

NEW ZEALAND LABOR LAW: A BIBLIOGRAPHY OF NEW ZEALAND LABOR LAW

UNDER THE EMPLOYMENT CONTRACTS ACT

NOTES REGARDING SCOPE:^{*}

Objective:

To produce a definitive, briefly annotated bibliography so that interested United States practitioners and academics may have access to reading materials surrounding the Employment Contracts Act 1991 (ECA).

Dates:

Covers materials published from dates just prior to the passing of the ECA to the present.

Level:

Materials published for the legal profession and/or legal academics.

Types of Material:

Books, monographs, academic journal articles, seminar and conference papers. Comprehensive or extraordinary articles published in popular journals or newspapers (such as feature articles which contain in-depth analyses such as those which would be published in North & South or Metro).

Focus of Material:

All materials directly focus on the ECA, specifically either on the Act's sociological, economic, or other impacts.

Country of Origin

All relevant materials originating from New Zealand, with reference to significant articles written internationally.

GUIDES TO THE ACT & EMPLOYMENT LAW

BOXALL, P.F., *New Zealand's Employment Contracts Act 1991: An Analysis of Background Provisions and Implications*, Melbourne, Victoria: National Key Centre

^{*} Because this bibliography's purpose is to assist general practitioners and academics, the editors have used an inclusive, international citation style, rather than following *The Bluebook*.

in *Industrial Relations*, Australian Bulletin of Labour, Dec. 1991, 17(4):284-309.

The stated function of this article is to analyze the background to the ECA, identify its central provisions, and explore its implications for the direction of future labor relations reform and the strategies of the parties. The intention is to place the statute in its context and to examine how the parties are acting in an environment which is only partially conditioned by its specific provisions.

BRADFORD, Max, Report of the Labour Committee on the Employment Contracts Bill, Apr. 1991, second session, forty-third Parliament (I.9A), Wellington: New Zealand House of Representatives, 1991.

Report presented to New Zealand Parliament on the Employment Contracts Bill. Includes comments on the philosophy of the Bill and its impact. Specific consideration of voluntary unionism, bargaining, personal grievances, strikes and lock-outs, and minimum conditions.

Butterworths Employment Law Guide, 3rd ed., Wellington, New Zealand: Butterworths, 1997.

Sets out the text of the ECA with thorough commentary and case law relevant to each individual provision.

DANNIN, Ellen, Labor Law Reform in New Zealand, New York Law School Journal of International and Comparative Law, 1992, 13:1.

Examines employer proposals for labor law reform which led to the ECA and, in an appendix, explains how New Zealand labor law operated leading up to the ECA.

DANNIN, Ellen, We Can't Overcome: A Case Study of Freedom of Contract and Labor Law Reform, Berkeley Journal of Employment and Labor Law, 1995, 16:1.

Recounts the enactment of the ECA and draws lessons for labor law reform in the U.S.

DANNIN, Ellen J., Working Free: New Zealand Employment Contracts Act, Auckland, New Zealand: Auckland University Press, 1997.

Considers New Zealand as offering a model for labor reforms based upon freedom of the market and individual contracting. Recounts the history of the Employment Contract Act's enactment, particularly focusing on lobbying efforts by employer groups and union preparations. Explores the impact of court interpretations of the ECA on unions and draws upon these experiences to analyze how to draft labor law.

Employment Contracts Act Seminar: Auckland, May 20, 1991, Takapuna, May 21, 1991, Henderson, May 22, 1991, Auckland, New Zealand: Davenports Barristers and Solicitors, 1991.

An introduction to the provisions of the ECA for businesses. Includes four papers: (1) Main Features of the ECA and Comparison with Previous Labour Rela-

tions Act; (2) Negotiation and Structure of Employment Contracts; (3) Enforcement Procedures and Remedies for Breach of Contract; and (4) Improving Performance and Productivity.

GEARE, A.J., *Employment Contracts Act 1991*, Dunedin, New Zealand: Department of Economics, University of Otago, 1991.

Examines the ECA 1991, outlining the major provisions and discussing the probable impact of the Act on New Zealand industrial relations in particular and New Zealand society in general.

GEARE, A.J., *A Review of the New Zealand Employment Contracts Act 1991*, Dunedin, New Zealand: Foundation for Industrial Relations, Research and Education, 1993.

The main purpose of this paper is to provide a brief introduction to, and commentary on, the ECA, with particular reference to the Act's purpose, freedom of association, bargaining, personal grievances, enforcement of employment contracts, strikes and lockouts and the employment institutions.

A Guide to the Employment Contracts Act 1991, Wellington, New Zealand: Department of Labour, Industrial Relations Service, 1991.

Describes the requirements and procedures of the ECA with the intention of clarifying the provisions of the act. Also discusses the Employment Tribunal and Employment Court Regulations.

