Submission

By

THE NEW ZEALAND INITIATIVE

to the Ministry of Business, Innovation and Employment

on

Better protections for contractors: Discussion document for public feedback

14 February 2020

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1 INTRODUCTION AND SUMMARY

1.1 This submission in response to the Ministry of Business, Innovation and Employment (**MBIE**) Discussion Paper, *Better protections for contractors: Discussion document for public feedback*,[1] is made by The New Zealand Initiative (the **Initiative**), a think tank supported primarily by chief executives of major New Zealand businesses. In combination, our members employ more than 150,000 people. The Initiative undertakes research that contributes to the development of sound public policies in New Zealand and the creation of a competitive, open and dynamic economy and a free, prosperous, fair and cohesive society.

1.2 In making this submission, we have drawn on the research and recommendations in our report, *Work in Progress: Why Fair Pay Agreements would be bad for labour* (July 2019) (**our Report**).[2]

1.3 In response to the issues raised in the Discussion Paper, we submit that:

(a) Contrary to the claims made in the Discussion Paper,[3] there is no evidence suggesting that changes to labour market regulation in the 1990s have resulted in structural problems in New Zealand's labour markets and led to increased inequality. In fact, New Zealand's labour markets have been working well. Wage growth has been tracking productivity growth. New Zealand enjoys high levels of employment, high levels of labour market participation, and one of the highest rates of job growth creation in the OECD. The best available evidence shows that market income inequality has trended *downwards* since the early 1990s.

(b) The Discussion Paper does not make a compelling case that New Zealand's current regulatory approach to classifying workers as *employees* and *contractors* is problematic. While we support the government's objective of cracking down on instances of exploitative practices to ensure all *employees* receive their rights and entitlements, this is an issue of *enforcement*, not of *classification*. In relation to the group of so-called "dependent contractors," the Discussion Paper acknowledges the number of workers in this category is comparatively small.[4] Furthermore, no evidence is presented in the Discussion Paper that a material proportion of these dependent contractors are suffering from exploitation or some other harm requiring a change to the classification of their status. The OECD has warned that in this area, "policy makers should be careful to base any decisions they make on evidence rather than anecdotes."[5] We agree. In the absence of compelling evidence of a problem that needs fixing, the government should be wary of unintended consequences before making significant changes to regulatory settings that appear to be working well for firms, workers and overall wellbeing.

(c) Creating a third category of "worker" to cover so-called "dependent contractors" as a half-way house between "employee" and "independent contractor" will cause confusion and uncertainty; may undermine the status of "employment"; and may have unforeseen impacts on innovation and productivity growth.

(d) While we have not researched the majority of the other options proposed in the Discussion Paper in detail, in section 5 below we provide some comments on each of them. Provided there is credible evidence that the benefits exceed the costs, we support

[1] Ministry of Business, Innovation and Employment, "Better protections for contractors: Discussion document for public feedback" (Wellington: New Zealand Government, 2020) (**Discussion Paper**).
[2] Roger Partridge and Bryce Wilkinson, "Work in Progress: Why Fair Pay Agreements Would Be Bad for Labour" (Wellington: The New Zealand Initiative: 2019).
[3] Ministry of Business, Innovation and Employment, "Better protections for contractors: Discussion document for public feedback," op. cit. 4.
[4] Ibid. 20.
[5] OECD, "OECD Employment Outlook 2019: The Future of Work" (Paris: OECD Publishing, 2019), Chapter 4, 3.

in principle options 1, 4 and 5. The other options we oppose for the reasons identified. These include impracticality, cost and confusion, lack of credible supporting evidence, adverse effects on freedom of choice for workers and firms, job losses, cost to consumers, and risks to productivity growth and overall prosperity and wellbeing.

(e) Finally, we are concerned about MBIE's intended reliance on the proposed anonymous "short survey" linked to the Discussion Paper to inform MBIE's policy development process.[6] However, because survey participants were self-selected, and not selected randomly to ensure the survey covered a representative sample of the relevant population, MBIE can have only limited confidence in the soundness of the survey responses. MBIE must therefore exercise caution before relying on the survey.

