

PPTA

NEW ZEALAND POST PRIMARY
TEACHERS' ASSOCIATION

TE WEHENGARUA

www.ppta.org.nz

SUBMISSION

to the

**TRANSPORT AND INDUSTRIAL RELATIONS
SELECT COMMITTEE**

on the

**EMPLOYMENT RELATIONS (ALLOWING HIGHER EARNERS TO
CONTRACT OUT OF PERSONAL GRIEVANCE PROVISIONS)
AMENDMENT BILL**

May 2017

About PPTA

1. PPTA represents the majority of teachers engaged in secondary education in New Zealand, including secondary teachers, principals, and manual and technology teachers.
2. Under our constitution, all PPTA activity is guided by the following objectives:
 - (a) To advance the cause of education generally and of all phases of secondary and technical education in particular;
 - (b) To uphold and maintain the just claims of its members individually and collectively; and
 - (c) To affirm and advance Te Tiriti O Waitangi.
3. PPTA is an affiliated member of the New Zealand Council of Trade Unions (“**NZCTU**”) and we support the recommendations made in that submission.

Introduction

4. The Employment Relations Act 2000 sets out two key objectives that are relevant for consideration alongside this Bill:

“That the object of the Act is to build productive employment relationships through the promotion of good faith in all aspects of the employment environment and of the employment relationship...

by recognising that employment relationships must be built not only on the implied mutual obligations of trust and confidence, but also on a legislative requirement for good faith behaviour; and

by acknowledging and addressing the inherent inequality of power in employment relationships.”

[Emphasis added]

5. The Bill is the antithesis of these objectives.
6. The proposals will lead to a negative and unsafe workplace culture that flies in the face of other policy supported by this government; specifically, the equal pay legislation and proposed Bill, the health and safety legislation passed into law and the domestic violence victims’ protection legislation that was just unanimously passed through to select committee for consideration.
7. While the Bill does not apply to collective agreements, so will not have a direct impact on PPTA principals, we are concerned about the negative impact that this will have on the majority of workplaces, which are non-unionised, and that the law changes proposed in the Bill will make workers vulnerable to abuse / silence their professional concerns at work. This is particularly the case where the employee may be the sole breadwinner or have heavy financial commitments with dependents.

8. PPTA strongly opposes both the principles underpinning, and the proposals in, this Bill and advises the select committee to recommend that the Bill not proceed further through the parliamentary process.

What does this Bill propose to do?

9. This Bill proposes to remove the rights and protections of workers to take a personal grievance through the employment relations process if they earn over \$150,000 and have a clause in their individual employment agreement to this effect.
10. The current law is designed to provide universal protection for workers and sets a minimum standard of behaviour that we expect in a New Zealand workplace. As noted above, the current law recognises the inherent inequality that exists between an employee and an employer and intends to provide a statutory framework for building constructive and productive working relationships.
11. In practice, what the proposals in the Bill do is enable a bad employer to act in an otherwise unlawful way by removing the recourse and protections that exist for workers through the employment relations process. An employer may engage in or otherwise fail to deal with racial / sexual harassment or a form of discrimination, create an unjustified disadvantage for a worker that they don't like, or constructively or unlawfully dismiss a worker. If a worker is bullied then they will not be able to have this addressed through the employment relations process. If a worker raises a health and safety concern (fulfilling their obligations under the Health and Safety at Work Act 2015 or, in the school sector, obligations to students) then an employer may turn around and let the worker go without compensation. If a female worker points out that they do not have equal pay and are paid less than their male colleagues, then an employer may decide that they are too much trouble to keep on the staff.
12. While harassment and discrimination may be pursued through the Human Rights Commission / Review Tribunal process it is important to know that this forum is swamped with cases at the moment – often taking a couple of years to complete – and the remedies available do not include reinstatement of a worker to their current position, meaning that a worker loses job security and an income through the bad behaviour of another person. It is not enough to rely on this forum alone and certainly not with the current resourcing constraints.
13. This policy in this Bill represents a backward step for New Zealand meeting its obligations under international treaties, such as our commitments under ILO Conventions and human rights treaties, such as CEDAW, CERD, CRPD and the United Nations sustainable development goals.