspectors treat insecure workers as an 'at risk' group requiring greater protection.
- 3.7 Provide that responsibility for health and safety at work binds the 'person conducting a business or undertaking'.
- 3.8 Provide roving Health and Safety Representatives and regional Health and Safety Centres aimed at insecure and hard to reach workers.

4. LABOUR HIRE AGENCIES

If work is to be more secure, there needs to be more regulation of labour hire agencies. New Zealand should:

- 4.1 Establish a licensing system for the labour hire industry. The granting of licences should be based on adherence to a code for workers that ensures appeal rights against dismissal apply, promotes an allocation of hours that assists aggregation of a reasonable number of weekly hours, and ensures that applicable collective agreement terms on sites flow on to agency workers.
- 4.2 Restrict the licensing of labour hire firms to certain industries and occupations, so as to ensure that labour hire models are not applied where work is normally of a regular and continuous form.
- 4.3 Consider the need for a standard industry agreement for labour hire firms.
- 4.4 Develop different models of labour hire, including encouragement of secure employment with a labour hire firm that then allocates work opportunities with 'customers'.
- 4.5 Promote the application of the current International Framework Agreement entered into by some labour hire companies.
- 4.6 Require agencies to have a written contract between the agency and user enterprise, and require that labour hire workers receive a document setting out the key terms and conditions of their employment.
- 4.7 Require that labour hire workers are given proper general training in health and safety, and appropriate specific training before beginning work in a new workplace.
- 4.8 Ensure there are no additional incentives to use labour hire such as lower ACC levies or health and safety requirements.

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5. TARGETED POLICIES FOR INSECURE WORKERS

Some categories of workers are relatively disadvantaged in the workforce. Strengthening their particular rights will make them more secure. New Zealand should:

- 5.1 Implement equal pay for work of equal value as provided for in the Equal Pay Act 1972 to reduce the gender pay gap and provide women working in female-dominated occupations with greater income security and fair valuation of their labour.
- 5.2 Implement stronger measures to prevent discrimination against workers (for instance young workers affected by pay discrimination on account of their age).
- 5.3 Enhance protections for migrant workers making complaints about exploitation, and create significant penalties for deliberate employer breaches of the Minimum Wage Act 1983, the Employment Relations Act 2000 or the Income Tax Act 2007 that target migrant workers.
- 5.4 Renew investment in building the employment options for the large cohorts of relatively disadvantaged workers in the labour market, including women, Māori and Pasifika workers. In particular this should include targeted skills development opportunities.

6. GOVERNMENT PROCUREMENT

Government procurement takes into account many factors such as value for money, whole of life costs, and quality of service. But the government can also ensure that other policy objectives – such as supporting apprenticeships, sustainability, high health and safety standards, a living wage and support for local content – can be achieved. Responsible contractor policies can be applied to issues such as the extent to which casual labour is permitted in the performance of contracts. New Zealand should:

- 6.1 Set parameters in their ‘requests for proposals’ limiting the extent to which casual and temp agency workers can be used in the performance of government-funded contracts. This is common in responsible contractor policies.
- 6.2 Use government procurement to promote decent work, including training opportunities, equal employment opportunities, and the Living Wage.

7. COLLECTIVE BARGAINING PROVISIONS

Unions should be able to seek the following protections in collective employment agreements:

- 7.1 Restrictions on the number or proportion of casual workers.
- 7.2 A casual pay loading.
- 7.3 Protections around the use of fixed-term agreements to provide for more opportunities for continuous and/or permanent employment.
- 7.4 Provisions for accumulation of leave by casual workers.
- 7.5 Protections and entitlements for workers beyond the enterprise, through industry and supply-chain agreements.

8. GREATER APPLICATION OF THE LIVING WAGE

The Living Wage is the income necessary to provide workers and their families with the basic necessities of life and to enable them to live with dignity and participate as active citizens in New Zealand society. It is commonly expressed as an hourly rate, but in fact the calculation is based on a weekly income requirement, and that cannot be achieved if hours are few and/or irregular. New Zealand should:

- 8.1 Promote a Living Wage in the context of ensuring workers and their families have an adequate weekly income.
- 8.2 Remove or reduce the thresholds for working hours (e.g. 20 hours for couples and 10 hours for single parents) for in-work tax credits in Working for Families, to take into account the situation faced by workers with intermittent and irregular hours of work.

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9. UNION CAMPAIGNS

Unions need to be at the forefront of the campaign for secure work. This goes beyond collective bargaining and promoting changes to legislation. Unions also need to ensure that they are organisations that promote the involvement of insecure workers and champion their rights. Unions should:

- 9.1 Promote 'Together', a union that is open to those not covered by another union and which links workers up on common issues.
- 9.2 Promote new models of unionism that break down any perceived barriers between 'permanent' and 'casual' workers. This would emulate Australian union campaigns based on the idea that 'every worker counts' and that people are entitled to 'jobs you can count on'. These campaigns argue for the right to be treated equally in all matters of employment: regardless of whether someone is employed directly or through a labour-hire agency, workers have the right to collectively organise and be unified, and should show loyalty to other workers, whether they are deemed 'casual' or 'permanent'.
- 9.3 Promote community campaigning to break down the barriers between work and community and to promote unions as social justice organisations.

