

## ARTICLES

# Reforming labour relations: what southern employers say

Ian McAndrew and Paul Hursthouse\*

*Broad based employer organizations have successfully advocated deregulation of New Zealand labour relations on the basis that employers have felt unduly restrained by predominantly national occupational awards and existing union structures and activities. This paper examines this premise through an interview survey of South Island employers. Little support is found for the contention that unions or the award system place significant restraints on smaller or medium sized firms that are the foundation of much New Zealand industry and employment, or that such employers have felt moved to demand the sort of labour relations reform now advocated by the central organization of employers.*

### 1. Introduction

In late 1990 the new National government introduced the Employment Contracts Bill, the third major effort to reshape New Zealand labour relations in 6 years. Predictably, the Bill has been enthusiastically endorsed by the Business Roundtable and the Employers' Federation, both of which had demanded far reaching labour market reform going into the 1990 election. Whether New Zealand employers, and particularly the great majority of smaller and medium sized employers, share the zeal of their central organization in this respect is the subject of this paper.

As with the 1984 amendments to the Industrial Relations Act and the Labour Relations Act 1987, the Employment Contracts Bill was heralded as "the most radical piece of industrial relations legislation since 1894". Without necessarily appreciating why successive governments of essentially conservative people so covet the label "most radical", it is probably fair to say that the Employment Contracts Bill stakes a reasonable claim to the title.

Nonetheless, the 3 pieces of legislation share a common theme and a common direction. The pre-1984 labour relations system was characterized in the main by protected union jurisdictions, centrally negotiated national occupational awards with blanket coverage, and allegedly fixed wage relativities reinforced by compulsory arbitration on demand. This system was portrayed as insufficiently flexible for the needs of employers and the economy. What was said to be needed was a labour relations

\* Department of Management, University of Otago. The authors are grateful to Bronwyn Boon and Valerie Thompson for research assistance, to the *journal's* coordinating editor and an anonymous referee for helpful comments, and to the interviewed employers for their participation. The research was funded by an Otago University research grant.



system that generated terms and conditions of employment tailored to the circumstances of individual firms, regions, or particular industries.

### **The Business Roundtable's prescription**

The Employment Contracts Bill extends the theme of its predecessors, namely that employers have been unduly restricted in their efforts to improve productivity in an increasingly competitive world by the national award system and the national unions that had "captured" it. More boldly than its predecessors, the Bill aims to dismantle the old system and meet the perceived needs of employers for employment arrangements tailored to local conditions. Where the Bill departs markedly from its predecessors is in its movement beyond mere decentralization to deregulation, with the emphasis on individual rather than collective choice.

The prescription is that which has been consistently put forward over a number of years by the narrowly based Business Roundtable representing New Zealand's largest employers (Business Roundtable, 1986, 1989).

Until recently, the Employers' Federation, as the central employer lobby acting for the broader cross-section of New Zealand employers, had advocated a somewhat more moderate and ideologically distinct approach to reform, proposing essentially the adoption of the North American collective bargaining model (Employers' Federation, 1986). Where the Business Roundtable in 1986 espoused the right of individual employees "to negotiate and enforce their own bargains" outside of collective contracts (Business Roundtable, 1986, p.48), the Employers' Federation called for collective representation of whole "bargaining units" based on a majority vote of employees in the unit (Employers' Federation, 1986, p.16-17). Individual employment contracts were envisioned only in the case of very small workplaces where collective contracts were impractical, or in instances where employees collectively decided not to be represented collectively.

### **The changing Employers' Federation position**

The inclusive bargaining unit concept, with a single agreement covering all employees in the unit, both union members and those who chose not to join, and with one unit per workplace as the basic module, remained the cornerstone of the Employers' Federation policy through early 1990. This approach was offered as meeting the perceived need for workplace agreements, while holding open the possibility of agreements covering multiple workplaces based on company, area or industry structures where such were preferred (Clark, 1990, p.11).

