



## INDUSTRIAL RELATIONS IN SWEDEN AND NEW ZEALAND: A COMPARISON

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### Abstract

*This paper provides a brief comparison between the Employment Contracts Act 1991 (ECA) and the Swedish equivalent, the Co-Determination Act. The Co-Determination Act is then used to provide a framework against which an alternative to the ECA is discussed. The paper concludes by arguing for a system of contracting which emphasises collective bargaining, noting a number of impediments to its effective operation in New Zealand - at least in the short-term. Two such impediments which are discussed are the current low level of union density and voluntary unionism. Additionally, if New Zealand is to ratify ILO conventions 87 and 98, collective good faith bargaining will have to be embodied in any new legislative framework. Recommendations for such a framework are made herein.*

In Sweden in the 1970s there was much discussion of employee participation in decision-making at the workplace. Three forms of participation were discussed: financial, company and shop floor. This debate, accompanied by a range of changes, aimed primarily at improving the individual's influence over their place of work, led to the enactment in 1976 of the Act of Employee Participation in Decision-Making (or the Co-Determination at Work Act). The Act took effect on January 1, 1977. As well as establishing the laws governing the powers of co-determination for employees, this Act also regulates issues such as mediation and conciliation in industrial disputes and the rights of association and negotiation.

The system of industrial relations in Sweden has, for decades, been based primarily upon a system of negotiated contracts between employer and employee organisations. The shift from self-regulation to legislation did not negate this. The Co-Determination Act (C-D Act) provides a general statutory framework for conducting the negotiation of collective employment contracts. In this sense the C-D Act is consistent with the bipartite framework which preceded it. This is the main industrial relations statute in force in Sweden at present.

In New Zealand it took sustained pressure from organisations such as the Treasury, the New Zealand Employers' Federation and the New Zealand Business Roundtable, as well as the election of a National Government in 1990, before the ECA came into full effect. The prime aim of this new industrial relations framework is to create an 'efficient labour market'.

The following discussion covers some key aspects of the

C-D Act comparing and contrasting them with the ECA, commencing with a brief discussion of co-determination.

### Co-determination

Dissatisfaction with employer activities in bringing about changes in the workplace underpinned the co-determination clause within the C-D Act. Swedish employers strongly resisted co-determination and this aspect of the C-D Act came in for the most discussion. Yet, as with other matters between employee and employer, the C-D Act does not state that co-determination clauses *must* be included in agreements but simply allows for negotiations on such matters and their inclusion in agreements. The C-D Act states that:

Between parties who conclude a collective agreement on wages and general conditions of employment there should, if the employee party so requests, also be concluded a collective agreement on a right of co-determination for the employees in matters which concern the conclusion and termination of contracts of employment, the management and distribution of the work, and the activities of the business in other respects (s 32).

The C-D Act therefore encourages discussions on matters which will enhance employee participation in the decision-making processes of firms. The ECA has no equivalent provisions.

### Freedom of association and the right of association

The section covering freedom of association within the

ECA reinforces the freedom to disassociate rather than associate. It does not actively encourage people to join unions to bargain collectively but simply reinforces the removal of actual or perceived constraints upon the individual's choice of bargaining agent and membership of a union. Nevertheless, discrimination on the basis of union or non-union membership is illegal and the legislation, according to Geare (1991: 5), will arguably be "as harsh on an employer who *discourages* union membership as on workers or officials who *encourage* it" (emphasis in original). However, if employers are unsympathetic towards unions, they may well bring subtle, but effective pressure not to join (for example, refer to Cases Cited: *Eketone v Alliance Textiles (NZ) Ltd* [1993] 2 ERNZ 783). Recent research indicates that there has been a substantial shift from collective to individual contracts as a result of the ECA (Harbridge, 1993a and 1993b; DoL 1992 and 1993). Further, the New Zealand House of Representatives (NZHR, 1993: 10. Emphasis added) states that:

The committee notes that care is needed to ensure that employees' rights under this section [freedom of association] are not effectively eroded, and that employers' should respect the intention of the Act. *The committee recommends that the Government keep this issue under active review.*

Under the C-D Act (s 7), the rights of employees and employers to belong to and work for appropriate organisations<sup>1</sup> representing their interests (the right of association) is guaranteed. The right to join such organisations is considered 'inviolable' (s 8). If violation of this right occurs via a provision in a collective agreement (or some other contract), or a legal action (the termination of a contract, for example), the contractual provision or the legal act will be considered void. Additionally, where a member of an employees or employers organisation violates this right, the C-D Act requires the relevant organisations to enforce this right.