10. UNIVERSAL BASIC INCOME AND/OR OTHER SUPPORT

A universal basic income ensures that all people have a minimum income. This would be a significant and complex measure to implement, but should be investigated. The welfare system also needs reforms that could support insecure workers to earn income from paid work but also receive an adequate benefit to cover periods when they are not in paid work. It should recognise that mitigating the effects of job losses and insecure employment is a social responsibility rather than loading the cost on individual workers. New Zealand should:

- 10.1 Investigate the feasibility of a universal basic income.
- 10.2 Provide income support for a period of 90% of prior income and at least a Living Wage to ensure jobless workers and their families maintain an adequate standard of living while searching for a job or retraining.
- 10.3 Provide greater flexibility to combine benefit and paid work income (such as increasing the amount a person can earn before a benefit abates). The system could, for example, allow beneficiaries to earn a higher weekly amount, but with a maximum in any one tax year.

11. SUPPORT FOR LIFELONG LEARNING AND WORKERS 'IN TRANSITION'

New Zealand needs a framework that considers work-life transitions – from education/training to employment, between family-based activity and employment, between unemployment and employment, between periodic incapacity and employment, and from paid work to retirement. The above recommendations in respect of benefit levels, abatement, and investigation of a universal basic income, are relevant here. Improved paid parental leave and genuinely flexible hours of work could also assist with these transitions.

Employability depends in part on transferable skills. There are recognised returns to education, including tertiary and vocational education and training. Access to training is therefore vital. Insecure work will be perpetuated if funding systems are inflexible and do not take account of the longer time periods that workers may need to complete qualifications when they have irregular work patterns, and if there is a division between 'core' workers that receive training and 'peripheral' workers who do not. New Zealanders should be entitled to expect that insecure work, to the extent that it exists, is never more than a temporary state on the way to secure employment, and society should support them in ensuring this is a reality. New Zealand should:

- 11.1 Reform industry training funding to take account of the needs of insecure workers, ensuring that such workers are included in apprenticeship opportunities. This may require more group apprenticeships and greater flexibility across different modes of learning so that training can be continued on and off the job.

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- 11.2 Consider second-chance access to student allowances, subject to certain conditions.
- 11.3 Improve paid parental leave by extending it to 26 weeks and ensuring that seasonal and casual workers are covered.
- 11.4 Provide greater support for education and training to people who have been in insecure work for more than a certain period.

12. FLEXICURITY MODELS

The specific aspect of flexicurity that is explored here is the support for workers facing redundancy. This draws on active labour market and flexicurity models applied in Scandinavia in relation to employment security. The active labour market approach is based on the principle that even if a worker is deemed 'surplus' to requirements for an individual enterprise, that does not mean they are deemed to be 'surplus' to that industry or region, and so the government (potentially through an industry levy) picks up responsibility for matching the worker with a quality job opportunity. This in effect replaces the notion of redundancy with 'employment security' rather than 'job security'. To emulate this model, New Zealand should:

- 12.1 Implement a broader active labour market policy, including income and retraining support, for workers facing redundancy.

13. INTERNATIONAL LABOUR INSTRUMENTS

To give workers the full protection of international law, the government should:

- 13.1 Lift its reservations on article 8 of the International Covenant on Economic Social and Cultural Rights (ICESCR) and article 23 of the International Covenant on Civil and Political Rights relating to trade union activities. Strong trade unions are an effective counterweight to insecure work and help guarantee rights and freedoms at work. The government should also ratify the Optional Protocol to the ICESCR to allow complaints to the Committee on Economic Social and Cultural Rights where such rights (including rights to work and rights at work) are breached.
- 13.2 Seek the ILO's technical assistance to bring our laws into conformance with, and then ratify, the following ILO conventions. While none of these conventions discourages insecure work, *per se*, they all provide a range of protections for insecure workers:
 - 13.2.1 Convention No. 87 on Freedom of Association and Protection of the Right to Organise
 - 13.2.2 Convention No. 138 on Minimum Age
 - 13.2.3 Convention No. 143 on Migrant Workers (Supplementary Provisions)
 - 13.2.4 Convention No. 156 on Workers with Family Responsibilities
 - 13.2.5 Convention No. 158 on Termination of Employment
 - 13.2.6 Convention No. 175 on Part-Time Work
 - 13.2.7 Convention No. 183 on Maternity Protection
 - 13.2.8 Convention No. 181 on Private Employment Agencies
 - 13.2.9 Convention No. 189 on Domestic Workers

14. THE DECENT WORK AGENDA

The government should recommit to the ILO's Decent Work Agenda, which has four elements:

- Creating jobs – an economy that generates opportunities for investment, entrepreneurship, skills development, job creation and sustainable livelihoods.
- Guaranteeing rights at work – to obtain recognition and respect for the rights of workers. All workers, and in particular disadvantaged or poor workers, need representation, participation, and laws that work for their interests.

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- Extending social protection – to promote both inclusion and productivity by ensuring that women and men enjoy working conditions that are safe, allow adequate free time and rest, take into account family and social values, provide for adequate compensation in case of lost or reduced income and permit access to adequate healthcare.
- Promoting social dialogue – involving strong and independent workers' and employers' organisations is central to increasing productivity, avoiding disputes at work, and building cohesive societies.