A change in the Employers' Federation philosophy began to emerge in mid-1990 in reaction to the Labour Relations Amendment Bill. Agreement coverage was now to be left strictly to the parties, and "multiple agreements for one site" were now envisioned (Employers' Federation, 1990a, p.7). Following the election of the National government, and while the Employment Contracts Bill was being drafted, the Employers' Federation slipped quickly into line behind the Business Roundtable prescription, advocating individual freedom and a multiplicity of bargains on site to "ensure no-one, worker or employer, is covered by an award or agreement without their consent" (Employers' Federation, 1990b, p.8).

While the Employers' Federation's broad theme of employer flexibility through labour relations decentralization has remained consistent, the shift in its emphasis from regulated decentralized collective bargaining to an inviolate individual freedom to contract is a radical one. Presumably it reflects a power shift within the Employers' Federation in favour of those of the Business Roundtable persuasion.



It necessarily calls into question the extent to which the Employers' Federation, in decrying the supposedly restraining impact of unions and the award system, and in demanding first decentralization, and now deregulation of the labour relations system, accurately reflects the views and experiences of its members, and most especially those of the smaller and medium sized firms that are the great majority of New Zealand employers.

The intent of the research reported in this paper was to test the fundamental proposition expounded by the Employers' Federation that employers have felt unduly restricted by unions and the national award system, leading them to demand radical reform of the labour relations system.

## 2. Study design and sample

In an effort to examine the impact of unions and the award system from the perspective of employers, semi-structured interviews were conducted with representatives of 92 firms in Otago and Southland. The sample was derived from earlier labour relations research in which a postal survey was mailed in 1988 to the 476 member firms of the Otago-Southland Employers' Association then employing between 10 and 100 staff. Of these, 222 firms responded, 117 of them indicating that they were prepared to participate in a follow-up interview. At the time of scheduling interviews, 92 remained in business and willing to participate. The interviews were conducted between January, 1989 and March, 1990.

### Characteristics of the sample

About one-half of those interviewed for the project had a proprietary interest in the firm they were representing. The remainder were mostly chief executives, other than a small number of personnel managers. Almost 60 percent of the firms in the sample had just a single place of business; only 10 percent had more than 3. About one-half of the firms were located in the main centre of Dunedin, with the remainder scattered around the Otago-Southland area.

In terms of the major divisions of the New Zealand Standard Enterprise Industry Classification, 14 of the firms were in Agriculture, Forestry or Fishing; 2 were in Mining or Quarrying; 20 were in Manufacturing; 14 were in Building or Construction; 22 were in Wholesale or Retail Trade; 9 were in Transport and Storage; 1 was in Business Services; and 10 were in Community, Social or Personal Services.

At the time of the interviews, 38 of the firms had 25 or less employees, another 38 had between 26 and 75 employees, and the remainder had more than 75 employees.

### Labour relations profile

The firms in the sample were, for the most part, in the mainstream of the labour relations system. In all but a handful of firms, 70 percent or more of the employees were covered by a union-negotiated award or agreement, with one-third of the firms having 90 percent or better of their employees so covered.

The firms dealt, on average, with fractionally less than 3 unions and fractionally more than 3 awards or agreements, with the numbers of both unions and union-negotiated documents closely correlated with the size of the workforce. A total of 30 unions represented employees in the sample firms, with all but 4 of them being the principal or majority union in at least 1 firm in the sample. Of the 30 unions, the Drivers, Engineers, and Shop Assistants unions were most often the principal union in the firm, while the Clerical Workers Union represented employees in the largest number of firms.



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In over one-half of the firms, the principal union represented 80 percent or more of the firm's unionized employees. In some such instances, the representative of the principal union handled matters arising amongst other unionized employees as well, with the principal union effectively functioning as the sole union on site, at least with regard to day-to-day labour relations issues. In almost all of the firms, the principal union represented at least one-half of the unionized employees.

Finally, in their dealings with the principal union representing their employees, 80 percent of the interviewees reported that they dealt or would deal exclusively with a paid union official. This large majority included a considerable number who could not recall ever having dealt with the union, and who knew of no union delegate amongst the workforce. About 20 percent of the firms dealt with the union primarily through a shop floor delegate.