2 NEW ZEALAND'S LABOUR MARKETS ARE WORKING VERY WELL

2.1 The "Message from the Minister" in introducing the Discussion Paper mischaracterises the performance of New Zealand's current labour market settings. Contrary to the claims made,[7] there is no evidence that changes to labour market regulation brought about by the Employment Contracts Act 1991 (**ECA**) have led to structural problems or increased inequality.

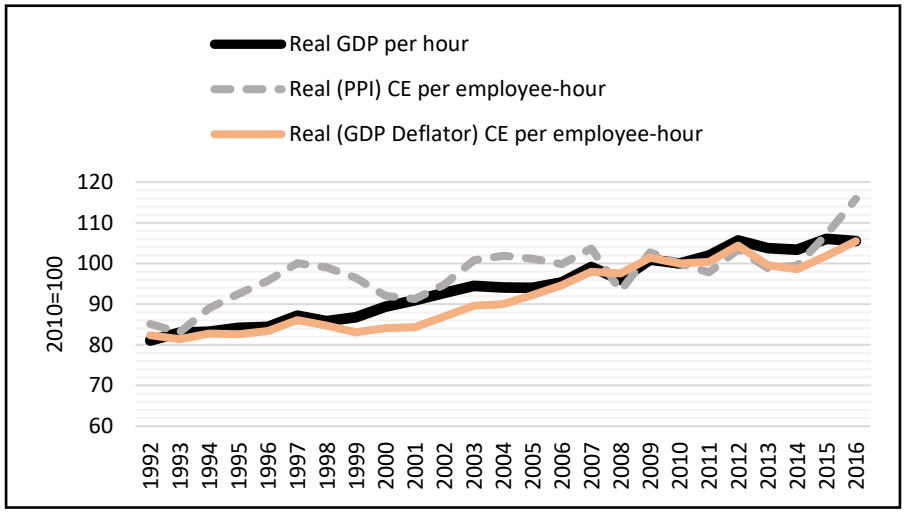
No evidence of structural problems with New Zealand's labour market settings

2.2 In our 2019 report, we found that New Zealand's labour market settings are working well overall.[8] Since the early 1990s, average real wages have been trending upwards in step with New Zealand's productivity growth.[9] Indeed, the OECD has recently singled out New Zealand – along with Denmark – as a country where real median wage growth has closely tracked productivity growth.[10]

2.3 This close tracking is readily apparent in Figure 1, reproduced from our research note, "Response to CTU 'Fact Check' 10 July 2019."[11]

[6] Ministry of Business, Innovation and Employment, "Better protections for contractors: Discussion document for public feedback," op. cit.
[7] Ibid. 4.
[8] Roger Partridge and Bryce Wilkinson, "Work in Progress: Why Fair Pay Agreements Would Be Bad for Labour," op. cit. 19–28.
[9] Ibid. 19–22.
[10] OECD, "Good Jobs for All in a Changing World of Work: The OECD Jobs Strategy," Meeting of the OECD Council at Ministerial Level (Paris: 30–31 May 2018), 19.
[11] Bryce Wilkinson, "Response to CTU 'Fact Check' 10 July 2019" (Wellington: The New Zealand Initiative, 2019), 7. See also Michael Reddell, "Wages and the economy" (Wellington: Croaking Cassandra) disclosing that over the almost 25 years of the national accounts data series published by Statistics New Zealand, wages rates have risen about 10 percentage points more than nominal GDP per hour worked.

Figure 1: REAL GDP PER HOUR AND TWO MEASURES OF REAL EARNINGS PER EMPLOYEE HOUR IN NEW ZEALAND POST 1991 TRACKS



Source: OECD, "GDP per hour worked," "Labour compensation per hour worked," "Producer price indices (PPI)," and "GDP deflator," Websites.

