

# **Employment Relations (Continuity of Labour) Amendment Bill**

Member's Bill

## **Explanatory note**

### **General policy statement**

The purpose of this Bill is to repeal section 97 of the Employment Relations Act 2000. Section 97 prevents the use of volunteers, contractors, or other casual employees by an employer during a strike or lockout.

Any employment legislation needs to provide a balance between employers and employees to be fair. Section 97 creates an imbalance by providing unions with a significant legislative advantage during negotiations. The restrictions placed on employers preventing them from engaging temporary replacement labour to maintain business continuity during a strike or lockout even extends to family members, volunteers, and willing workers from associated companies that may wish to work within an organisation to maintain business continuity. Restricting the ability of employers to engage temporary replacement labour can have a considerable impact on the productivity and financial viability of an organisation. These restrictions particularly affect the primary production processing industries where production cannot cease without considerable loss to a business.

Prior to the enactment of the Employment Relations Act 2000, no equivalent provision existed in any New Zealand employment legislation. Repealing section 97 will restore balance to collective bar-

gaining negotiations by maintaining the ability for unions to strike while also allowing employers the ability to replace striking workers temporarily to maintain business continuity.

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. It provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

*Clause 3* provides that the Employment Relations Act 2000 is the principal Act.

*Clause 4* repeals section 97.

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Employment Relations (Continuity of Labour) Amendment Act **2013**.
  
- 2 Commencement** 5  
This Act comes into force on the day after the date on which it receives the Royal assent.
  
- 3 Principal Act** 10  
This Act amends the Employment Relations Act 2000 (the **principal Act**).

- 4 Section 97 repealed (Performance of duties of striking or  
locked out employees)**  
Repeal section 97.
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