One of the issues we have highlighted in this Report is the insecurity that arises from low-paid work even where in other respects the job may be relatively secure. There is no doubt that where broader economic policy is in support of job creation, and where the policy emphasis is focused on how those jobs can be decent jobs, then this would reduce the incidence of insecure work. So a government with a 'decent work agenda' would not only implement the specific recommendations in this report but would also have a wider sustainable development framework that includes objectives on improving the level and the quality of employment opportunities for people.

15. MODELS THAT ENCOURAGE PARTICIPATION AND 'VOICE'

Insecure workers, including those described by the British academic Guy Standing as the 'precariat', are often alienated and do not see a home for themselves in many of the institutional forms of representation. They do not have a voice. This is a challenge to unions to be adaptable, as already discussed. We should investigate new channels such as board representation for workers. Social partnership models that include a strong worker voice could also be adapted to ensure that the voice of insecure workers is included. Different forms of enterprise could also be advanced. Unions should:

- 15.1 Promote cooperatives as a model that can be more inclusive and flexible.
- 15.2 Explore new models of inclusive social partnership.
- 15.3 Create forums, events and social media outlets that aim to include the 'precariat'.

16. HIGH PERFORMANCE WORK

Many New Zealand firms invest in 'low road' models involving low rates of pay, low rates of investment, poor use of technology, and inadequate work organisation, even though there are high performance alternatives that create secure and productive work. Factors such as workplace culture, the quality of leadership and management, capital per worker, innovation, value-stream mapping, work organisation, skills development and utilisation can all contribute to a high performing workplace that can support decent jobs. The government should:

- 16.1 Expand the 'High Performing Work Initiative' managed by the Ministry of Business, Innovation and Employment.
- 16.2 Promote high performance work models through the New Zealand Productivity Commission. This would need union co-operation, and must be based on worker engagement principles.
- 16.3 Provide support in the form of information sharing, training, and technical assistance to help companies make the transition to 'high road' employment practices.
- 16.4 Strengthen New Zealand's management capability by raising expectations of management and encouraging professional development.

17. CONSUMER SUPPORT FOR FAIR WORK

New technology now allows consumers to understand more easily the reality behind particular goods and services. Unions should work with non-governmental organisations to ensure that the concept of 'fair trade' applies to 'fair work' as well. Together they should:

- 17.1 Promote consumer awareness of fair work as a factor in purchasing decisions.

18. RECOGNITION OF COMMITMENTS OUTSIDE WORK

Employers need to recognise that the demands being made on workers' time on a 24/7 basis are harming society. They undermine participation in sport, and culture; they make it harder to have hobbies and more difficult to plan family occasions that can include everyone. There is no easy answer to this. But the solutions must start from recognition that these activities are hugely important for a healthy society and decent work. Employer organisations should:

- 18.1 Promote the importance of employer recognition of the value of social inclusion and participation.

19. GREATER PROTECTION IN TRADE AND INVESTMENT AGREEMENTS

International trade and investment agreements impact on employment directly and indirectly, and can significantly reduce the options available to governments to improve social and employment conditions. Some such agreements contain reference to ILO conventions in their labour clauses. These clauses specifically prevent countries from seeking a trade advantage through undermining employment rights, although the language is often weak and enforcement non-existent or difficult. New Zealand needs to ensure these agreements do not undermine the ability of present or future governments to improve social and employment conditions, and to support stronger wording of labour clauses. They should commit to 'competitiveness' based on an investment approach rather than a race to the bottom on labour and social standards. Before entering such agreements the government should:

- 19.1 Insist on stronger wording in labour clauses in any trade agreements.
- 19.2 Carry out impact assessments with public consultation and involvement to determine their effect on the availability and quality of employment in New Zealand.

20. RESEARCH INTO THE FUTURE OF WORK

There has been an ongoing demand by employers for more and more flexibility, at the cost of security and with a lack of consideration of family and community responsibilities, adequate rest and other issues. Modern technology is tying people to the workplace and blurring the distinction between being 'at work' and 'at home'. It is recognised that many jobs that will be done even in ten years' time have not been designed yet. The government should:

- 20.1 Invest in research, drawing from a wide range of academics, employer and union groups, to model the 'workplace of the future'.
- 20.2 Undertake research into different types of insecure work and develop a framework which can define insecure work and distinguish it from secure work.
- 20.3 Commission, as part of this process, more detailed research into the incidence and effects of insecure work. (This should not, however, be used as an excuse to delay action on insecure work itself.)
- 20.4 Ensure Statistics New Zealand surveys are sufficiently frequent and ask the right questions to substantially improve our knowledge of insecure work, provide other information important to the future of work, and enable us to monitor these trends effectively.

REFERENCES

Listed by Chapter.