2.4 Other statistics suggesting a well-functioning labour market since the 1991 reforms include:

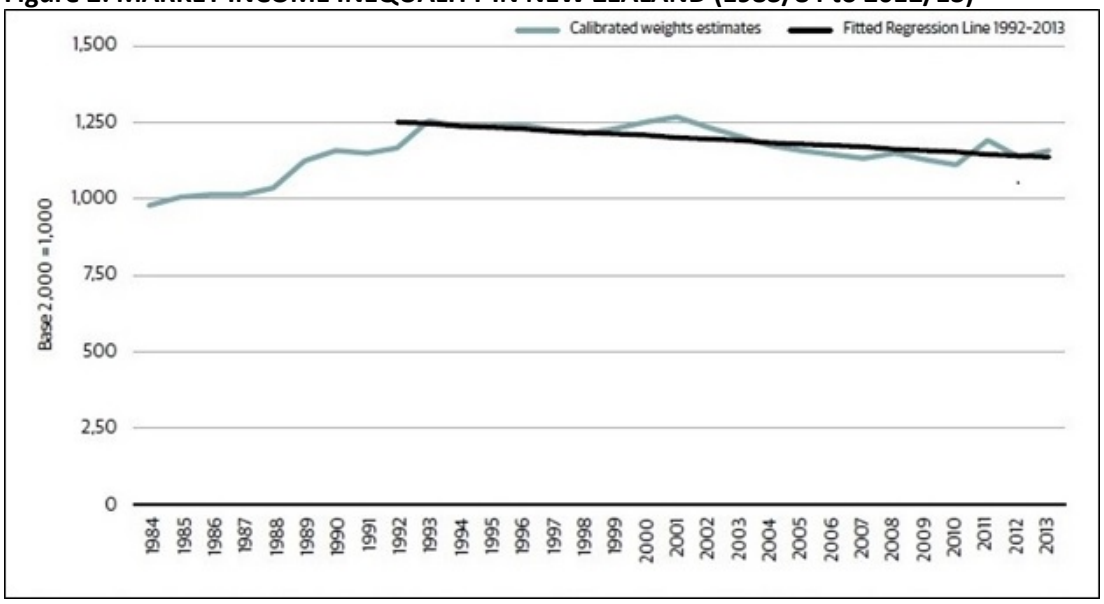
- New Zealand's comparatively low unemployment compared with other OECD countries (4.2% compared with an OECD average of 5.2%).[12]
- New Zealand's strong rate of job growth – the third-highest rate in the OECD in the period since the reforms.[13]
- Our strong labour market participation rate, which at 80.9%, is among the highest in the world.[14] Among developed countries, we are bettered only by Sweden, Switzerland and Iceland. And New Zealand's position in the front ranks compares extremely well with the EU average (73.6%) and the OECD average (72.1%).[15]

Income inequality has not risen since the reforms – it has fallen

2.5 As for the concern about rising income inequality since the ECA, the past 30 years have seen a decline in market income inequality. This decline is illustrated in Figure 2, reproduced from Figure 6 in our 2019 report. [16]

[12] Ibid. 9.
[13] OECD Stat, "Economic Outlook 105 – May 2019," Website.
[14] OECD, "Labour Force Participation Rate" (Paris: OECD Publishing, 2019).
[15] Ibid.
[16] See Figure 6 in Roger Partridge and Bryce Wilkinson, "Work in Progress: Why Fair Pay Agreements Would Be Bad for Labour," op. cit.

Figure 2: MARKET INCOME INEQUALITY IN NEW ZEALAND (1983/84 to 2012/13)



Source: Christopher Ball and John Creedy, "Inequality in New Zealand 1983/84 to 2012/13," *New Zealand Economic Papers* 50:3 (2016), 323–342.

2.6 New Zealand's experience of *declining* income inequality is quite different from that of many other advanced OECD countries.

2.7 It is true that low income households in New Zealand have been severely affected by rising housing costs. But the effects of the housing crisis on poverty in New Zealand derive from problems in the housing market.[17]

2.8 However, there is no evidence suggesting New Zealand's poverty statistics stem from problems with the operation of New Zealand's labour market.

Employment record since reforms eclipses pre-reform performance

2.9 Our current employment record compares favourably with New Zealand's past employment performance. Before the transformation of our domestic industrial relations under the ECA, the predecessor to the ERA, our labour market participation languished at a low 73% and unemployment exceeded 10%.[18]

2.10 In these circumstances, we consider the government should exercise extreme caution before making material changes to New Zealand's current labour market settings.

3 NO COMPELLING CASE FOR REFORM HAS BEEN MADE

3.1 The Discussion Paper does not make a credible case that New Zealand's current regulatory approach to classifying workers as *employees* and *contractors* is problematic.

3.2 While we support the government's objective of ensuring all *employees* receive their rights and entitlements, this is an issue of *enforcement*, not of *classification*. If there are shortcomings with the enforcement process, that may justify a change of enforcement approach – and possibly changes to enforcement powers. But problems with *enforcement* do not justify changes to *classification*.

