MAKING WORK BETTER

Stories from working people about how employment law can be simpler, safer and fairer for New Zealanders

INTRODUCTION

Together is the digital arm of the New Zealand Council of Trade Unions (CTU). We are a community of tens of thousands of New Zealanders ready to take collective action to make working life better.

This bill is good for working people in New Zealand. Union access makes workplaces safer and protects people's freedom of association. Rest and meal breaks are simply common human decency. We submit that 90-day trial periods need to go in all business to prevent exploitation of vulnerable people.

The CTU's formal submission covers many good changes in the bill in detail. The three areas above are highlighted in this submission as examples of the difference this bill can make to the lives of working people.

Our community has told us their stories about the impact of employment law. Whether it is the factory worker who is denied natural justice because their representative has no site access, the vulnerable childcare worker with a 90-day trial hanging over her head, or the meatworker whose safety is at risk through insufficient breaks, this bill can help protect them and their colleagues. The law as it stands allows unsafe and unethical behaviour by the worst employers.

All of the case studies in this submission are personal stories. Some submitters would like to present to the committee face-to-face. By passing and improving this bill, you can make work better for so many New Zealanders just like them.

Sam Huggard
CTU National Secretary
Together campaigner

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"For the majority of Kiwis without good strong representation, the power imbalance means very little negotiation of their terms and conditions occurs, leaving them vulnerable to exploitation."

- *Jared Abbott,*
  FIRST Union Organiser

UNION ACCESS

Union access is vital to the representation of working people and, in some workplaces, it is the only thing standing between working people and seriously harmful work practices.

Denial of union access, and the subsequent erosion of people's rights at work, has been a feature of employment practices at some workplaces with long-running industrial disputes.

Bertie Ratu knows how important union organiser access is. She worked as a butcher for a company who used denial of access to reduce pay and conditions for her and her workmates.

BERTIE'S STORY

"They wouldn't let an organiser on site. They didn't give a reason, said they didn't need to give one, the plant manager would say, 'It's a directive from over the hill', meaning he was given the answer from Head Office."

"This left the delegates with a lot more to do in our own time. Our company would not allow delegates time off.

"Then they also stopped delegates from representing people. It left a lot of workers without representation in some pretty tense situations.

"At one point they told me the union had no delegates because we were on individual employment agreements. The collective had expired. We were left to be 'support people' at best.

I remember going to a meeting with a union member and being told by the manager that I was the support person, not the union representative. We were just there to tick the boxes so management could say they had followed process.

"One union member had a drug test and they told him he had failed. He wanted a union rep, but was led to believe they did not exist under the individual contract. He believed he was going be sacked.

"We had to really fight to get him a second test – which led to a negative result – and he started back on the chain the following day. He had been there twenty-something years. This job was his bread and butter. He needed it to feed his family and pay for the roof over their heads.

"But that was how it was a lot of the time, once the union was shut out, workers felt they were not treated fairly nor were their rights respected. You could take legal action, which we did - but that can take months or years. In the meantime, people's lives are ruined. It's just not right and it's not fair.

"After 17 years I left. I now work with E tū union as an organiser, and it's been a shock, but in a good way! Most of the employers I work with have no problem with union representation and no problem with us coming on site. It's professional, and great to see employers and employees working together.

"These aren't the companies that this law needs changing for and they're not going to be the ones that argue against these changes. Fair employers don't fear union representation.

"The ones who don't want the union on site, don't want them there for a reason. It's never a good reason. Maybe after the law's changed they'll have to start doing better by the people that work for them.

"I support the change to union access that is being made."

Bertie wishes to appear before the Committee in person.

90 DAY TRIAL PERIODS

90-day trial periods are against the principle of natural justice. They can create a climate of fear at work where vulnerable people are exploited by the worst employers. They also don't encourage other employers to improve their management practices.

It's good that this bill is scrapping 90-day trials for larger businesses. But keeping them for small employers will leave 30 percent of working people with second-class rights at work.

That's not the kind of equal and fair New Zealand our community stands for.

When we asked our Together community to share their 90-day stories, we had nearly 100 very personal responses on the terrible impact of the 'fire at will' law in just a week.

The following is just a small selection of what people said.