THE RISE OF INSECURITY

- Auer, P (2006). Protected mobility for employment and decent work: Labour market security in a globalized world. *Journal of Industrial Relations*, 48(1), 21-40.
- Australian Council of Trade Unions. (2011). *Insecure work, anxious lives: the growing crisis of insecure work in Australia*. Retrieved from http://www.actu.org.au/Images/Dynamic/attachments/6637/Secure_Jobs_Better_Future_paper.pdf
- Barker, K., & Christensen, K. E. (Eds.). (1998). *Contingent work: American employment relations in transition*. Ithaca, New York: Cornell University Press.
- Bohle, P, Quinlan, M., Kennedy, P, Williamson, A. (2004). *Working hours, work life conflict and health in precarious and "permanent" employment*, Presented at the XV1 International Symposium on Night and Shift work, November 2003, Santos, SP, Brazil.
- Boocock, M., Hannif, Z., Jamieson, S., Lamare, R., Lamm, F., Martin, C., McDonell, N., Roberston, C., Schweder, P, Schulruff, B . (2011) Occupational Health and Safety of Migrant Workers; An international concern, in M. Sargeant & M. Giovannone (Eds) *Vulnerable Workers Health and Safety and Wellbeing*, Gower Publishing Ltd, Surrey, England.
- Burchell, B., Ladipo, D., & Wilkinson, F. (Eds.). (2002). *Job insecurity and work intensification*. London: Routledge.
- Burgess, J., & Campbell, I. (1998). The Nature and Dimensions of Precarious Employment in Australia. *Labour & Industry*, 8(3), 5-21.
- Burgess, J., Campbell, I., & May, R. (2008). Pathways from casual employment to economic security: the Australian experience. *Social Indicators Research*, 88(1), 161-178.
- Burgess, J., Connell, J., & Rasmussen, E. (2005). Temporary agency work and precarious employment: a review of the current situation in Australia and New Zealand. *Management Revue*, 16(3), 351-369.
- Campbell, I., & Burgess, J. (2001). A New Estimate of Casual Employment?. *Australian Bulletin of Labour* 27(2), 85-108.
- Castel, R. (2000). The roads to disaffiliation: insecure work and vulnerable relationships. *International Journal of Urban and Regional Research*, 24(3), 519-535.
- Connelly, C. E., & Gallagher, D. G. (2004). Emerging trends in contingent work research. *Journal of Management*, 30(6), 959-983.
- Cranford, C., Vosko, L. F., & Zukewich, N. (2003). Precarious employment in the Canadian labour market: A statistical portrait. *Just Labour*, 3(Fall), 6-22.
- De Cuyper, N., De Witte, H., Kinnunen, U., & Nätti, J. (2010). The relationship between job insecurity and employability and well-being among Finnish temporary and permanent employees. *International Studies of Management and Organization*, 40(1), 57-73.
- Donahue, L. H., Lamare, J. R., & Kotler, F. B. (2007). The cost of worker misclassification in New York State. [Electronic version]. Ithaca, New York: Cornell University, School of Industrial and Labor Relations. Retrieved from <http://digitalcommons.ilr.cornell.edu/reports/9/>.
- Dorman, P (2009). *Markets and mortality: Economics, dangerous work, and the value of human life*. Cambridge [England]: Cambridge University Press.
- Frenkel, S., Korczynski, M., Donoghue, L., & Shire, K. (1995). Reconstituting work: trends toward knowledge work and info-normative control. *Work, Employment and Society*, 9(4), 773-796.
- Fudge, J. (2006). Equity Bargaining in the New Economy, *Just Labour* 8, Spring 2006.
- Global Union Research Network (GURN). (2009). *Moving from precarious employment to decent work* (Discussion paper No. 13). International Labour Organization, Geneva: Evans, J., & Gibb, E. Retrieved from <http://www.gurn.info/en/discussion-papers/no13-dec09-moving-from-precarious-employment-to-decent-work>.
- Greenhalgh, L., & Rosenblatt, Z. (1984). Job insecurity: Toward conceptual clarity. *Academy of Management Review*, 9(3), 438-448.
- Greenhalgh, L., & Rosenblatt, Z. (2010). Evolution of research on job insecurity. *International Studies of Management and Organization*, 40(1), 6-19.
- Huang, G. H., Lee, C., Ashford, S., Chen, Z., & Ren, X. (2010). Affective Job Insecurity. *International Studies of Management and Organization*, 40(1), 20-39.
- International Labour Organization (ILO). (2012). *From precarious work to decent work: outcome document to*