This is quite different from the freedom of association clause in the ECA which leaves each *individual* to enforce their right to join a union style organisation and effectively discourages such membership. Collective contracts, multi-employer contracts and union coverage in the workforce have all declined since the inception of the ECA. This all undermines the ability of the individual to enforce their rights. Because of the relatively strong unions in Sweden the power of various organisations to ensure the membership rights of workers clearly still exists. In New Zealand, however, the reduction of union influence has seen this power curtailed.

### **Bargaining and the right to negotiation**

The ECA requires that when a bargaining agent is used, the bargaining agent obtains confirmation of their right to represent a given employee, employees or employer in the negotiation process. Once authorisation has been established, the appropriate bargaining agent must recognise

that authority. However, they are not compelled to enter into negotiations, to reach an agreement or bargain in good faith. Walsh (1992: 65) states that:

Employers can also decline to negotiate with certain agents. It remains a curious anomaly in the Act that, although it goes to remarkable lengths to ensure that bargaining agents are properly authorised and accountable to their constituents, there is no guarantee that the other party will in fact bargain with the duly authorised agent.

Case law indicates that while an employer may choose not to negotiate, appropriately authorised bargaining agent(s) cannot be ignored, if an employer wishes to negotiate (Cases Cited: *Eketone v Alliance Textiles (NZ) Ltd* [1993] 2 ERNZ 783). Further, *Service Workers Union v Southern Pacific Hotel Corporation (NZ) Ltd* [1993] 2 ERNZ 513 at p 515 (Italics in original; Emphasis added), held that:

The *Alliance Textiles* case made it plain that *recognition of the representative must take the form of negotiating with the representative* if that is the employee's wish.

*Mineworkers Union of New Zealand v Dunollie Coal Mine Ltd* [1994] 1 ERNZ 78, reinforces the above. This would allay the fear expressed by the ILO (1994, paragraph 741 (c)), in their interim report, that New Zealand case law was accepting of employers bypassing the appropriately authorised representative and going directly to the individual employee.

Under the C-D Act employees and employers are both obliged to negotiate. They are required to follow certain advisory procedures for announcing their desire to negotiate and once negotiations are entered into, to conduct and conclude these negotiations as speedily as possible.

The C-D Act ensures that good faith bargaining takes place, as best as it can, by specifying that 'reasoned proposals' (s 15) be put forward for the solution of issues where necessary. It further enforces such bargaining by granting unions the right of access to company information 'to the extent that the union needs in order to take care of its members' common interests in relation to the employer' (s 19). Employers are legally obliged to provide this information once it has been requested.

It is interesting to note that in the first instance the confidentiality of any information that is requested is subject to negotiation between the parties concerned. Once an agreement has been reached regarding the confidentiality of requested information, those who receive it are governed by this agreement. If an agreement is not reached the courts may be called upon to guarantee the confidentiality of the information that has been requested.

These types of provisions simply do not exist within the ECA. Employers are not obliged to 'negotiate' with employees and good faith bargaining is not provided for.

Unions (or other employee organisations) are not guaranteed access to company records. This places employee organisations in the New Zealand context in a much weaker bargaining position than their Swedish counterparts.

### Multi-employer agreements

Section 18(2) of the Employment Contracts Act states that:

Nothing within this Act requires any employer to become involved in any negotiations for a collective employment contract to which it is proposed that any other employer be a party.

This section further undermines the principle of collective bargaining. Although it does not make multi-employer agreements and industry wide bargaining illegal, or impossible, they are greatly impeded. High unemployment; the relative weakness of employees; the move against collective agreements and awards; the logistics of reaching such agreements and other provisions of the Act (the illegality of strike activity supporting multi-employer agreements), means that the union movement will find it "impossible to approach that level of coverage" (Walsh, 1992: 68) enjoyed under the LRA and that settlements akin to the award system are effectively precluded.