[17] Bryan Perry, "Household Incomes in New Zealand: Trends in Indicators of Inequality and Hardship 1982 to 2017" (Wellington: Ministry of Social Development, 2018), Section F, 121–134.
[18] Statistics New Zealand, "Unemployment rate," Website, http://archive.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-progress-indicators/home/economic/unemployment-rate.aspx.

3.3 Furthermore, no compelling evidence is presented in the Discussion Paper that a material proportion of dependent contractors are suffering from exploitation by firms exercising monopsony power, or from some other harm requiring a change to the classification of their status. While the Discussion Paper does refer to the Council of Trade Unions' research by Dr Bill Rosenberg that self-employed people earn less that wage and salary earners per hour,[19] as both MBIE and the Council of Trade Unions acknowledge, there are significant shortcomings with this comparative data.[20] These include the ability of self-employed to spread income across family members, to substitute capital gains for income, and to under-report income.[21]

3.4 The OECD has argued that greater protections for dependent contractors may be required in labour markets characterised by monopsony power, giving rise to an imbalance in the bargaining power between firms and workers.[22] As the OECD explains, monopsony power typically arises where a significant fraction of employment is in highly concentrated labour markets.[23] No evidence is presented in the Discussion Paper that this is a characteristic or concern in labour markets in New Zealand. This is an astonishing omission.

3.5 However, given New Zealand is largely a nation of small businesses, it seems unlikely that monopsony power is a feature (or at least a significant feature) of labour markets here.

3.6 Rather than evidence of a power imbalance arising from firms with monopsony power, the Discussion Paper tends to rely on anecdotes: "A case like Sue's"[24] and "A case like Matiu's."[25] Yet, the OECD has warned that in this area, "policy makers should be careful to base any decisions they make on evidence rather than anecdotes."[26] We agree.

3.7 In addition, and as the Discussion Paper acknowledges, the number of workers in the so-called *dependent contractors* category is also comparatively small.[27] This conclusion echoes earlier similar findings by the Productivity Commission in its draft report, *Employment, labour markets and income: Technological change and the future of work*.[28]

3.8 It is also important to remember that new, non-standard forms of work often emerge in response to the real needs of both employers and workers.[29] Business may need sufficient flexibility to adjust workforces and working hours in response to fluctuating and unpredictable demand. Workers may be seeking greater flexibility to fit work around caring responsibilities and/or leisure in order to achieve a better work-life balance. Many workers also want more independence in the way they organise their work and hours. In the words of the OECD, "Diversity (and continuous innovation) in employment contracts allows both employers and

[19] Bill Rosenberg, "Shrinking portions to low and middle-income earners: Inequality in Wages and Self-Employment" (Wellington: New Zealand Council of Trade Unions, 2017).
[20] Ibid. 3, and Ministry of Business, Innovation and Employment, "Better protections for contractors: Discussion document for public feedback," op. cit. 22.
[21] Ibid.
[22] OECD, "OECD Employment Outlook 2019: The Future of Work," op. cit. Chapter 4, 3, 16–18.
[23] Ibid.
[24] Ministry of Business, Innovation and Employment, "Better protections for contractors: Discussion document for public feedback," op. cit. 18.
[25] Ibid. 21.
[26] OECD, "OECD Employment Outlook 2019: The Future of Work," op. cit. Chapter 4, 3.
[27] Ministry of Business, Innovation and Employment, "Better protections for contractors: Discussion document for public feedback," op. cit. 20.
[28] Productivity Commission, "Employment, labour markets and income: Technological change and the future of work," Draft report (Wellington: Productivity Commission, 2019), 33. Though focusing on the so-called gig economy, the Productivity Commission concluded that this sector was both small and showed no signs of rapid growth, either in New Zealand or in the other 30 countries for which data was available.
[29] Ibid. Chapter 4, 4.

workers to escape the constraints of a 'one-size-fits-all' approach and find arrangements that are in the best interest of both."[30]

3.9 In the absence of compelling evidence of a problem that needs fixing, the government should be wary of unintended consequences and exercise caution before making significant changes to regulatory settings in New Zealand's labour that appear overall to be meeting the needs of both firms and workers.

