NZCTU
Te Kauae Kaimahi

Submission to the FOREIGN AFFAIRS, DEFENCE AND TRADE SELECT COMMITTEE on the:

Defence (Workforce) Amendment Bill

Submitted by the New Zealand Council of Trade Unions Te Kauae Kaimahi

5 October 2025

This submission is made on behalf of the 31 unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU). With over 340,000 union members, the CTU is one of the largest democratic organisations in New Zealand.

The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga), the Māori arm of Te Kauae Kaimahi (CTU), which represents approximately 60,000 Māori workers.

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1. Executive summary

1.1. This submission is made on behalf of the unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU). With over 300,000 members, the CTU is one of the largest democratic organisations in New Zealand.

1.2. The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga) the Māori arm of Te Kauae Kaimahi (CTU) which represents approximately 60,000 Māori workers.

1.3. The CTU is thanks the committee for the opportunity to submit on this Bill. At the same time, we express grave concerns over what amounts to yet another erosion of workers' rights under this government.

2. An unnecessary retraction of fundamental rights

2.1. The CTU strongly opposes this Bill.

2.2. The right to strike is deeply entrenched. It is a fundamental right, intrinsically connected to the right to 'freedom of association'[1]. As such it is rigorously protected by international conventions and firmly enshrined in our legal system.

2.3. The principle that the right to strike is a fundamental one and should be disturbed unless there are clear and good reasons for doing has been clearly expressed by the *Employment Court in Secretary for Justice, for and on behalf of the Ministry of Justice v New Zealand Public Service Association*, where the court made the following comments:

> *The rights to strike and lockout, so long as they meet the requirements of the statutory provisions, are well enshrined in employment law and protected by the provisions of the Act. The rights to strike and lock out are part of ensuring a balance to the relative negotiating*

[1] **"The right to strike is an intrinsic corollary of the right to organize protected by Convention No. 87."** *— ILO, CEACR, General Survey on the Fundamental Conventions concerning Rights at Work in light of the ILO Declaration on Social Justice for a Fair Globalization (2012)*, para. 144

positions of the parties in industrial bargaining. ***Any step to reduce their effectiveness is not to be taken unless there are sound principled reasons for doing so.***[2]

2.4. This amendment Bill violates the longstanding legal principle stated above.

2.5. It is a blatant move to reduce the effectiveness of strike action for New Zealand Defence Force (NZDF) civilian staff and public service employees generally. Furthermore, it an action that has been taken without being informed by any '*sound and principled reasons for doing so.*'

2.6. The Defence Act 1990 (the principal Act) already singles out public service workers for having a restricted access the right to strike.

2.7. While the right to strike held by most workers is protected from the use of replacement labour by employers as a tactic to undermine the efficacy of strike action as an industrial tactic (by s 97 of the Employment Relations Act 2000),[3] the Defence Act 1990 allows for replacement labour (to be provided by the armed forces) under narrowly prescribed circumstances and for a strict 14-day timeframe.[4]

2.8. The use of the armed forces to perform work that would otherwise be carried out by striking workers is restricted by s 9(2) of the principal Act.

2.9. Section 9(2) relates to the provision of replacement labour where industrial action is taken by public service workers and requires written authority to be given for this action by the Minister. Moreover, that provision requires that the Minister specify '*the part or parts of the Armed Forces that may be used and the public service or public services that may be provided.*'

2.10. This Bill disturbs these narrow restrictions on the right to strike in 2 ways. For public service workers it extends the 14-day period after which authorisation must expire to 30 days (or, if the 30-day period ends while the House is not sitting, the next sitting day).[5]

2.11. It also introduces new avenues for restricting the ability of the civilian workforce of the NZDF to engage in effective strike action in introducing a new s 9A, that would allow the

[2] *Employment Court in Secretary for Justice, for and on behalf of the Ministry of Justice v New Zealand Public Service Association* [2018] NZEMPC 129 AT [24].
[3] Employment Relations Act 2000, s 97.
[4] Defence Act 1990, s 8
[5] Defence (Workforce) Amendment Bill 2025 (200-1), cl (4)(1).

Minister of Defence to call on the armed forces to cover the work of civil staff during industrial action where they have 'reasonable grounds' to believe

- *an authorisation is needed to avoid prejudicing—*
    - *national security; or*
    - *the ability and/or readiness of the Armed Forces to perform specific operational activities that are integral to core defence outputs; or*
- *it is necessary for the work to be performed for reasons of safety or health.*[6]

2.12. These additional restrictions are not required. Section 9 (4) of the Act already establishes processes and tools for the Prime Minister (or if unavailable, the next most senior Minister) to deploy the armed forces to support the exercise of civil power in times of emergency.[7]

2.13. The specific expansion of Ministerial power under s 9A is not about meeting any real civil defence need but is about blunting the efficacy of lawful and legitimate strike action.

2.14. This purpose, though unstated in the amendment Bill itself, is discoverable in the Regulatory Impact Statement issued by the Ministry of defence where it complains that the effects of industrial action taken by NZDF civilian staff were 'acutely felt'.[8]

2.15. Restricting the right to strike to shield an employer from the 'acute effects' industrial action is not a sound, principled or otherwise good reason for restricting the right to strike. Workers engaging in lawful strikes are entitled to take effective industrial action. It is an important bargaining tool and a legitimate expression of the industrial power of working people.

2.16. Furthermore, this unjustifiable and unprincipled retraction of an important right is not consistent with New Zealand's international obligations. It adds to a list of breaches in this area that has placed New Zealand at an unprecedented distance from basic compliance with international law.[9]

[6] Ibid, cl 5.
[7] Defence Act 1990, s 9 (4).
[8] REGULATORY IMPACT STATEMENT: DEFENCE (WORKFORCE) AMENDMENT BILL August 2025, at paragraph 25.
[9] These include ILO Conventions 87 (The Freedom of Association and Protection of the Right to Organise Convention) and 98 (The Right to Oganise and Collective Bargaining Convention)as well as Free Trade Agreements susch as the EU/ NewZealand FTA.

3. Conclusion

3.1. The CTU calls for this Bill to be abandoned. The limitation it places on workers rights is not justifiable in a free and democratic society.

3.2. It should not be the business of the government to coddle employers who do not wish to face the impacts of lawful industrial action.

3.3. This amendment is unfair, unbalanced and does not reflect good legislative policy.

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