### 3. Evaluating the award system

As noted, the sample firms were in the mainstream of the labour relations system, and this was very much so in their award coverage. In over three-quarters of the firms, employees were covered exclusively by national (or near-national) awards, while only 6 firms had no employees covered by national awards. In 3 of the firms, employees were covered exclusively by Otago-Southland regional awards. Of the less than 10 percent having any experience with enterprise agreements, 2 firms had unionized employees covered exclusively by such house agreements. In 17 firms, employees were represented under a combination of 2 or all 3 types of documents, almost always including at least 1 national award.

The employers were asked a number of questions in the course of the interviews designed to elicit their views on the award system and its impact on the firm.

#### The award process

The first question concerned the process of award negotiations, and asked whether they had been "generally satisfied or dissatisfied about the opportunities for input and involvement in award negotiations over the past five years". Only 4 employers expressed any dissatisfaction. Even allowing for the fact that almost one-third of the sample firms reported having been represented at the negotiating table for award negotiations at least once in the past 5 years, a 95 percent satisfaction rating is impressive. The two-thirds of firms that had had no direct involvement in award negotiations were unanimous in believing that the process was nonetheless accessible to those interested in being involved. The 4 interviewees expressing dissatisfaction had all had some direct involvement in negotiations.

#### Award bargaining outcomes

The second line of questioning concerned the major outcome of the award process. Of the 92 employers interviewed, 81 indicated that they had been "usually satisfied" with "the wage increases negotiated in award negotiations over the past five years". In about equal numbers, these employers cited cost of living, comparable wage movement in other awards, and ability to pay, as their reasons for believing that award wage increases over the years had not been out of line.

Of the employers expressing general satisfaction with award wages, 24 nonetheless expressed some specific reservations and these were of 2 types. The first was a one-off concern about the size of the initial post-freeze wage increases in the mid-1980s. Perhaps



of more consequence for this analysis, about a dozen employers objected to one or another premium rate or allowance contained in an award, for the most part suggesting that the offending item served the purposes of employers or unions in other regions but was not relevant to their particular firm or to the southern region.

Of the 11 employers who reported that they had been "usually dissatisfied" with award wage increases, most again cited premium rates or allowances beyond base wages as the source of their dissatisfaction. Few indicated that the actual movement in base wages had distressed them.

#### 4. Managing within the award system

The emerging impression of employers going about their business largely untroubled by the national award system is reinforced by the way in which decisions are made in the sample firms on matters directly and indirectly impacting employees.

##### Above award payments

For example, 85 percent of the firms, 78 out of 92, pay above award wage rates to some or all employees covered by awards, some or all of the time. Various reasons were given for paying above the awards, including recruitment and retention, rewarding employees for length of service and loyalty, and the frequently expressed belief that the firm had a better than average workforce that "went the extra mile" for the firm when necessary. Some other reasons were related to the process of award negotiations, and are discussed below. In more than one-half of the firms, individual performance was at least one of the considerations in setting above award pay rates.

These figures are, of course, not inconsistent with the concept of awards as minimum documents. And indeed, the employers generally moved the actual pay levels in line with wage increases negotiated in the relevant awards. The situation was, though, somewhat more flexible than this generality suggests.

Only 5 employers reported union involvement, either formal or informal, in setting above award pay rates. Another 9 discussed the rates directly with the employees concerned. In short, except in these relatively few instances, and except in the handful of firms with plant agreements, the relationships between actual rates and award rates were determined unilaterally by the employers. Many employers also freely varied these relationships, not only as they related to individual employees but as they related to groups of employees or the workforce as a whole.

For example, about one-third of the employers reported that they routinely adjusted pay rates when award negotiations stalled, and even more did so occasionally. These adjustments were almost always based either on the increase contained in an award that had settled and that covered some of the employees, or on the figure that was being proposed by either the employers or the union in the unsettled award negotiations. In addition, about one-quarter of the employers reported that they regularly adjust the firm's entire pay structure in line with the pay increase negotiated in the award covering the largest number of their employees, essentially disregarding at least smaller numbers negotiated in the awards covering other staff. A similar number of the firms also adjust such items as premium payments, allowances and time-off entitlements to achieve a measure of cross-award consistency. Rarely is a union reportedly involved in any of this.