4 CREATING A THIRD STATUS WILL CAUSE CONFUSION AND RISKS UNDERMINING THE STATUS OF BOTH EMPLOYMENT AND CONTRACTING, AND ALSO HARMING INNOVATION

4.1 Quite apart from the lack of a evidence of a "problem" with the operation of New Zealand's labour markets that needs "fixing," creating a third category of "worker" to cover so-called *dependent contractors* as a half-way house between employee and independent contractor may undermine the status of employment and contracting, and risks greater confusion and uncertainty.

4.2 These risks are clearly articulated in the OECD's Employment Outlook 2019.[31] In Italy, the intermediate "worker" category provided an opportunity for businesses to avoid regulations applicable to employees, resulting in less employee protection.[32] The adoption of a similar category in the United Kingdom also led to a similar result.[33]

4.3 As the OECD cautions: "These two examples from Italy and the United Kingdom illustrate the dangers inherent in creating an intermediate category of worker where the boundaries of this category are vaguely defined or where it is created to introduce flexibility in the labour market."[34]

4.4 However, it is no simple matter to address the concern about vague boundaries. The so-called grey zone between employee and contractor status is notoriously difficult to delineate. In the words of an American jurist, "… the tests are notoriously malleable, difficult, and fact-dependent, even when dealing with what should be a fairly straight-forward analysis."[35] Nor are the difficulties a modern phenomenon. As the OECD observed,[36] as far back as 1944, Justice Wiley Blount Rutledge of the US Supreme Court stated: "Few problems in the law have given a greater variety of application and conflict than the cases arising in the borderland between what is clearly an employer-employee relationship and what is clearly one of independent entrepreneurial dealing."[37]

4.5 As the Discussion Paper observes, creating a third "intermediate" category could simply cause more confusion by creating two "grey zones" instead of one.[38] This risk was acknowledged by the Productivity Commission when it noted that an intermediate category will increase the complexity of employment law, as firms will need to negotiate new boundaries and the courts

[30] Ibid.
[31] OECD, "OECD Employment Outlook 2019: The Future of Work," op. cit. Chapter 4, 10–12.
[32] Ibid. See also Antonio Aloisi and Miriam Cherry, "A third employment category for on-demand workers?" Oxford Business Law Blog (3 November 2016).
[33] OECD, "OECD Employment Outlook 2019: The Future of Work," op. cit. Chapter 4, 10.
[34] Ibid. 11.
[35] Richard R. Carlson, "Why the Law Can't Tell an Employee When it Sees One and How it Ought to Stop Trying," 22 Berkeley J. Emp. & Lab. L. 295, 298 (2001).
[36] OECD, "OECD Employment Outlook 2019: The Future of Work," op. cit. Chapter 4, 8.
[37] National Labor Relations Board v. Hearst Publications, Inc. 322 U.S. 111, 121 (1944).
[38] Ministry of Business, Innovation and Employment, "Better protections for contractors: Discussion document for public feedback," op. cit. 50–51.

will have to develop new case law.[39] The creation of a third category may also have the unintended consequence of increasing uncertainty and complexity of taxation laws.

4.6 To similar effect, the Productivity Commission cited with approval work undertaken for the International Labour Office concluding in relation to idea of an intermediate "worker" category:[40]

> Whilst this proposal is interesting, as it challenges some of the existing boundaries to the application of labour protection, there are many potential negative implications that should not be underestimated … proposing a new legal bucket for grey-zone cases may complicate matters, rather than simplifying the issues surrounding classification. … Legal definitions … are always slippery when they are applied in practice: the real risk is shifting the grey-zone somewhere else without removing the risk of arbitrage and significant litigation in this respect, especially if the rights afforded to workers in that category afford any meaningful protection (p. 19).[41]

4.7 Quite apart from the risks of a third category may cause in the labour market, a third category of "worker" may have adverse economic costs. This risk was identified by the Productivity Commission in its 2019 second draft report, *Technological change and the future of work,* where it noted that a third category "… may make some platform business models uneconomic, reducing opportunities for work and value creation." [42]

4.8 Conversely, there is also the risk that creating an intermediate category may have the unintended consequence of undermining the status of contracting, pushing more and more workers onto "platform" work where they have even fewer protections.