REFERENCES

- the workers' symposium on policies and regulations to combat precarious employment*. International Labour Office, Geneva. Retrieved from http://www.ilo.org/wcmsp5/groups/public/-ed_dialogue/-actrav/documents/meetingdocument/wcms_179787.pdf
- International Labour Organization (ILO). (2011). *Policies and Regulations to Combat Precarious Employment*. Background paper prepared for the ACTRAV (Bureau for Workers' Activities) Symposium on Precarious Work. International Labour Office, Geneva. Retrieved from http://www.ilo.org/wcmsp5/groups/public/-ed_dialogue/-actrav/documents/meetingdocument/wcms_164286.pdf
- Kalleberg, A. L. (2009). Precarious work, insecure workers: Employment relations in transition. *American Sociological Review*, 74(1), 1-22.
- Lamm, F. (2002). OHS in Small Businesses. In M. Lloyd, (Ed.), *Occupational Health and Safety in New Zealand: Contemporary Social Research* (pp. 93-118). Wellington, New Zealand: Dunmore Press.
- Lewchuk, W., Clarke, M., & de Wolff, A. (2008). Working without commitments: Precarious employment and health. *Work, Employment & Society*, 22(3), 387-406.
- MacEachen, E., Polzer, J., & Clarke, J. (2008). "You are free to set your own hours": Governing worker productivity and health through flexibility and resilience. *Social Science & Medicine*, 66(5), 1019-1033.
- McDowell, L., & Christopherson, S. (2009). Transforming work: new forms of employment and their regulation. *Cambridge Journal of Regions, Economy and Society*, 2(3), 335-342.
- McLaren, E. (2001). *The growing insecurity of work*. Labour Market Dynamics Research Programme (Working Paper No. 5). Albany & Palmerston North: Massey University.
- McLaren, E., Firkin, P., Spoonley, P., de Bruin, A., Dupuis, A. and Inkson, K. (2004). *At the Margins: Contingency, Precariousness and Non-Standard Work*. Research Report 2004/01 – Labour Market Dynamics Research Programme, Albany and Palmerston North: Massey University.
- Newell, S., Robertson, M., Scarbrough, H., & Swan, J. (2002). *Managing knowledge work*. New York: Palgrave.
- Organisation for Economic Co-operation and Development (OECD). (2003). *Employment Outlook: Towards More and Better Jobs*. Retrieved from <http://www.oecd.org/els/emp/31775245.pdf>
- Organisation for Economic Co-operation and Development (OECD). (2004). *Employment Outlook: Editorial Reassessing the OECD Jobs Strategy*. Retrieved from <http://www.oecd.org/els/emp/32494739.pdf>
- Pickett, K., & Wilkinson, R. (2009). *The Spirit Level: Why more equal societies almost always do better*. London: Allen Lane.
- Probst, T. M., & Ekore, J. O. (2010). An exploratory study of the costs of job insecurity in Nigeria. *International Studies of Management and Organization*, 40(1), 92-104.
- Quinlan, M., & Mayhew, C. (2001). *Evidence versus ideology: lifting the blindfold on OHS in precarious employment*. University of New South Wales. Department of Industrial Relations. Papers, 138.
- Quinlan, M., Mayhew, C., & Bohle, P. (2001). The global expansion of precarious employment, work disorganization, and consequences for occupational health: a review of recent research. *International Journal of Health Services*, 31(2), 335-414.
- Quinlan, M. (2012). The 'Pre-Invention' of Precarious Employment: The Changing World of Work in Context. *The Economic and Labour Relations Review*, 23(4), 3-24.
- Reisel, W. D., & Probst, T. M. (2010). Preface. *International Studies of Management and Organization*, 40(1), 3-5.
- Rodgers, G. (1989). Precarious work in Western Europe: The state of the debate. In G. Rodgers & J. Rodgers (Eds.), *Precarious jobs in labour market regulation: The growth of atypical employment in Western Europe* (pp. 1-16). Geneva: International Institute for Labour Studies.
- Seixas, N. S., Blecker, H., Camp, J., & Neitzel, R. (2008). Occupational health and safety experience of day laborers in Seattle, WA. *American Journal of Industrial Medicine*, 51(6), 399-406.
- Sergeant, M., Tucker, E. (2009). Layers of vulnerability in occupational safety and health for migrant workers: case studies from Canada and the UK. *Policy and Practice in Health and Safety*.
- Smithson, J., & Lewis, S. (2000). Is job insecurity changing the psychological contract? *Personnel Review*, 29(6), 680-702.
- Standing, G. (2009). *Work After Globalisation: Building Occupational Citizenship*. Cheltenham, UK: Edward Elgar.
- Standing, G. (2011). *The Precariat: The New Dangerous Class*. London and New York: Bloomsbury Academic.
- Trade Union Commission on Vulnerable Employment. (2008). *Hard Work Hidden Lives*, Trade Union Congress, United Kingdom

REFERENCES

Tucker, D. (2002). *'Precarious' Non-standard Employment: A Review of the Literature*. Labour Market Policy Group, Department of Labour. Wellington, New Zealand.

Virtanen, M., Kivimäki, M., Elovainio, M., Vahtera, J., & Ferrie, J. E. (2003). From insecure to secure employment: changes in work, health, health related behaviours, and sickness absence. *Occupational and Environmental Medicine*, 60(12), 948-953.

Vosko, L. F. (2008). Temporary work in transnational labor regulation: SER-centrism and the risk of exacerbating gendered precariousness. *Social Indicators Research*, 88(1), 131-145.

Vosko, L. F., MacDonald, M., & Campbell, I. (Eds.). (2009). *Gender and the contours of precarious employment*. Oxford: Routledge.

INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?

Autor, D. H., & Houseman, S. N. (2010). Do Temporary-Help Jobs Improve Labor Market Outcomes for Low-Skilled Workers? Evidence from "Work First." *American Economic Journal: Applied Economics*, 2(3), 96-128.

Baines, J., Newell, J., & Taylor, N. (2002). Multiple Job Holding in New Zealand - A Statistical Profile. In *Labour, Employment and Work in New Zealand 2002* (pp. 86-96). Presented at the Labour, Employment and Work in New Zealand, Wellington, New Zealand: Industrial Relations Centre, Victoria University of Wellington. Retrieved from <http://ojs.victoria.ac.nz/LEW/article/view/1219/1024>

Burgess, J., Connell, J., & Rasmussen, E. (2005). Temporary Agency Work and Precarious Employment: A Review of the Current Situation in Australia and New Zealand. *Management revue. The International Review of Management Studies*, 16(3), 351-369.

Dixon, S. (2011). Temporary Employment and the Quality of Temporary Jobs. *New Zealand Journal of Employment Relations*, 36(1), 1-20.