Again, none of this is inconsistent with the notion of awards as minimum documents. However, it is clear that these employers feel fundamentally unrestrained by the overall level of award wages or of award wage increases, and exercise basically a free hand in the setting of actual pay rates. The cause and consequence relationship between



the efforts of their union and what turns up in their pay envelopes must appear somewhat obscure to many of the employees represented in the sample.

### Other decision areas

The picture is similar in decision areas other than wage setting. In the course of the interviews, the employers were asked how 3 specific decisions would be handled within their firms. The 3 specific items were selected to each represent a broader category of decisions impacting either directly or indirectly on employees.

The first question related to safety and was intended to gauge how rules of work and behaviour were made and administered in the firm. Interviewees were asked: "If an employee had a concern that a machine or procedure was unsafe, how would that be handled?" Only 8 employers indicated that the union would be involved in the resolution of the problem, while another 8 indicated that the matter would be dealt with by a safety committee.

Consistent with other published data (Mullen, 1990), only a small percentage of the firms had a safety committee. In almost all such instances, the committee was seen as a management-employee committee rather than a management-union committee. This was consistent with the view expressed by many of the employers that safety was a vital concern of all employees and was "not a union matter". The bottom line on safety, then, was that in over 80 percent of the firms, a safety problem would be handled by management, with any discussion limited to the employees immediately concerned.

### Operational decisions

The second question related to overtime, as representative of the broader category of work and personnel assignments, or operational decisions, and asked: "If overtime had to be worked next week, how would it be decided who works it?" Again a paucity of union influence was evident. Only 6 employers indicated either that the matter was regulated in whole or part by a union negotiated document or that the union would become involved in the decision as to who worked the time. Another 5 said that the overtime would be assigned according to an established plant custom from which they would not feel free to depart. The remainder, almost 90 percent of the sample, felt free to assign the work as they chose, according to qualifications and preference, but unrestrained by awards or unions. About one-half of these indicated that there would normally be at least informal discussions with the affected employee group.

### Strategic business decisions

The third question was intended to be illustrative of more strategic business decisions that nonetheless impact employees. The employers were asked: "If consideration was being given to introducing new technology or otherwise significantly changing the work process, would employees or the union(s) be involved before that decision was finalized? How would that decision be arrived at?" Only 3 employers indicated that the union would be consulted before such a decision was finalized. Over half of the employers indicated that the proposed changes would be discussed with affected employees, though most stressed that these discussions would not involve negotiation or employee veto rights. Again, the impression is largely of a managerial free hand, unencumbered by unions or labour relations considerations, an impression that is entirely consistent with earlier research (McAndrew, 1989).



## 5. Evaluating the unions

Is this picture of apparent union impotence, indeed near invisibility, matched by employers' views of the unions themselves? Or is, in fact, their ability to manage their affairs seriously impaired by unions in some as yet undocumented way?

The employers interviewed were asked to evaluate whether the principal union did a "good", "fair" or "poor job of representing its members that work for you", and to offer bases for their evaluations. The bases were open-ended, and were broadly categorized subsequently. As such, the numbers reported below represent the numbers who volunteered the response, and do not necessarily represent the numbers who would agree with the evaluative comments if each basis for evaluation was placed before each interviewee for a reaction. Most of the interviewees provided only 1 basis for their evaluation. Some provided 2 or 3. One employer was not prepared to give an evaluation.

Of the 91 employers who did give an evaluation, 21 said the union did a "good" job, 38 gave the union a "fair" evaluation, and 32 felt the union did a "poor" job of representing its members.

The thinking behind the ratings is instructive. Those offering a good evaluation unanimously felt that the union representative was reasonable in his or her approach and "could be talked to". Almost an equal number considered that the union representative they dealt with was unreasonable. A full major categories listing of the reasons behind the evaluations is presented in table 1. As is apparent from the table, a fair rating was more often a negative one than a positive one.