5 SPECIFIC COMMENTS ON THE ELEVEN "OPTIONS"

Options to deter misclassification of employees as contractors

5.1 We support the government's objective of protecting employees from unscrupulous employers and ensuring that all employees receive their minimum rights and entitlements.

5.2 We also consider there are rule of law issues if statutory provisions relating to the status of workers as employees are being systematically breached. Provided this is supported by analysis disclosing that the benefits exceed the costs, we are in favour of Labour inspectors scaling up their monitoring and enforcement efforts (**option 1**).[43] Cost-benefit analysis is more likely to support enforcement where there are elements of exploitation arising in relation to the misclassification.

5.3 We oppose giving Labour inspectors quasi-judicial powers to make determinations over the employment status of a worker (**option 2**).[44] Such determinations require complex assessment of facts and are more suited to a judicial process than the monitoring and inspection process undertaken by the Inspectorate. We consider the costs and risks of this process are likely to significantly outweigh the "cost and speed" benefits identified.

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[39] Productivity Commission, "Employment, labour markets and income: Technological change and the future of work," op. cit. 45.
[40] Ibid. 46.
[41] Valerio De Stefano, "The rise of the 'just-in-time workforce': On-demand work, crowd work and labour protection in the 'gig-economy'," Bocconi Legal Studies Research Paper No. 2682602 (2015), 70.
[42] Ibid.
[43] Ministry of Business, Innovation and Employment, "Better protections for contractors: Discussion document for public feedback," op. cit. 29.
[44] Ibid. 30.

5.4 If the Labour Inspectorate increases its monitoring and enforcement efforts, we do not consider there will be a need to introduce penalties for misrepresenting an employee relationship as a contracting arrangement (**option 3**).[45] Employers who misclassify employees as contractors will, in any case, face liability to the Inland Revenue Department (**IRD**) for unpaid PAYE, holiday and leave entitlements, to the employee for unpaid entitlements, and for penalties in relation to both these amounts from both the IRD and the Employment Relations Authority.[46]

Options for making it easier for workers to access a determination of their employment status

5.5 Provided it is supported by cost-benefit analysis, we do not oppose the disclosure requirements for firms hiring dependent contractors (**option 4**),[47] though we are wary of the compliance costs this may create for small firms engaging contractors periodically.

5.6 The New Zealand court system suffers from widely acknowledged access to justice issues resulting from the high cost of litigation.[48] Provided incentives remain for employees not to pursue frivolous applications, we support the proposals to reduce costs for workers seeking employment status determinations (**option 5**).[49] This could be achieved by reducing the costs for individuals pursuing claims in the Employment Relations Authority.

5.7 We oppose the proposal to put the burden of proving a worker is a contractor on firms (**option 6**).[50] Such a proposal is likely to be practically unworkable. It would enable any disaffected independent contractor to claim she is an employee and thereby prevent her employer from exercising its contractual rights (including any right to terminate the contracting relationship) pending resolution of the dispute in the Employment Relations Authority (**ERA**) (and on appeal). This would be unjustifiably costly and cumbersome, and would likely harm overall productivity and economic growth.

5.8 We oppose the option of extending the application of employment status determinations to workers in "fundamentally similar circumstances" (**option 7**).[51] This is inconsistent with a fundamental principle that the courts in New Zealand's adversarial legal system make determinations *as between the parties litigating before the courts.*[52]

5.9 It is likely to spawn a further avenue of litigation concerning what are "fundamentally similar circumstances." This further avenue of dispute is likely to thwart the "streamlining" objective of option 7.

5.10 We also agree that given the potential wider applicability of the decisions of the ERA (or Employment Court) in such circumstances, the option would result in much more significant, lengthy and complex litigation, which will increase the costs for firms, workers and government.

Options to change who is an employee under New Zealand law

5.11 We oppose the proposals to deem all workers in some occupation to be employees under New Zealand law (**option 8**).[53] This option involves unnecessary compulsion. As the Discussion

[45] Ibid. 32.
[46] Ibid. 18.
[47] Ibid. 35.
[48] See, for example, Helen Winkelmann, "Access to Justice – Who needs lawyers?" [2014] Otago Law Review 2 (2014) 13 Otago LR 229.
[49] Ibid. 37.
[50] Ibid. 38.
[51] Ibid. 40.
[52] See, for example, Spencer Bower and Handley, *Res Judicata* (4th ed, LexisNexis, 2009), 125.
[53] Ibid. 43.