Equality and Human Rights Commission. (2010). *Inquiry into recruitment and employment in the meat and poultry processing sector: Report of the findings and recommendations* (p. 50). UK: Equality and Human Rights Commission. Retrieved from www.equalityhumanrights.com/uploaded_files/Inquiries/meat_inquiry_report.pdf

Perry, B. (2013). *Household incomes in New Zealand: trends in indicators of inequality and hardship 1982 to 2012* (p. 221). Wellington, New Zealand: Ministry of Social Development. Retrieved from <http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/monitoring/household-incomes/index.html>

Independent Taskforce on Workplace Health and Safety. (2013). *The report of the Independent Taskforce on Workplace Health and Safety: he korowai whakaruruhau*. Wellington, New Zealand: New Zealand Government. Retrieved from <http://www.hstaskforce.govt.nz/>

International Confederation of Private Employment Agencies. (2012). *The Agency Work Industry around the World* (p. 48). Brussels, Belgium: International Confederation of Private Employment Agencies. Retrieved from http://www.ciett.org/fileadmin/templates/ciett/docs/Stats/Ciett_econ_report_2012_final.pdf

Kelly Services. (2013). *Kelly Global Workforce Index - Employee Engagement and Retention*. Retrieved from [http://www.kellyservices.co.nz/uploadedFiles/Dev_-_Kelly_Services\(1\)/News/KOCG9711%20KGWI3%202013%20Employee%20Engagement%20and%20Retention.pdf](http://www.kellyservices.co.nz/uploadedFiles/Dev_-_Kelly_Services(1)/News/KOCG9711%20KGWI3%202013%20Employee%20Engagement%20and%20Retention.pdf)

McLaughlin, C., & Rasmussen, E. (1998). "Freedom of choice" and "flexibility" in the retail sector? *International Journal of Manpower*, 19(4), 281-295. doi:10.1108/01437729810220392

OECD. (2013a). Benefits and Wages: Statistics. *Directorate for Employment, Labour and Social Affairs - OECD*. Retrieved September 12, 2013, from <http://www.oecd.org/els/benefitsandwagesstatistics.htm>

OECD. (2013b). *OECD Employment Outlook 2013*. OECD. Retrieved from http://www.oecd-ilibrary.org/employment/oecd-employment-outlook-2013_empl_outlook-2013-en

INSECURE WORK: WHO IS AFFECTED?

Agents 'trick' nurses into signing bonds. (2011). *Sunday Star Times*, p.A3.

Caritas Aotearoa New Zealand. (2003). *Protecting Children at Work: Children's work survey*, Wellington, New Zealand.

Caritas Aotearoa New Zealand. (2006). *Delivering the Goods: A Survey of Child Delivery Workers*, Wellington, New Zealand.

CCS Disability Action. (2013). disabled-people-discriminated-against-in-employment, <http://www.ccsdisabilityaction.org.nz/news/712>.

REFERENCES

- Department of Statistics. (2013). *Survey of Working Life*, December 2012 quarter, Wellington.
- Department of Labour. (2004). *Achieving Balanced Lives and Employment*, Wellington, New Zealand.
- Education Review Office. (2009). *Early Childhood Monographs: The Quality of Education and Care in Home-based Early Childhood Services*, Ministry of Education, Wellington.
- Faculty of Medicine and Health Sciences at the University of Auckland. (2004a). *Disability Support Services in New Zealand: Part I: Service provider survey. A report to the Ministry of Health*. Wellington: Ministry of Health.
- Fenton, D. (2011). 'Insights into Contracting and the Effect on Workers' NZJER, 2011, 36(3) 44-58.
- FIRST. (2013). *Secure and safe jobs would help attract primary production workers*, Press Release, Friday, February 15, 2013.
- Human Rights Commission. (2012). *Caring Counts*, Wellington, New Zealand.
- Immigrants held hostage to visas. (2011). *Sunday Star Times*, A11.
- McLaren, E., Firkin, P., Spoonley, P., de Bruin, A., Dupuis, A. and Inkson, K. (2004), *At the Margins: Contingency, Precariousness and Non-Standard Work*. Research Report 2004/01 – Labour Market Dynamics Research Programme, Albany and Palmerston North: Massey University.
- Morris, N. (2013). Zero Hours Contracts; One million workers could be affected, *The Independent*, Saturday 07 September 2013.
- National Advisory Committee on the Employment of Women. (2006). *Improving the Quality of Work for Women in Homecare, Residential and Cleaning Sectors*, Wellington.
- Ongley P, Lum, R., Lynch, C., Lu, E. (2013). *A Snapshot of New Zealand's Temporary workers: Results from the 2012 Survey of Working Life*, Department of Statistics, New Zealand.
- Plimmer, G., Wilson, J., Bryson, J., Blumenfeld, S., Donnelly, N., & Ryan, B. (2013). *Workplace dynamics in New Zealand public services*. Wellington: Public Service Association & Industrial Relations Centre, Victoria University of Wellington.
- Public Service Association. (2012). *The PSA Journal, Working Life*, March 2012.
- Report of the Advisory Group on Contracting Out and Sale and Transfer of Business to the Minister of Labour. (2001)
- Tertiary Education Union. (2013). <http://teu.ac.nz/2013/06/insecure-work-survey-highlights-growing-job-casualisation/>
- Tertiary Education Union. (2013). *Casual employees want security not flexibility*, *Tertiary Update Volume 16*, 24.
- TUC Commission on Vulnerable Employment (2008). *Hard Work, Hidden Lives: the Full Report of the Commission on Vulnerable Employment*. Trade Union Congress: London.
- Tucker, D. (2002). *Precarious, Non-Standard Employment - A Review of the Literature*, Labour Market Policy Group, Department of Labour Wellington.
- Unite. (2013). <http://thedailyblog.co.nz/2013/04/05/migrant-workers-used-and-abused/>