A Guide to the Employment Contracts Act for State Employees, Wellington: Human Resources Division, State Services Commission, 1991.

Considers how the ECA impacts the State Sector and its employees. Major features of the Act covered are membership of employees' organizations, bargaining, strikes and lockouts, personal grievances, disputes, enforcement, and changes to other employment-related legislation.

HORN, J.R.P., BARTLETT, Philip & MUIR, Phillipa, *Employment Contracts*, Wellington: Brooker & Friend, 1991.

Presents the text of the ECA with historical notes, synopses, relevant cases, and commentary for each provision. Includes sample employment contracts and clauses.

KELSEY, Jane, *The New Zealand Experiment: A World Model for Structural Adjustment?*, 1995 (published abroad as: *Economic Fundamentalism: The New Zealand Experiment: A World Model for Structural Adjustment?*, 1995).

Discusses the intellectual and practical impact of government policies with chapter eight analyzing labor market deregulation under the ECA.

MARSHALL, Steve, *Employment Contracts and You: A Speech*.

An address to the National Association of Retail Grocers and Supermarkets of

New Zealand (Inc.) to outline the implications of the ECA. Covers the impact on unions, duties and responsibilities of employers under the new regime, the negotiation process and the use of bargaining agents.

Mazengarb's Employment Law, Wellington, New Zealand: Butterworths, 1993.

Sets out provisions of the ECA and related legislation with commentary and case law for each section. Also includes sections on trade unions, practice & procedure, current developments, minimum code, discrimination, special employment situations, and workplaces.

MUIR, Phillipa & JEFFS, Elizabeth, Employer's Guide to Recruitment and Termination, Wellington: Brooker's Professional Services, 1996.

Designed as a practical guide to employers. Covers some theory about the employment relationship and discusses different types of contracts with particular emphasis on individual contracts (including model forms). Also sets out minimum requirements for contracts, negotiating contracts, recruitment procedures, termination process, dismissal, redundancy, and dealing with conflicts.

NEW ZEALAND, INDUSTRIAL RELATIONS SERVICE, Employment Contracts and Employment Rights: A Brief Guide to Rights, Wellington: Industrial Relations Service, Department of Labour, 1993.

Brochure that includes guidelines for employers and employees. Covers the following: making contracts, contents of contracts, disputes procedures, changing the contract, enforcing contracts, ending contracts, personal grievances, pay, holidays, parental leave, strikes, and lockouts.

OLDFIELD, Yvonne, Your Employment Contract, Wellington, New Zealand: Working Life Communications, 1991.

Designed as a basic introduction to what an employment contract is, what it includes, and how to negotiate it. Also includes sections on disputes, personal grievances, and dismissal.

RUDMAN, R.S. A Guide to Employment Contracts, Auckland, New Zealand: Longman Paul, 1991.

An overview and introduction to the law and practicalities of the formal relationship between employers and employees. Considers aims and objectives of the legislation, negotiation, contents of the contract, setting out the terms and conditions, enforcement, disputes and grievances.

SHAVE, Robin, Contracts of Employment, Wellington, New Zealand: Trade Union Education Authority, 1989.

Handbook for unionists covering contracts for employment (with particular emphasis on employee v. independent contractor), custom and practice, wages protection, sexual harassment, holidays, educational leave, part-time/casual work, homeworkers, parental leave, youth workers, and redundancy.

SHEARER, D., Employment Contracts Act 1991, Auckland University Law Review, 1991, 6(4):604-09.

Provides an overview of the provisions of the ECA: Part 1 Freedom of Association, Part II Bargaining, Part III Personal Grievances, Part IV Disputes and Penalties. Also discusses compliance, harsh & oppressive contracts, strikes, and institutions for new regime.

VRANKEN, Martin, Demise of the Australasian Model of Labour Law in the 1990s, Comparative Labor Law Journal, 1994, 16:1.

Examines the impact of legislative reform on industrial relations and individual rights in New Zealand and Australia.

WALSH, Patrick, The Employment Contracts Act, in *The Decent Society? Essays in Response to National's Economic and Social Policies*, Jonathon Boston & Paul Dalziel eds., 1992, 59.

Examines the enactment of the ECA and its provisions for bargaining, as well as its impact on unions.

EMPLOYMENT COURTS AND PROCEDURE

BOYD, Anne, The Freedom of Association in the Employment Contracts Act 1991: What Has it Meant for Trade Unions and the Process of Collective Bargaining in New Zealand?, California Western International Law Journal, 1997, 28:65.

An examination of the concept of "freedom of association" in the wake of the ECA, and a discussion of whether the ECA complies with certain ILO conventions.

CRUTCHLEY, Nicola & HARDY, Virginia, New Zealand Law Society Seminar, Running an Employment Law Case, Wellington: The Society, 1996.

Contains background information on the legislative framework and types of employment disputes. Covers practical aspects of managing a case at the Tribunal and Court level, including forms, fee, costs, submissions, witnesses, appearance, and appeals.

