

Book Review

Erling Rasmussen (ed.), *Employment Relationships: New Zealand's Employment Relations Act*. Auckland, Auckland University Press, 2004, 210 pages.

Although New Zealand employment relations has gone through extreme changes over the past 20 years, there have been few scholarly commentaries on the debates underpinning the changes and their impacts. Therefore, it is good to see that there is an edited book entitled 'Employment Relationships: New Zealand's Employment Relations Act'. It reviews the development and operation of employment relations reforms in New Zealand since 1999, with the Employment Relations Act 2000 (ERA) as the book's centre piece. This book follows a similar formula to the Raymond Harbridge's edited 'Employment Contracts: New Zealand Experience' from 1993 which was written following the introduction of the Employment Contracts Act 1991. As the Harbridge book, this book provides a number of different angles and allows, therefore, for a variety of opinions on what was/is a controversial change to employment relations.

There are thirteen chapters, one of which provides the reader with an overview. The contributors cover policy formation, the role of the media, collective bargaining, unintended consequences of the ERA, good faith bargaining, role of the institutions, and the reactions by employers, employees and unions to the ERA. The final chapter sets the ERA in a wider public policy context and poses the question: where to from here?

While the book provides a comprehensive coverage of the Act, its consequences and endeavours to anticipate the final draft of the Employment Relations Law Reform Bill, it was written prior to its passing and some of the assertions will need to be read with this in mind. However, this does not detract from the overall intention of the book which shows that many of the predictions surrounding the introduction of the ERA have not come to fruition.

The first chapter by the former Minister of Labour, Margaret Wilson, sets the tone for the rest of the book by giving a detailed account of the employment relations policy of the Labour-Alliance Government. The author outlines the rationale for the Act which was to reintroduce collective bargaining and to once again accommodate the role of unions in the bargaining process. She also emphasises the need to facilitate harmonious relationships between employers and employees with good faith underpinning this arrangement and providing the cornerstone of the Act.

The chapters on collective bargaining, employees and unions as well as those covering legal matters indicate that, in spite of the tenet of the Act, there has been no significant uptake of collective bargaining by workers in the private sector and that individual bargaining is still the preferred option. In fact, the chapter on collective bargaining indicates that there has been an unanticipated reaction to the Act: collective bargaining has declined as many non-union collective contracts have turned into individual employment agreements. This is explained partly by employers' approach to bargaining. Research undertaken by the Department of Labour shows that employers were aware of the requirements under the ERA but the way that they

handled employment relations issues had not changed since the implementation of the Act.

The three chapters that look at unions note that, to a large extent, the union movement is still struggling to gain recognition with private sector employees. This is especially so in small to medium enterprises where most employees are not experiencing the benefits of the ERA. The issue of 'free-riding' – addressed by the 2004 Amendment Act – has clearly been a problem for unions as employers have tended to pass on union-negotiated improvements to non-union employees.

The chapters dealing with legal matters also highlight how the good intentions of the Minister have been unsuccessful in moving the employment relationship from contractual to a more humane relationship. Furthermore, the contributors arrive at the same conclusion, albeit from different routes, namely that embarking on abstract concepts as the basis of legislative reforms are fraught with difficulty. The chapter on good faith shows that the predicted avalanche of court cases has turned into the total opposite: there is a lack of good case law on the practical application of the concept of good faith. In that sense, the chapter called 'the law moves in mysterious ways' is very appropriate and it does indicate that there are many, complex influences on New Zealand employment law. So far, however, the new employment institutions appear to have worked reasonably well and the analysis of institutions comes to a straightforward recommendation: don't mess with success.

The last chapter looks at the wider agenda for employment relations and social equity in New Zealand and the ERA is seen as a key component of this 'social democratic' policy drive. The author suggests that following the recent wave of employment relations reforms, the coming years will prove the lull after the storm. The major reforms in employment relations have been done and only fine-tuning will be required to firmly embed an inclusive employment relations system in New Zealand. Whether this is a correct prediction, only the future can tell.

Overall, this book is a much needed addition to the rather limited research on recent changes to employment relations legislation. It also presents a number of salient trends and new information. It clearly illustrates why the ERA was considered so controversial: the chapters by employer and union representatives (the viewpoint of Business New Zealand and Council of Trade Unions respectively) come to very different evaluations. Business New Zealand argues that employers' right to manage has been inhibited by the ERA and it will impact negatively on business performance while Council of Trade Unions argues that this is a modest piece of legislation and stronger, additional measures are necessary to move the labour market and the economy forward. Finally, the book's particular strengths are that it can be read by a wider audience - academics, students and the general public - and that it has identified and discussed the complex issues that surround the subject of employment relations in a comprehensive and accessible manner.

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