Paper acknowledges,[54] it would result in workers being deemed to be employees regardless of their preferences or actual circumstances in breach of the International Labour Organization's *Freedom of Association and Protection of the Right to Organise Convention, 1948*.[55]

5.12 We also agree with the risks identified in the Discussion Paper, namely:

- increased compliance costs;
- reduced workforce flexibility at some firms, adversely affecting productivity growth;
- job losses; and/or
- consumer price increases.[56]

5.13 We consider the costs and risks of defining some occupations of workers as employees are likely to significantly outweigh the benefits.

5.14 We consider that the proposed change to the test used by the courts to determine the employment status to include vulnerable contractors to be both practically unworkable and unnecessary (**option 9**).[57] A test based on the degree of economic dependence suffers from all the same objections as we list above in relation to option 8. A test based on the *ex post* unilateral intention of the worker faces similar risks and costs.

5.15 The chilling effects of deeming certain contractors, or contractors whose businesses have certain characteristics, to be employees are emerging in California where legislation to this effect risks harming job opportunities in the performing arts and journalism.[58]

5.16 A more justifiable approach was put forward by the Productivity Commission in its second draft report, *Technological change and the future of work*.[59] This would be to remove the "fundamental/supplementary" component of the legal test developed by the courts. We agree with the Productivity Commission that whether work is "fundamental" or "supplementary" to a firm's business should not be relevant to determining a worker's status.[60]

5.17 For reasons set out in detail in our 2019 report,[61] we oppose both the introduction of Fair Pay Agreements (FPAs) and the extension of those arrangements to some (or any) contractors (**option 10**). [62] For reasons set out in our report, we also oppose any alternative compulsory collective bargaining arrangements.[63]

5.18 For the reasons noted above, we oppose the creation of a new category of workers with some employment rights and protections (**option 11**).[64] We agree that this option is likely to add to

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[54] Ibid. 44.
[55] International Labour Organization, "Freedom of Association and Protection of the Right to Organise Convention" (C098) (ILO, 1948).
[56] Ministry of Business, Innovation and Employment, "Better protections for contractors: Discussion document for public feedback," op. cit. 44.
[57] Ibid. 45.
[58] See, for example, George Skelton, "California's employment law was rewritten. Many independent contractors aren't thrilled," *The Los Angeles Times* (23 September 2019), and Nellie Bowles and Noam Scheiber, "California wanted to protect Uber drivers. Now it may hurt freelancers," *The New York Times* (31 December 2019):
[59] Productivity Commission, "Employment, labour markets and income: Technological change and the future of work," op. cit. 43.
[60] Roger Partridge and Bryce Wilkinson, "Work in Progress: Why Fair Pay Agreements Would Be Bad for Labour," op. cit. 36.
[61] Ibid.
[62] Ministry of Business, Innovation and Employment, "Better protections for contractors: Discussion document for public feedback," op. cit. 48–49.
[63] Ibid.
[64] See paragraphs 3.1–4.6.

uncertainty (by creating two "grey zones" instead of one)[65] and may have the unintended consequence of undermining the status of "employee." For the reasons noted, it may also deter innovation and have an adverse effect on productivity and economic growth.

6 CAUTION OVER MBIE'S RELIANCE ON SURVEY RESPONSES

6.1 Finally, we are concerned about MBIE's intended reliance on the proposed anonymous "short survey" linked to the Discussion Paper to inform MBIE's policy development process.[66] MBIE's survey does not follow any of the recognised guidelines for sound statistical research. These guidelines include:

- Clearly defining the population of interest;
- Ensuring the sample source provides a representative coverage of the population; and
- Randomly selecting the sample population.[67]

6.2 Because survey participants are self-selected, and not selected randomly to ensure the survey covers a representative sample of the relevant population, MBIE can have only limited confidence in the soundness of the survey responses. MBIE must therefore exercise caution before relying on the survey responses.

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14 February 2020

[65] Ministry of Business, Innovation and Employment, "Better protections for contractors: Discussion document for public feedback," op. cit. 50–51.
[66] Ibid.
[67] See, for example, Statistics New Zealand, "A guide to good survey design (4th ed.)" (Wellington: New Zealand Government, 2015), Section 5.