Harbridge and Hince (1994) estimate that since May 1991 union density in New Zealand has declined from about 52-63 percent to 43-34 percent, depending on the particular measure used. Recent research indicates a substantial drop in multi-employer agreements. Beaumont and Jolly (1993: 31) state that awards in 1989/90, 'accounted for 93 percent of private sector workers on collective settlements'. The Employee Survey Results in DoL (1993) indicate that across all sectors, multi-employer agreements account for 17 percent of contracts, as at September 1993. Additionally, Harbridge (1993a and 1993b) indicates that enterprise bargaining is now the norm; that 45 percent of workers previously covered by a collective settlement have lost that coverage; and that over 80 percent of those collective contracts that have been negotiated were done so under the auspices of unions. DoL (1993) research reinforces Harbridge's estimates of union coverage amongst those on collective contracts.

Unlike the ECA, which emphasises individual contracts, the C-D Act emphasises collective agreements with union organisations the only ones able to negotiate such contracts. Multi-employer agreements dominate in Sweden. Although some decentralisation of negotiations has taken place, as from 1993 contract negotiations have been conducted entirely at industry level between national trade unions and employers' associations (Bratt, 1994).

### Strikes and lockouts (peace obligations)

Generally, strikes and lockouts are considered legal, under the ECA, only when they *relate to* the 'negotiation of a

collective employment contract' (s 60(d-ii) and s 64(b)). Case law makes it clear that it is sufficient for the lockout or strike activity to 'relate to' the negotiation of a collective employment contract for it to be legal (for example see Cases Cited: *Hawtin v Skellerup Industrial Ltd* [1992] 2 ERNZ 500). Further, strikes (and lockouts) relating to individual employment contracts are essentially illegal under this framework (see Butterworths of New Zealand, 1993). This clearly has limiting implications for the rate of strike activity.

Sections 41-45 of the C-D Act establish criteria for determining the legality (or illegality) of strikes, lockouts and other similar industrial activity. Such activity is deemed illegal if:

- (1) it has not been sanctioned by the organisation to which the employee or employer belongs;
- (2) it is in breach of a peace obligation in a collective contract; or
- (3) the goal of such action is:
  - (a) to bring pressure to bear in a dispute over the validity of a collective agreement, its existence, its correct meaning, or in a dispute questioning whether a particular procedure goes against the agreement or the Act;
  - (b) to effect a change of the agreement;
  - (c) to facilitate a provision which will come into effect when the agreement has ceased to apply; or
  - (d) to support another party who is not allowed to take industrial action.

Before such action can be taken specific procedures (detailed in this section of the C-D Act) must be followed.

The general introduction to this section of the C-D Act indicates that industrial activity on multi-employer agreements and economic and social policy issues, which affect the interests of workers is permitted. All that is required is for the employees' or employers' organisation to sanction such activity in accordance with their rules, and in a manner that is also consistent with current collective agreements (and the C-D Act). The appropriate activity can then proceed. These provisions are far more permissive than the equivalent sections of the ECA. As indicated earlier, the ECA generally makes striking legal only when it relates to the negotiation of a new collective contract. To strike for a multi-employer agreement is, however, illegal under the ECA.

Part of the success of the ECA in 'improving industrial relations' by reducing strike activity is through severely restricting the grounds for lawful strikes. Similarly, it can be argued that high unemployment has a coercive effect, strongly discouraging employees from taking such industrial action.

It is worth highlighting here that an objective of both

systems is the resolution of disputes and thereby the maintenance of industrial peace. Each system, however, relies upon different means to achieve this goal. The ECA relies on an individualistic ethic in combination with high unemployment (and thus a relatively weak employee position). The C-D Act on the other hand relies on collective action; a balance of power between employees and employers; and the reaching of negotiated agreements in the truest manner possible.

There is nothing inherent within the ECA which encourages industrial harmony. From this it would seem that New Zealand's record of industrial harmony, could well be challenged in future should the employment situation alter to favour employees. Strike activity and job turnover may well increase as they are the two most likely means by which employees can improve their work environment, especially in the absence of good faith bargaining.

### Priority of interpretation

Sections 33-37 of the C-D Act specify who is given priority in the interpretation of an agreement or legislation should a dispute arise. This interpretation then holds until the dispute has been settled by the courts. The C-D Act generally gives the employee party priority of interpretation. However, if urgency precludes it, or the employee party's interpretation is incorrect 'and that party realises or ought to have realised this' (s 33), the employer does not have to abide by the provisions of the C-D Act specifying employee priority.