Table 1: Bases for evaluation of principal union (n=91)

Basis for evaluation	Good	Fair	Poor
General impression	3	15	2
Union representative reasonable	21	3	0
Union representative unreasonable	0	8	13
Responsive to the membership	6	3	0
Not responsive to the membership	0	7	7
Do nothing, seldom or never visit	0	9	20
Not sufficiently aggressive	0	3	5

About one-half of the employers based their evaluation, at least in part, on their perception of the frontline union representative's competence and attitude. Relatedly, the "responsiveness to the membership" categories essentially reflect the employers' views on whether the union representative followed the wishes of the workforce on issues and problems that arose, or tended to, again in the employer's view, dictate positions to the workforce.

The most often mentioned basis for a poor evaluation was the perception that the union did little or nothing for its membership, and seldom or never visited the worksite. Indeed, this was the single most common impression of the unions, being expressed across the fair and poor evaluation categories by about one-third of the employers interviewed. Comments supporting this perception generally related to union visibility and activity at the worksite, rather than to the union's activities in the broader bargaining arena. Of the specific categories in table 1, only the comments by some employers that



the union was not sufficiently aggressive in representing its members related primarily to national wage bargaining.

### Dealings with the unions

A shorthand summary of the evaluations reported above might be that about one-third of the employers seldom if ever saw a union representative, and of those that did, about half felt that the union representative was reasonable enough and the other half felt that the union representative wasn't so reasonable. This is consistent with the employers' reported dealings with the principal unions in their firms.

Of the 92 employers, 31 had not dealt with the union on any matter in the preceding 12 months, 23 had dealt with the union only once, 18 had dealt with the union 2 or 3 times, and the remaining 20 had dealt with the union on 4 or more different matters. Questions of award interpretation, dismissals, and redundancy negotiations were most often mentioned as the most recent matter on which employers had dealt with the union.

### Patterns of evaluation

So few employers in the sample expressed dissatisfaction with either the award process or award wages, that no patterns were apparent by industry or other variables. The one point of dissatisfaction expressed by about 20 percent of the sample - extra payments seen as inappropriate to their circumstances - cut across industry categories and showed no relationship to other variables.

Evaluations of the unions were less unanimous than evaluation of the award system, however, and chi-square tests were applied to establish any patterns associated with other variables.

Union evaluation was found to be statistically significantly related to the nature of the business ( $p < .03$ ), to the number of matters on which the employer had dealt with the union in the prior year ( $p < .03$ ), and most strongly with whether the employer dealt with a paid union official or a shop floor delegate ( $p < .005$ ). These variables were, in turn, found to be significantly related one to another, and to the nature of award coverage.

Specifically, employers who dealt primarily with a shop floor union delegate were far more likely to evaluate the union positively than those who dealt or would deal with the union through a paid union official. Those who dealt with a shop floor delegate were also more likely to have dealt with the union on a relatively large number of matters in the previous year ( $p < .005$ ). Those who dealt with the union comparatively frequently were, in turn, more likely to evaluate the union positively than those who seldom or never dealt with the union.

Both shop floor delegates ( $p < .0005$ ) and frequent dealings with the union ( $p < .00005$ ) were significantly more likely in firms covered in whole or part by plant agreements or regional awards than in firms covered exclusively by national awards.

In short summary, those employers most likely to evaluate the union positively were those who dealt with the union relatively frequently, and primarily through a shop floor delegate, and who had employees covered by either plant agreements or regional awards or both. To complete the circle, each of these characteristics, as well as a positive evaluation of the union, was most likely to be present in firms in the agriculture, forestry and fishing classification and least likely in the retail sector.

Other data are consistent with this pattern. For example, while the numbers are very small, all of the firms who involved the union in the determination of actual above award pay rates, or in safety matters, or in assigning overtime opportunities, or in advance of technological or other changes in the production process displayed each of these



characteristics. They dealt with the union regularly through a shop floor delegate, they had experience with other than national awards, and they evaluated the union positively.

## 6. Discussion and conclusions

The question for this paper is whether central employer advocates of labour relations reform accurately reflect the views and experiences of smaller and medium sized New Zealand employers in presenting the case for such reform.

A recent Employers' Federation publication designed to evoke member support for the then anticipated Employment Contracts Bill describes labour relations "reality" in New Zealand as follows:

Employees display all the expressions of low self esteem, lethargy and hostility... Going the extra step can be tantamount to betrayal of one's colleagues, an Uncle Tom of the industrial system...