THE COSTS OF INSECURE WORK

- Benach, J. Benavides, F. Platt, S et al. (2000). The health-damaging potential of new types of flexible employment: a challenge for public health researchers, *American Journal of Public Health*: 90: 1316-7
- Belin, A., Zamparutti, T., Tull K., Guillermo, K., Hernandez, G., Milieu Ltd, and Graveling, R. (2011). *Occupational health and safety risks for the most vulnerable workers* European Parliament Policy. Department: Economic and Scientific Policy, IP/A/EMPL/ST/2010-03.
- Bohle, P Quinlan, M. Kennedy, P Williamson, A. (2004). *Working Hours, work life conflict and health in precarious and "permanent" employment*, Presented at the XV1 International Symposium on Night and Shift work, November 2003, Santos, SP, Brazil.
- Committee for the Social Determinants on Health. (2008). *Closing the gap in a generation: health equity through action on the social determinants of health*, Final Report, World Health Organization, Geneva.
- Dalziel, P in Rashbrooke, M. (2013). *Inequality, A New Zealand Crisis*, Bridget Williams Books Ltd, Wellington, New Zealand.
- Department of Labour (1997). 'Survey of Labour Market Adjustment under the Employment Contracts Act', prepared by Colmar Brunton Research, August 1997.

REFERENCES

- Dixon, S. (2009). Temporary employment and the quality of temporary jobs, *New Zealand Journal of Employment Relations* 36 (1): 1-20
- European Parliament. (2010). <http://www.industrialunion.org/archive/imf/european-parliament-adopts-resolution-on-women-in-precarious-work>.
- Ferrie, J., Shipley, M., Stansfield, S., Marmot, M. (2002). Effects of chronic job insecurity and change of job security on self-reported health, minor psychiatric morbidity, psychological measures and health related behaviours in British civil servants; the Whitehall 11 Study, *Journal of Epidemiology and Community Health*, 56: 450-454.
- General Accounting Office. (2000). *Contingent Workers: Incomes and Benefits Lag Behind Rest of Workforce*, Report to the Honorable Edward M. Kennedy and the Honorable Robert G. Torricelli, US Senate.
- Hipple, S., Stewart, J. (1996). 'Earnings and benefits of contingent and non-contingent workers', *Monthly Labour Review*, Bureau of Labor Statistics, United States Department of Labour, Washington, DC.
- Housemann, S. (2000). 'Why Employers Use Flexible Staffing Arrangements: Evidence from an Establishment Survey', W.E. Upjohn Institute Staff Working Paper No. 01-67, US.
- ILO. (2013). Meeting the challenge of precarious work: A workers' agenda. *International Journal of Labour Research* Vol. 5, Issue 1.
- ILO, OECD. (2011). *Short-term employment and labour market outlook and key challenges in G20 countries. A statistical update for the G20 Meeting of Labour and Employment Ministers, Paris*. Retrieved from <http://www.oecd.org/els/emp/48740986.pdf>
- Independent Taskforce on Workplace Health and Safety. (2013). *The report of the Independent Taskforce on Workplace Health and Safety: he korowai whakaruruhau*. Wellington, New Zealand: New Zealand Government. Retrieved from <http://www.hstaskforce.govt.nz/>
- Johri, R. (2005). *Work values and the quality of employment: A Literature review*, Wellington, Department of Labour.
- Littman, D. (2013). *Battle for a living wage: Campaigner says mind-set shift needed to accompany monetary leap*, New Zealand Herald, 14 February, 2013.
- McLaren, E., Firkin, P., Spoonley, P., de Bruin, A., Dupuis, A. and Inkson, K. (2004). *At the Margins: Contingency, Precariousness and Non-Standard Work*. Research Report 2004/01 – Labour Market Dynamics Research Programme, Albany and Palmerston North: Massey University.
- McLintock, W, Taylor, N., Warren, J. (2004). Effects of multiple Job holders on the work-life balance, *Labour Employment and Work in New Zealand*.
- Marmot Review. (2010). *Fair Society, Healthy Lives, The Marmot Review, A Strategic Review of Health Inequalities in England Post 2010* London, Institute of Health Equity.
- Ongley P, Lum, R., Lynch, C., Lu, E. (2013). *A Snapshot of New Zealand's temporary workers: results from the 2012 Survey of Working Life*, Paper presented at the New Zealand Association of Economists (NZAE) Conference, Wellington 2013.
- NOHSAC Technical Report No 10, *The evolving work environment in New Zealand – Implications for occupational health and safety*.
- OECD (2004). *Employment Outlook*, Paris, OECD
- Rashbrooke, M. (2013). *Inequality, A New Zealand Crisis*, Bridget Williams Books Ltd, Wellington, New Zealand.
- Rodgers, G., Rodgers, J. (1989). *Precarious Jobs in Labour Market Regulation; the Growth of Atypical Employment in Western Europe*, International Institute for Labour Studies, International Labour Organisation, Geneva.
- Royal Commission on the Pike River Coal Mine Tragedy (2012), *Volume 1 and Overview*, Wellington, New Zealand.
- Segal, L. Sullivan, D. (1998). *Wage Differentials for Temporary Services Work: Evidence from Administrative Data*, Working Papers Series.
- Sheen, V. (2010). *The Social Risks of Precarious Employment for Women*, 6th International Policy and Research Conference on Social Security, Luxembourg.
- Statistics New Zealand (2012). *New Zealand Income Survey: June 2012 quarter*.
- Underhill, E. (2007). *Temporary agency workers and the contribution of workplace unfamiliarity to workplace injuries*. In AIRAANZ 2007: diverging employment relations patterns in Australia and New Zealand", conference proceedings. Presented at the Association of Industrial Relations Academics of Australia and New Zealand. Conference, Auckland N.Z: University of Auckland. Retrieved from <http://hdl.handle.net/10536/DRO/DU:30008220>
- Whatman, R. Harvey, O. Hill, R. (1999). 'The Effect of Employment Regulation: Case Study Research in the