Further, the C-D Act states that:

Where, in the opinion of the employer, there exist urgent reasons against a postponement of the disputed work, he [she] may, ... require that the work be performed according to his [her] interpretation in the dispute. The employee shall then be bound to perform the work. Such a duty will not ... exist if the employer's interpretation in the dispute is incorrect and he [she] realises or ought to have realised this, or if the work involves danger to life or health, or if there exist comparable obstacles.

If work is done ... the employer must immediately call for negotiations concerning the dispute. If the dispute cannot be settled by negotiation, he [she] is to file proceedings with a court. (s 34)

These types of provisions do not exist in the ECA. The resolution of disputes are left in the hands of the individual parties to a contract. Any further action to resolve them is then through the courts.

Arguably, high unemployment (and the associated employment uncertainty) reinforces the power bias within the ECA, in which the employer generally holds greater bargaining power, and assists, though indirectly, in dispute resolution and the lower incidence of industrial action. In any complaints driven process an individual who does not

have the necessary skills or resources to pursue a grievance is unlikely to obtain satisfaction. This situation seems unlikely to occur in Sweden because of the dominance of collective agreements.

### Right of veto

This section of the C-D Act requires employers to initiate negotiations with the appropriate employee organisation(s) before engaging a sub-contractor to perform specified work for them. If, as with other sections of the C-D Act, urgency requires immediate action on behalf of the employer, they may engage the sub-contractor before meeting their duty to negotiate.

The most interesting aspect of this section is that if by engaging a sub-contractor the organisation of employees considers that a law, an existing agreement, or some other already existing arrangement between the employer and the organisation of employees, is likely to be disregarded, the organisation of employees may veto the employers' decision to engage the sub-contractor.

There is no such right embodied in the ECA. The individual nature of the ECA places a different interpretation on the relationship between employee and employer. The protection of a person's rights are not the responsibility of the collective but the individual. The ECA does not prohibit action by an employer which will lead to differential conditions of employment within the workplace for people doing the same type of work. In fact, it facilitates such differentiation.

### Summary

The C-D Act contains provisions which are variously similar to and quite different from the ECA. It is similar in that it facilitates a contract based system of employment agreements. It differs from the ECA in that it emphasises collective agreements.

Unlike the ECA, the C-D Act recognises and encourages unions. It gives primacy to collective interests while still enabling, within a negotiated framework, individual interests to be addressed. The overall balance of power within the C-D Act favours employees. Yet there are many counter clauses empowering employers. The ECA, on the other hand, effectively favours employers *without* providing any real counter balances to the power conferred upon them, except that which is available via the Employment Tribunal and Employment Court. There is a much greater balance of power within the C-D Act than that which exists under the ECA.

Under the ECA many workers are confronted with a 'take it or leave it' approach by their employer. Thus, for many within the workforce collective bargaining is the only way in which they can hope to obtain a degree of equity in a rapidly changing workplace. The framework provided by the C-D Act suggests some alternatives that may be adopted

by New Zealand policy makers. However, a number of limitations apply. Three key limitations are pertinent to the New Zealand environment, which restrict any possible policy prescriptions.

Firstly, the dominant view of industrial relations, at present, accepts the need for a more flexible, contracts style framework (see for example, New Zealand National Party, 1993; Anderson and Walsh, 1993; Boxall, 1993; Foulkes, 1993; ILO, 1994; Anderson, 1994).

Secondly, a voluntary approach to unionisation in New Zealand is also accepted.

Thirdly, while it is clearly possible to ignore International Labour Organisation (ILO) Conventions (e.g. 87 and 98), such an approach seems inappropriate.

Given these constraints, I would like to make specific recommendations.

## Recommendations

The basis for these recommendations flows directly from the C-D Act. However, before discussing the alternative, it should be noted that there are two key differences between the C-D Act and the recommendations that follow. First, the recommendations made here allude to the need to allow for individual bargaining within the New Zealand context; the C-D Act makes no mention of it. Secondly, the right to veto has not been included, as it would appear to be unacceptable within the current New Zealand policy-making framework, particularly to employers, the National Government and, given Labour's proposals (New Zealand Labour Party, 1993), to them as well. Further proposals such as priority of interpretation and co-determination, which have been included below, are likely to be strongly opposed.