Communication tends to be formal and cliché ridden, mistrusted and directed downwards. Upwards communication is likely to be through the political voice of the job delegate or union official. The subject generally is a wage demand, a personal grievance, or an alleged infringement of long held rights...

The internal values of the organization are so poorly communicated that the union message easily fills the vacuum...

Wage decisions are made irrespective of enterprise profitability, future viability or individual contribution...

Disputes and internal conflicts are commonplace, particularly demarcation disputes (Employers' Federation, 1990b, p.4).

In support of this "reality", the "function" of unions is described as "set(ting) rules and conditions for employment that inhibit better working relationships". Unions are portrayed variously as "outdated", "third party interventionists" and "a major block in many employer/employee relationships". By almost comic contrast, in the ideal organization of the future, "staff associations, where they exist, are loyal and strong".

There is no evidence to hand as to whether or not this dismal depiction indeed represents widespread labour relations reality in larger or more northerly workplaces. As a picture of reality in smaller and medium sized southern workplaces, however, it is arrant nonsense.

For most of the firms in the sample, labour relations has a very low profile indeed. The union and the award system impact the rate of increase in the overall pay level and are responsible for some extra payments that are irritating to some employers, and that perhaps suggests the need for decentralization of the bargaining structure. Beyond that, the union becomes involved on the odd occasion when somebody is confronted with the loss of a job for one reason or another.

Otherwise, most of these employers function basically unencumbered by unions or the labour relations system. This majority are untroubled by the national award system. They have a predominantly if mildly negative view of unions, though this is not a view based on relentless union harassment. Rather, it is a view constructed of 2 things: the perception on the part of many employers that the union does not do anything for its membership, and the perception on the part of some others that the union has taken a less than reasonable position on the very rare occasions that they have come into contact with it.

There is absolutely no basis in the data for suggesting that in the large majority of firms in the sample, the union represents a pervasive or, in any way, a restraining force. Quite to the contrary. For this majority of employers, the rather remote labour relations system allows them a virtually free hand in setting actual wage rates according to their



own criteria, and in making both day to day operational and more strategic business decisions.

Additionally, in the majority of firms, not only is there no evidence that unions block direct communications, either up or down, between managers and the workforce, but indeed there is no evidence that unions insinuate themselves in any way. Certainly there is far more discussion with employees than negotiation with unions apparent in each of the decision areas tested. And, while few examples of formal employee participation mechanisms were uncovered in the research, opportunities for informal consultation between employers and employees abound.

There is, as noted, a minority of employers in the sample who have a closer involvement with unions and labour relations generally, dealing relatively regularly with unions, often through shop floor delegates and localized documents. However, few of these firms where unions do have a more active presence perceived unions as a menace. Instead, these firms tended to evaluate unions in quite positive terms. In labour relations, familiarity apparently does not breed contempt any more than absence makes the heart grow fonder.

Does all of this mean that further labour relations reform is unwarranted? Not necessarily. If nothing else, the evidence that active plant-level labour relations is viewed positively by those employers with experience of it reinforces the notion that moves to further decentralize the labour relations system are to be applauded. And there is other evidence to indicate that many employers may, in fact, benefit from labour relations restructuring (McAndrew and Hursthouse, 1990).

The conclusions from the data presented have to be drawn more sharply. The data suggests, at the very least, that the basic rationale put forth by employer organizations as a basis for reform in a deregulatory direction, rather than in the direction of managed decentralization, is not consistent with the views and experiences of smaller southern employers. For the most part, they simply do not see, or apparently have, the labour relations problems portrayed so passionately by the Employers' Federation. Certainly, the Employers' Federation's new focus on individual freedom of contract meets no pressing need apparent in the data.

Whether the south is at odds with the rest of the nation, or whether the Employers' Federation is engaged in a curious exercise in marginalizing itself from mainstream employer opinion is a question that must await more national testing. It must be said that there is much merit in the positive elements of the Employers' Federation's position, advocating as it does attention to developing more comprehensive working relationships between employers and employees, and more productive ways of working. However, there is little in this data to suggest that unions in New Zealand are a barrier to this type of essentially managerial improvement.

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