JESSICA'S STORY

"*I called in sick to work one day. My employer wanted to have a disciplinary meeting about this.*

"*In the meeting I explained that I have mental health challenges which I didn't think would affect my work but turned out to on that particular day. The boss said that he 'had known there was something wrong' with me from the moment he saw me, and that he had placed me with one of his managers to 'observe' me. He asked me if I had been a victim of sexual abuse and I said 'yes'. He said that he could tell this from looking at me too.*

"He tried to pressure me into doing volunteer work for him which he said would be beneficial for me because I was 'obviously too unstable to do paid work'.

"I was never told why I was fired during the 90-day period, in retrospect I think I could have taken some kind of action against my employer for the way they behaved but I was 19 years old and scared I'd lose my job.

"I'm a supporter of Jacinda and the new Government but on this law they've got it wrong. It hurts a lot of people for no good reason and it's wrong to keep it." - Jessica Legg

ANDREW'S STORY

"I'm a National Party supporter, but they made a mistake with this law. This Government needs to make sure it doesn't make the same mistake by keeping it.

"I am an industrial electrician by trade with over 30 years experience and have worked in industrial automation, (robotics and process management sales and design) for 16 years. I'm well regarded in the industry for my professionalism and the quality of my work.

"Last year I took up a role as Portfolio Sales Professional for one of the major companies in the industry. The contract contained a 90-day trial period but I didn't think anything of it, because I'm confident of the quality of my work and have a good reputation.

"When I was let go under the 90-day trial it was a complete surprise. At no time was I advised that my work wasn't up to scratch. My supervisor and I had an occasionally bumpy relationship but nothing that the company seemed concerned about - it was certainly never taken up with me.

"When I specifically asked for the reason I had been let go, HR refused to tell me. Presumably that was so I had no way of taking the matter further.

"I was fortunate enough to have new work literally within a few days, but I have to say, apart from the fact that my current employer is very good and I am very loyal to them, I would be hesitant to be subject to another 90-day trial.

"I'm not any kind of political activist, but when the chance to take a stand against this law came up I couldn't take it quick enough. You need to remove these trial periods completely. I would appreciate the opportunity to make this clear to the committee in person." - Andrew Laurence

Andrew wishes to appear before the Committee in person.

JESS' STORY

"I was fired in the first week. After my 2nd day they pulled me aside and asked me why I hadn't told them I was epileptic before I had started the job.

"The official form I filled in asked if I had any medical condition that would prevent me from being able to carry out the task. This being a desk job, and me knowing someone doing the same job for the same branch of the company who also has epilepsy, I said no because there is no reason that I can't do the job.

"My employer continued to ask me personal questions about medication which I now know is illegal for them to do."

"After looking very displeased they dismissed me from the meeting. They got me back in for two more training days and at the beginning of my third training day they pulled me aside again and told me that they were exercising their right to dismiss me under the trial period with no explanation - leading me to believe it was because of my epilepsy." - Jess [last name redacted]

BRONWEN'S STORY

"The main issue for me was the constant anxiety that I could be fired for no reason."

"Starting a new job is stressful enough without having to worry that you could be fired no matter how well you do the job" - Bronwen [last name redacted]

TRACEY'S STORY

"I was treated as a 'nobody' and double-standards existed between those who had permanent work and those who didn't."

"We were second-class citizens and the sword was forever held over us that we would lose our job if we didn't do 'such and such' - i.e. the work that nobody else wanted to do.

"If we refused then we were told that we were not likely to get employed after the 90 days were up." - Tracey [last name redacted]

TIANA'S STORY

"I took him to court and won, but it was very upsetting and stressful."

"I was injured, quite severely, while in a new job. After the accident, my employer attempted to fire me under the 90-day trial. He did this over the phone. Fortunately, he had miscalculated, and actually fired me on the 91st day. - Tiana [last name redacted]

KATE'S STORY

"I was hired along with four others. It was clear in hindsight that they never intended to keep all of us on.

"From day one I was given very little direction. I was afraid to ask a question and I would be reprimanded for small mistakes or forgetting things, such as opening procedures which I'd been given one day to become familiar with, then I was left on my own.