### *Freedom of association*

The freedom of association clauses in any new legislative framework should incorporate an emphasis on collective bargaining. Further, they should be written in such a manner as to encourage (voluntary) union membership, rather than discourage it as it does at present. In this way such clauses would facilitate the ratification of ILO Conventions 87 and 98.

Here the appropriate ILO Conventions could act as guidelines to any new framework, as could the appropriate section in the C-D Act. Further, the criticisms of the ILO (1994), in their interim report, should also be taken account of in any new framework that may be developed.

Finally, it should be noted that the New Zealand Employers' Federation argued that case law indicates that freedom of association with the ECA is in fact consistent with the appropriate ILO Conventions (see Hill, 1994, for example). However, the interim ILO report (ILO, 1994, para-

graph 741 (f)) would appear to contradict this view. Ultimately, the follow-up mission by the ILO will clarify this issue further.

### *Status of unions*

If New Zealand is to ratify ILO Conventions 87 and 98, unions should be clearly recognised within any new legislative framework. To this end the wording of any new legislative framework should make it clear that the employees' organisations referred to are organisations formed by workers to represent their interests (that is, trade unions). Additionally, employers' organisations, of a similar nature, should be given equal weighting within any new legislative framework. Further, strike (and lockout) activity covering multi-employer agreements should be permitted under any new framework, as should such activity covering economic and social policy issues affecting worker interests. The C-D Act, the appropriate ILO Conventions as well as the interim criticisms of ILO (1994), may act as a guide for any replacement statute.

In addition to this, and given ILO Conventions 87 and 98, any new statute should, through its wording, emphasise the negotiation of collective agreements through organisations established by workers to represent their interests (that is, trade unions). It would seem that this is unlikely to have a dramatic impact on alternative bargaining agents at present. Ninety percent of public sector employees and sixty seven percent of private sector employees on collective employment contracts utilised unions as their bargaining agents, according to DoL (1993). Interestingly, DoL (1993) indicates that in 1992-1993 there was an increase in trade union representation in collective employment contract negotiations over the level in 1991-1992.

### *Bargaining stance*

Any new framework should facilitate genuine bargaining between parties, as much as is possible. Further, given ILO Convention 98, a 'hands-off' approach by the relevant legal institutions does not seem adequate, if we are to ratify this Convention (see ILO (1994, paragraph 741 (f)). The Tribunal and the Court should therefore be interested in the stance taken by employers, particularly if a 'take it or leave it' approach has been taken, since such an attitude would seem to violate the spirit of the ECA, at the very least. Finally, the employer should not be able to refuse to negotiate with the bargaining agent of the employees choice - excepting appropriate provisions within any new framework to exclude those with criminal records from being bargaining agents. Current New Zealand case law, as indicated earlier, has reinforced this and would seem to allay the fear expressed in the interim report of the ILO (1994, paragraph 741 (c)).

Further, all parties should be obliged by statute to *negotiate* with the other party (or their representative) once a desire to negotiate has been indicated by one or other party. As indicated earlier, case law has reinforced the right of

employers not to negotiate, if they wish. This could be included within statute by adding a clause requiring negotiations to take place once an interest in such is indicated. Further, 'reasoned proposals' should be required when bargaining. In addition to this, *all* employment contracts should be required, by law, to be in writing with every employee either having their own copy of the contract or, at least, easy access to a copy (without having to request a copy from the employer).

It is hoped that these provisions will enhance the degree of good faith bargaining that takes place and reduce any uncertainty that some must face by not having a written contract easily available and having to request it from their employer.

The appropriate section of the C-D Act could act as guide here. Finally, it is interesting to note that the proposals by Labour, in this area, are very similar to the equivalent provisions within the C-D Act (see Labour Party, 1993).

#### *Company information*

Those involved in the process of negotiating an employment contract should be able to obtain company information pertaining to those negotiations, upon request. Again the provisions within the C-D Act could provide a guideline for New Zealand statute here. Interestingly, Labour also provides for this type of clause within its proposed framework (see Labour Party, 1993).

It should be emphasised that any such information provided by the employer should be governed by strict confidentiality procedures. Within the New Zealand context, any provisions of this type would also have to take account of the implications of the Official Information Act 1982, the Companies Act 1993 and the Privacy Act 1993. Nevertheless, the inclusion of such provisions, under strict confidentiality requirements, would facilitate a more equal bargaining position, particularly where such negotiations are collective.

