



COVERSHEET

Minister	Hon Brooke van Velden	Portfolio	Minister for Workplace Relations and Safety
Title of Cabinet paper	Approval to consult Employment Relations Disputes	Date to be published	22 May 2026

List of documents that have been proactively released

Date	Title	Author
April 2026	Approval to consult Employment Relations Disputes	Office of the Minister for Workplace Relations and Safety
22 April 2026	Employment Relations Disputes: Release of Discussion Document ECO-26-MIN-0053 Minute	Cabinet Office

Information redacted

YES / NO (please select)

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reason of free and frank opinions.

The discussion document [Consultation on the employment dispute system](#) is on MBIE's website.

In Confidence

Office of the Minister for Workplace Relations and Safety
Cabinet Economic Policy Committee

Approval to consult on Employment Relations Disputes

Proposal


- 1 This paper seeks agreement to release a discussion document seeking public feedback on experiences with disputes under the Employment Relations Act 2000 (the Act), including the government-provided dispute resolution system.¹

Relation to government priorities

- 2 This paper relates to the Coalition Government's commitment to promote economic growth and employment by enhancing the performance of the labour market.

Executive Summary

- 3 Since becoming the Minister for Workplace Relations and Safety, I have delivered on several ACT-National Coalition Agreement commitments designed to help businesses grow, and ultimately hire more people and boost incomes. In considering the next stage of my work programme, and how to further enhance labour market flexibility and productivity, I am turning my attention to employment disputes.
- 4 Employment disputes and the process for resolving them can have significant impacts for both individuals and the wider economy. Lengthy disputes are wasteful, resulting in both human and financial costs for employees and employers. They can constrain labour market performance by reducing the ability to make sure the right people with the right skillsets are in the right jobs, making it harder for New Zealand to adapt and innovate.
- 5 I have heard concerns that the dispute resolution system is not leading to timely and affordable resolution. A recent Employers and Manufacturers Association survey found that 'disputes are taking longer to resolve, and costing far more than they used to. Even when businesses do everything right, many feel pressured to settle early because the cost of defending a claim can be higher than the actual claim.'
- 6 The Chief Judge of the Employment Court (the Court) has commented on 'considerable problems with the cost for employees and employers in pursuing and defending their rights in this jurisdiction.'

- 7 Free and frank opinions
- 

¹ Disputes can also arise under the Human Rights Act 1993 at the start of or during employment. These sit within the Minister of Justice's portfolio and are outside the scope of this work.

Free and frank opinions

- 8 The underlying causes of disputes, and barriers in our system to resolving them are not well understood. There is an opportunity to better understand people's experiences with disputes, including the dispute resolution system, and the causes of the issues in the disputes system to identify improvements.
- 9 I therefore intend to undertake public engagement on employment relations disputes, and seek Cabinet's agreement to release the discussion document attached as Appendix One to support this engagement. The scope of the engagement will include any dispute under the Act, and the dispute resolution system. The scope excludes issues that fall under other legislation, including minimum employment standards and equal pay.
- 10 The engagement will be conducted in a way that fully respects the statutory independence of the ERA and the Court to determine cases and make judgments under the Act. The engagement will not examine or influence individual proceedings or judicial decision-making.

The New Zealand labour market needs a high performing dispute resolution system

- 11 Employment disputes can be costly to both parties in terms of financial cost, time and relationships. It is in everyone's interest to minimise disputes, but where they do occur the goal should be for them to be resolved quickly and fairly. From a wider labour market perspective, disputes consume time and resources that could instead be devoted to productive activities and can inhibit the movement of employees into employment where they can be more productive. For the public service, employment disputes can impact on reputation and essential service delivery.
- 12 There are around 2.4 million employment relationships with around 162,000 businesses across New Zealand. Around 192,000 adults experienced an employment problem in 2023.²
- 13 Disputes can arise throughout the employment relationship and intersect with different parts of the Act.
- 14 Common causes of disputes include:
 - 14.1 dismissal processes, including for restructuring and redundancy, and trial periods
 - 14.2 terms and conditions of employment
 - 14.3 arrangements for collective bargaining
 - 14.4 employee performance

² Based on Access to Legal Needs Survey 2023 that found 5% of adults experienced an employment problem.