"There was no room for me to learn the ropes."

"There was no encouragement from the managers. I was expected to learn everything right away, with the threat of being let go always being held over my head.

"One moment I was employed. The next I was being asked to leave."

"I was given so much responsibility for a minimum wage job. I was expected to show up early for shifts, to be always on call, to have a perfect face of make-up. I was let go with no notice or warning. - Kate [last name redacted]

REST AND MEAL BREAKS

Rest and meal breaks should be just a normal part of everyone's work day. Taking a break isn't just common sense and good for productivity, it's basic human decency to make sure people aren't fatigued and have had a chance to eat.

We were surprised and saddened when the previous Government removed legal protections for working people to have minimum breaks at work.

For most people, this didn't change their work day, because most employers recognise that rest and meal breaks are essential. However, as with many things that should be obvious, the removal of basic minimum protections allowed a small minority of employers to act in unethical ways to take advantage of the law change. Lengthening shifts and reducing breaks became a workplace issue and a health and safety issue in some businesses, often ones that already had too many similar problems.

JARED'S STORY

Jared Abbott is a FIRST Union organiser, and was the site organiser for Cotton On when the rest and meal breaks provisions were taken away.

"In July 2014, workers at the clothing retailer's New Zealand distribution centres started negotiating their collective agreement.

Initially Cotton On had agreed to standard rest and meal breaks. But when the National Government's bill became law in early 2015, the company immediately made a claim to have them removed from the agreement.

"This was a site with heavy machinery and the potential safety issues that come with that.

“The company were not intentionally trying to be mean but they were getting the signal from Government that cutting rest breaks was the way to go. It was going to increase fatigue and make the place less safe.

“Cotton On’s management refused to budge on the matter until FIRST Union launched a public campaign to get Cotton On to back down.

“As per the law, rest and meal breaks had finally been determined by negotiation. However for the majority of Kiwis without good strong representation, the power imbalance means very little negotiation of their terms and conditions occurs, leaving them vulnerable to exploitation by employers who would like to push the minimums down.

“That’s particularly so when combined with the threat of 90-day trials or the exclusion of representation as outlined elsewhere in this submission - there’s often no way that working people can bargain equally with the boss.”- Jared Abbot, FIRST Union Organiser

Jared wishes to appear before the Committee in person.

MIKE'S STORY

Mike Paltridge is a former beef butcher and delegate who now works as an organiser in the industry.

In 2016, he was representing workers when the company he was working for declared they had consulted with workers and were changing the shift breaks from three down to two per shift.

They effectively bundled the morning and afternoon tea breaks, or their shift equivalents, into a single break alongside the half hour meal break.

"*They [the company] didn't ask us about this, they said they did, but in reality they just combined the breaks and told us that's the way it was going to be.*

"*This is really hard work, each job on the line is supposed to be repeated every 80 seconds. You're running a huge saw through a whole carcass and then back into a steriliser every 80 seconds, or you're pulling all of the guts out of a beast again and again every*

80 seconds. You don't get downtime, you can't take a quick walk to loosen up or stop to stretch out a tight shoulder.

"We used to deal with it by making the first part of the shift the longest, so you're coming to it fresh, and then the last part the shortest. When the breaks were switched, everyone just started getting really fatigued - your arms, your shoulders, your back - they're not meant to do that work for hours on end without a break. The accident register was filling up every shift.

"Things were getting pretty bleak - the morale was really low. Imagine working in a place where everyone is constantly under pressure and exhausted, and sore to their bones. We petitioned the company for a vote on breaks. We got nearly every single person here signed up, but we were told the decision had already been made and wouldn't be changed.

"It was only resolved when we got to peak season and the overtime meant there was no way two breaks was enough. It had to get to the point where the place was nearly broken and then they changed it back. And, after the peak, it didn't go back to the two break system.

"We have a pretty good relationship with the managers on site - I don't think they wanted to do the breaks like that. I don't know if head office ever knew it didn't go back after the peak, but leaving that choice to employers isn't right.

"I'm really pleased the Government is going back to protecting our breaks. It's something that'll make life a lot better for a lot of people."

The *together** submission to the Education and Workforce Select Committee on the Employment Relations Amendment Bill

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