#### *Peace obligation, priority of interpretation and the right to strike*

Employment contracts, to assist their sanctity, should not be able to be unilaterally altered during their term. However, renegotiation (and associated industrial action), during the term of a contract, should be permitted, if:

- (1) There is a clause within a contract permitting its renegotiation at the request of one or other party;
- (2) When an employee (or employees) feel(s) that work is of such a hazardous nature as to endanger their health and or life and an employer still requires the work to be done; and
- (3) One or other party breaches the contract during its term.

Action to redress any wrongs during the term of a contract should in the first instance be through negotiation and if a settlement is not reached to the mutual satisfaction of both parties, action should be through the courts.

Priority of interpretation in these instances should favour employees, as, generally, the weakest party within the employee, employer relationship. This interpretation should apply until the court has ruled on the dispute. The appropriate sections of the C-D Act could well act as guide for New Zealand statute here.

Finally, the right to strike should be extended with particular emphasis on reintroducing such activity for economic and social policy issues that affect workers as well as the negotiation of multi-employer agreements. Negotiations should be able to be initiated by either party and, as with other contract details, once initiated negotiation should be obligatory by statute.

#### **Key weaknesses and other contracts**

The prime weakness of the ECA framework, in terms of providing effective protection for workers, is the poor union density currently in existence in New Zealand, and the reliance upon voluntary unionism. However, if we are to ratify ILO Conventions 87 and 98, it would seem that little else can be advocated in terms of an alternative. While this proposed framework enhances the position of unions and workers, the future of the union movement here will still depend upon how they approach their role, the strategies they pursue, and how well they meet the demands of their members in this new environment.

A framework such as this would most effectively protect employees, under a two- or three-tier union structure with high union density. However, with the emphasis on voluntary unionism, such a structure would seem to require development over time. In this context it should be noted that if employers fail to share productivity gains with employees, union membership may well be encouraged. Thus, by applying 'market power' to the labour market the ECA may, somewhat ironically, work against the intentions of the most ardent free market advocates.

Finally, while encouraging collective bargaining and union negotiated contracts, any new legislative framework, should provide for bargaining agents outside the union movement to facilitate the representation of those who bargain away from union representation on an individual basis.

Efforts by opposition parties to introduce private members' Bills, and the pressure from the ILO, would seem to indicate that the current industrial relations framework is unlikely to last much longer in its present form, particularly once Mixed Member Proportional Representation (MMP) is fully operational. Further, Hill (1994) reports that in a strategic move designed to facilitate the survival

of the ECA under MMP, the New Zealand Employers' Federation has advised the Government to amend the Act<sup>2</sup>.

As indicated earlier, a number of factors have limited the conclusions drawn here. Nevertheless, it is hoped that the framework presented here has sufficient inbuilt protections to ensure that even in New Zealand's present position worker rights will be guaranteed. Further, it is also hoped that by providing a framework such as this many who currently may be unable to avail themselves of the protections associated with union based collective bargaining will be able to do so. Additionally, it is hoped that by encouraging this type of framework a greater degree of social justice will be introduced into the New Zealand industrial relations system. Given the present hostility of many employers to collective bargaining confrontation<sup>3</sup> may be necessary before many New Zealand employees will be able to avail themselves of these types of protections. Finally, it is hoped that the types of changes proposed here will redress, as much as possible, the imbalances of the present system.

### Future research

While source work has been done, future research on alternatives to the ECA, and the appropriateness of various frameworks to New Zealand is needed, if an alternative is to be developed which will enable ratification of ILO conventions 87 and 98.