- 14.5 employer/employee conduct (including whether parties have acted in good faith)
- 14.6 personal grievances, and
- 14.7 the nature of relationships (such as employee vs contractor status).

The Employment Relations Act provides a tiered dispute resolution system designed to resolve disputes at the lowest level, as early as possible

- 15 The Act seeks to encourage productive employment relationships through the promotion of good faith in all aspects of the employment environment and of the employment relationship. It provides the legal framework for forming employment relationships, setting obligations during employment, and managing workplace issues.
- 16 The Act sets out the framework for resolving disputes when relationships break down, including the dispute resolution system institutions: the mediation service, the ERA and the Court.
- 17 The dispute resolution system is designed as follows:
 - 17.1 **Workplace resolution:** Employers and employees are encouraged to resolve issues themselves where possible and are required to act in good faith. Many disputes are resolved informally at the workplace and never involve the formal disputes system.
 - 17.2 **Mediation:** The Ministry of Business Innovation and Employment (MBIE) provides flexible mediation services that are free to users, which are intended to be the primary mechanism for resolving employment problems, before progressing to a determinative process. Mediation is intended to focus on preserving employment relationships. MBIE also introduced the Early Resolution Service in 2024, which is a phone-based service intended to provide quick and informal assistance.
 - 17.3 **Employment Relations Authority:** This independent, investigative body resolves disputes by establishing the facts and making determinations based on the substantive merits of the case (rather than via strict legal interpretation).
 - 17.4 **Employment Court:** The Court has exclusive jurisdiction (and corresponding powers) to deal with a range of employment related issues, including appeals of ERA decisions.

It is clear that the system is not working as it should

- 18 I have frequently heard concerns about delays, costs, and inconsistency in resolving employment disputes that indicate the system is under increasing strain, including:
 - 18.1 **Issues take too long to resolve.** Data shows that overall, a case moving through all stages could take around two years.³ This can prolong the negative

³ Noting that most cases do not progress through every stage, while others move non-linearly (e.g. ERA cases may be referred back to mediation several times).

impacts of disputes on the parties involved, including reducing productivity during the dispute, harming workplace culture and morale, and making the dispute and its resolution more expensive. Long timeframes also increase the risk that the dispute will escalate, so it may not be able to be solved at a less formal and legalistic step of the process such as through mediation.

- 18.2 **Resolving issues through the system can be too hard and costly.** Stakeholders have identified that they find it difficult and financially costly to resolve disputes through the system, including because the cost and size of settlements that parties are seeking are too high. Data shows that settlement rates have been trending down (from up to 80 per cent of cases in 2017, to 67.2 per cent in 2024/25).

Average financial remedies awarded at the ERA have also increased from \$12,800 in 2015/16 to \$31,800 in 2024/25.

- 18.3 **The system may not be delivering fair outcomes for all parties.** Survey data from 2023 found that almost half of those who resolved an employment issue felt the outcome was unfair, a dissatisfaction rate significantly higher than those reported for other types of issues.⁴ I have heard from stakeholders that reasons for this include:

18.3.1 costs of progressing through the system are so high that it is cheaper to settle than challenge a dispute, regardless of the merit of a dispute.

18.3.2 there is a perception that ERA decisions are inconsistent, contributing to uncertainty and risk around potential outcomes.

18.3.3 the behaviour and quality of advice of some representatives (including employment advocates) may be changing the incentives to settle and expectations around reaching a proportionate settlement.

- 18.4 **Parties feel like they need representation to use the system.** The system was intended to be able to be used by all parties without requiring representation, including at mediation and the ERA. However, mediation and ERA data shows that a significant majority of parties use representation⁵, most commonly lawyers or advocates. This can increase the formality and litigiousness of dispute resolution, which has flow on impacts on the costliness. It also makes dispute resolution less accessible, in addition to the challenges I have heard around behaviour and quality of some representatives.

- 19 There are likely to be many causes underlying these problems. These are likely to include:

⁴ The 2023 Legal Needs Survey. Note this tally includes employment issues that were resolved outside of the ERA.

⁵ At mediation only 14 per cent of parties were self-represented in 2024/25.