REFERENCES

Accommodation, Winemaking and Brewing Industries' Labour Market Policy Group, Occasional Paper 1999/4, December 1999.

Wilkinson, R, Pickett, K. (2009). *The Spirit Level, Why Equality is Better for Everyone*, London, England, Penguin Books.

Insecure work: the legal context

Baker v St John Central Regional Trust Board [2013] NZ EmpC 34

Burrows, Finn and Todd (2007) *Law of Contract in New Zealand (3rd Ed)* Wellington LexisNexis NZ Ltd

Committee of Experts on the Application of Conventions and Recommendations (1997) Observation regarding the application of Convention No. 87 in the United Kingdom

Contractual Mistakes Act 1977

Contractual Remedies Act 1979

Department of Labour (2007) *Casual and temporary employment: Report on Phase One Research*

Education Act 1989

Employment Relations Act 2000

Employment Relations Amendment Bill (No 3) 2008

Employment Relations Amendment Bill 2013

Employment Relations (Triangular Employment) Amendment Bill 2013

Fair Trading Act 1986

Holidays Act 2003

Hutton and Others v ProvencoCadmus Ltd (in receivership) [2012] NZ EmpC 207

Inland Revenue Department (2011) Interpretation Guideline IG 11/01 Income Tax; Goods and Services Tax– Determining Employment Status for Tax Purposes (employee or independent contractor?) retrieved from <http://www.ird.govt.nz/resources/2/5/257b390049bfafdabd73bd37e0942771/ig1101.pdf>

International Labour Organisation (1998) *Report V (2B) Contract Labour*. International Labour Conference Report, 86th Session in Geneva

International Labour Organisation (2009) 'Note on Convention No. 158 and Recommendation No. 166 concerning termination of employment'

International Labour Conventions:

- Convention No. 138 on Minimum Age
- Convention No. 143 on Migrant Workers (Supplementary Provisions)
- Convention No. 156 on Workers with Family Responsibilities
- Convention No. 158 on Termination of Employment
- Convention No. 175 on Part-Time Work
- Convention No. 181 on Private Employment Agencies
- Convention No. 183 in Maternity Protection

International Labour Recommendations:

- Recommendation No. 198 on the Employment Relationship

Jinkinson v Oceana Gold (NZ) Ltd [2009] ERNZ 255

Kaye v North Beach Ltd (26 August 2010–) AA 386/10

Muldoon v Nelson Marlborough District Health Board [2011] NZEmpC 103

Minimum Wage Act 1983

NZ Food Processing etc IUOW v ICI (NZ) Ltd (1989) ERNZ Sel Cas 395

OECD (2013) OECD Employment Outlook 2013, OECD Publishing

Parental Leave and Employment Protection Act 1987

REFERENCES

Prostitution Reform Act 2003

Real Estate Agents Act 2008

Rush Security Services Ltd t/a Darien Rush Security v Samoa [2011] NZEmpC 76

The Salad Bowl Ltd v Howe-Thornley [2013] NZEmpC 152

Sale of Liquor Act 1989

Smith v Radio i [1995] 1 ERNZ 281

Statistics New Zealand (2012) New Zealand Income Survey June 2012 quarter

United Nations (1948) Universal Declaration of Human Rights

United Nations (1966) International Covenant on Civil and Political Rights

United Nations (1966a) International Covenant on Economic, Social and Cultural Rights

Wage Indicator Foundation (2013) 'The International Regulations on Decent Work' retrieved from <http://www.wageindicator.org/main/labour-laws/decent-work-check/international-conventions>

WEB Research and Department of Labour (2004) Report of Exploratory Case Study Research into Precarious Employment. Department of Labour Research Report.

INSECURE WORK: WHAT CAN BE DONE?

Safe Work Australia. Model Work Health and Safety Bill (2011). Retrieved from <http://www.safeworkaustralia.gov.au/sites/swa/model-whs-laws/model-whs-act/pages/model-whs-act>

This report is available on the NZCTU website at www.union.org.nz/underpressure. A summary version of this report, *Under Pressure: Insecure Work in New Zealand* can also be found there.



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