### References

- Anderson, G.** 1994 Editorial - 'The Employment Contracts Act: Time For A Review?' *Employment Law Bulletin*, April (3):30-31.
- Anderson, G. & Walsh, P.** 1993 Labour's New Deal: A Bargaining Framework for a New Century? *New Zealand Journal of Industrial Relations*, 18(2): 163-176.
- Beaumont, C., & Jolly, P.** 1993 Wage Bargaining and the Employment Contracts Act. *Discussion Paper G 93/6*, July 1993. Wellington: Reserve Bank.
- Boxall, P.** 1993 The Labour Party's Policy on Industrial Relations: A Critique. *New Zealand Journal of Industrial Relations*, 18(2): 177-184.
- Bratt, C.** 1994 *Labour Relations in Sweden*, Doc. 154, April. Stockholm: Swedish Employers' Confederation.
- Butterworths of New Zealand** 1993 *Employment Law Guide*. Wellington: Butterworths of NZ.
- Department of Labour (DoL).** 1992 *A Survey of Labour Market Adjustment Under the Employment Contracts Act 1991* (October 1992). Prepared by The Heylen Research Centre & Teesdale Meuli & Co. Wellington.
- Department of Labour (DoL).** 1993 *A Survey of Labour Market Adjustment Under the Employment Contracts Act 1991* (November 1993). Prepared by The Heylen Research Centre. Wellington: DoL.
- Foulkes, A.** 1993 The Culture of Tripartism: Can European Models be adapted for New Zealand. *New Zealand Journal of Industrial Relations*, 18(2): 185-193.
- Geare, A.** 1991 *Employment Contracts Act 1991. Discussion Paper*, No. 9101, Department of Economics. Otago: University of Otago.
- Harbridge, R.** 1993a Bargaining and the Employment Contracts Act: an overview, and, Collective employment contracts: a content analysis. In Harbridge, R. (ed) *Employment Contracts: New Zealand Experiences*:31-52, 70-88. Wellington: Victoria University Press.
- Harbridge, R., & Hince, K.** 1994 *Employment Relations in New Zealand: A Review of Bargaining and Worker Representation in 1993/94. A Paper presented to New Zealand Present and Future Conference, organised by the New Zealand Studies Committee, The University of Edinburgh, May 12-14.*
- Hill, D.** 1994 Employment act faces new threat. *The National Business Review*, May 13 (pg. 1).
- International Labour Organisation (ILO).** 1994 *Case No. 1698: Complaint Against the Government of New Zealand Presented by the New Zealand Council of Trade Unions (NZCTU)* Geneva: ILO.
- Labour Party** 1993 *Jobs Through Productivity Quality and Co-operation* (Labour's plan for the Workplace; November, 1993). Wellington: Labour Party.
- Ministry of Labour.** 1988 *The Swedish Act on Co-Determination At Work 1977* (Second Printing, March). Swedish Acts and Ordinances published in English. Stockholm: Swedish Governments Printing.
- New Zealand Government.** 1991 *Employment Contracts Act 1991. The Statutes of New Zealand*, Vol. 1, pp. 184-274. Wellington: Government Printer.
- New Zealand House of Representatives (NZHR).** 1993 *Report Of The Labour Committee On The Inquiry Into The Effects Of The Employment Contracts Act 1991 On The New Zealand Labour Market*. Wellington: Government Printer.
- New Zealand National Party.** 1993 *Manifesto '93*. Wellington: The New Zealand National Party.

**Turner, C.** 1994 Sweden and New Zealand: A comparative analysis of an alternative to the Employment Contracts Act 1991 *Masters Thesis* Palmerston North: Massey University.

**Walsh, P.** 1992 The Employment Contracts Act. In Boston, J., and Dalziel, P.(eds)*The Decent Society*, Auckland: Oxford: 59-76.

### **Cases cited**

*Eketone v Alliance Textiles (NZ) Ltd* [1993] 2 ERNZ 783.

*Hawtin v Skellerup Industrial Ltd* [1992] 2 ERNZ 500.

*Mineworkers Union of New Zealand v Dunollie Coal Mine Ltd* [1994] 1 ERNZ 78.

*Service Workers Union v Southern Pacific Hotel Corporation (NZ) Ltd* [1993] 2 ERNZ 513.

### **Notes**

<sup>1</sup> It should be noted that the term 'organisation of employees' used in the C-D Act is quite different from the term 'employees' organisation' which is used in the ECA. The former refers to trade union style organisations (s 6 of the C-D Act refers) whereas the latter refers to any organisation, including unions, which may legally represent employees in contract negotiations and dispute resolution (s 2 of the ECA refers).

<sup>2</sup> Details of the specific amendments suggested were not provided in the article.

<sup>3</sup> The word confrontation is used here in its broadest sense to refer to any challenges which may occur to the ECA framework which result in changes to the operation of New Zealand's industrial relations framework.

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