- 19.1 economic factors – behaviour can change in times of high unemployment, including the volume and types of disputes raised, as well as the expectations parties have around outcomes
 - 19.2 the increasing complexity of employment disputes - officials have heard employment disputes have become increasingly legalised, with high levels of procedural issues
 - 19.3 aspects of employment policy and law, for example, ‘good faith’ and ‘reasonable’ employer tests are principles-based which provides flexibility but can lead to uncertainty and disputes and
 - 19.4 the design or settings of the dispute resolution institutions, for example, settings that determine the roles and processes of the system institutions and at transition points.
- 20 Without taking steps to lift the performance of the dispute resolution system, we risk perpetuating poor workplace culture, the loss of productivity arising from frequent or prolonged employment workplace disputes, and inhibiting the movement of employees into employment where they can be more productive.

I propose public engagement on the dispute resolution system and disputes settings in the Employment Relations Act to identify the causes of the problems

- 21 I propose to engage with the public on their experiences of any dispute under the Act and the dispute resolution system. This will support examination of symptoms and root causes of system pressures. This will help identify where changes are needed to ensure an appropriate balance between flexibility, certainty and fair outcomes.
- 22 I therefore propose that the scope of the discussion document include any disputes under the Act and the dispute resolution system settings. It will exclude matters outside of the Act including employment standards such as holidays, parental leave and the minimum wage.
- 23 The discussion document is high level in order to be accessible and support wide-ranging discussion.

Next steps

- 24 MBIE will provide me with a summary of submissions, and advice on options for further work to include as part of the Government’s employment relations work programme.
- 25 Any future reforms to address issues identified during this engagement could occur in the next term of Government.

Cost-of-living Implications

- 26 The public consultation process has no cost-of living implications.

Financial Implications

- 27 The public consultation process has no financial implications. It will be funded within MBIE baselines.

Legislative Implications

- 28 The public consultation process has no legislative implications. Feedback received will help to shape the Government's ongoing programme of work to enhance labour market flexibility, which may eventually result in legislative change.

Impact Analysis

Regulatory Impact Statement

- 29 The Ministry for Regulation has confirmed that there are no regulatory proposals in this paper, and therefore Cabinet's impact analysis requirements do not apply.

Climate Implications of Policy Assessment

- 30 A Climate Implications of Policy Assessment (CIPA) is not required as there is no direct impact on greenhouse gas emissions.

Population Implications

- 31 At present, there are gaps in the available data regarding the impacts of disputes and dispute resolution processes on employers, employees and the public. The proposed engagement will help address some of these gaps.

Human Rights

- 32 The public consultation process has no human rights implications.

Use of external Resources

- 33 No external resources were used in the policy development of this paper.

Consultation

- 34 The following agencies have been consulted: Ministry of Justice, Ministry of Foreign Affairs & Trade, Te Puni Kōkiri, Ministry for Pacific Peoples, Ministry for Ethnic Communities, Whaikaha – Ministry of Disabled People, Inland Revenue Department, Ministry for Women, Te Kawa Mataaho Public Service Commission, Ministry of Health, Ministry of Education, Ministry of Social Development, Department of the Prime Minister and Cabinet (DPMC), Treasury, and Ministry for Regulation.
- 35 As outlined in this paper, I seek Cabinet approval to release a discussion document for public engagement, seeking feedback on experiences with disputes under the Act. The feedback will inform the next stage of my work programme.

- 36 As part of finalising the discussion document for publication and release, I may need to make further minor and technical editorial or design changes, consistent with the approach outlined in this Cabinet paper and discussion document.

Communications

- 37 MBIE will release the discussion document online, seeking written submissions from the public.

Proactive Release

- 38 I intend to release this Cabinet paper proactively, subject to redaction as appropriate under the Official Information Act 1982.

Recommendations

The Minister for Workplace Relations and Safety recommends that the Committee:

- 5 **agree** that the Minister for Workplace Relations and Safety begin engagement on employment disputes, including the dispute resolution system and the settings in the Employment Relations Act 2000 that may give rise to disputes;
- 6 **approve** the release of the discussion document 'Engagement on Employment Relations Act Disputes' for public engagement;
- 7 **note** that feedback will be sought through written submissions and targeted engagement with business representative organisations, unions, and legal organisations;
- 8 **authorise** the Minister for Workplace Relations and Safety to make minor and technical editorial changes to the discussion document before release.

Authorised for lodgement

Hon Brooke van Velden

Minister for Workplace Relations and Safety

Appendices

Appendix One: Discussion document 'Engagement on Employment Relations Act Disputes'