DAWSON, Mike, Handling Personal Grievances Under the Employment Contracts Act 1991: A Guide for Union Advocates, Wellington, New Zealand: Working Life Communication, 1992.

Outlines the definitions, remedies, and procedures under the ECA. Concerned with how to use these procedures from pre-tribunal to court. Includes sections on court proceedings and protocol, enforcing a judgment, and the language of the courts. Also contains section on situation and law prior to the ECA as relevant background.

EPSTEIN, Richard A., *Employment Law: Courts and Contracts*, California Western International Law Journal, 1997, 28:13.

This article criticizes New Zealand's specialized employment courts, and judicial intervention and enforcement of employment contracts. It also examines the negative economic impact of lawsuits resulting from unjustifiable dismissal.

GAY, Maxine & MACLEAN, Malcolm, *Six Years Hard Labor: Workers and Unions Under the Employment Contracts Act*, California Western International Law Journal, 1997, 28:45.

This article traces the development of the New Zealand Trade Union Federation and describes its commitment to the advocacy of workers' rights. It also ponders the usefulness of the Employment Court.

GODDARD, Chief Judge T.G., *Curial Institutions Under the Employment Contracts Act: 1991 to 1997*, California Western International Law Journal, 1997, 28:103.

This article overviews the creation, role, and duties of the Employment Court and Employment Tribunal. It also discusses the efficiency of each institution.

HUGHES, John, *The Employment Tribunal and the Employment Court*, New Zealand Journal of Industrial Relations, 1991, 16(2): 175-83.

Examines Employment Tribunal and Employment Court, pointing out that the ECA has not created a unified employment law jurisdiction and the roles of the Tribunal and Court are not entirely clear. Also highlights some aspects of the law of contracts as it has been modified by the Act.

MORRISS, Andrew P., *Specialized Labor and Employment Law Institutions in New Zealand and the United States*, California Western International Law Journal, 1997, 28:145.

A comparison of specialist institutions in New Zealand and the United States which assesses the appropriateness of each, and argues the benefits of a more generalist approach.

RYAN, Rose & WALSH, Pat, *Common Law Versus Labour Law: The Debate Over the Future of the Specialist Institutions*, Wellington, New Zealand: Industrial Relations Centre, Victoria University of Wellington, 1993.

Considers debates as to whether a specialist jurisdiction for labor law is appropriate in increasingly deregulated industrial relations regimes, in the context of the ECA in the period since its introduction.

WAILES, Nick, *Professor Richard Epstein and the New Zealand Employment Contracts Act: A Critique*, California Western International Law Journal, 1997, 28:27.

A critique of Professor Richard Epstein's arguments supporting the abolition of a specialist jurisdiction. This article also asserts that the ECA has had adverse consequences on social equity in New Zealand.

WALSH, P.J. *A Specialist Labour Law Jurisdiction?: An Assessment of the Business Roundtable's Attack On the Employment Court*, Wellington, New Zealand: Gamma Foundation, 1993.

Considers the argument against adoption of a general law model to govern the processes of contract management and enforcement, as well as the process of contract negotiation. Argues that such amendments would reduce employment security, enhance employer prerogative, and comprise a fundamental attack on the protections available to workers in employment.

PERSONAL GRIEVANCES, REDUNDANCY, DISMISSAL,
 LOCKOUTS & DISPUTE RESOLUTION

ANDERSON, Gordon, *Interpreting the Employment Contracts Act: Are the Courts Undermining the Act?*, *California Western International Law Journal*, 1997, 28:117.

An examination of the new-right criticism of the Employment Court's interpretation of the ECA sections relating to collective bargaining representatives and unjustified dismissals.

DANNIN, Ellen, *Consummating Market-Based Labor Law Reform in New Zealand: Context and Reconfiguration*, *Boston University International Law Journal*, 1996, 14:267.

Article draws on interpretations and current understandings of the right to terminate an employee under the ECA to explore how radical law reform in advance of a country's social mores is likely to perform.

FERGUSON, Judith, *Personal Grievances Arising From Redundancy: Life After Hale and the Employment Contracts Act 1991*, *New Zealand Journal of Industrial Relations*, 1992, 17(3):371-85.

Examines the concept of redundancy in personal grievances. Comments on the decision, *G.N. Hale & Son Ltd. v. Wellington etc. Caretakers etc.*, IUW, and its implications. Summarizes the legislative background to redundancy situations, and redundancy provisions, and personal grievances in light of the ECA.

GRILLS, Walter, *Dispute Resolution in the Employment Tribunal: Part One: Mediation*, *New Zealand Journal of Industrial Relations*, 1992, 17(3): 333-46.

Explains the process of dispute resolution under the ECA. Discusses the separation of the mediation and adjudication processes and looks at the methods of formal and informal mediation. Explains the structure of the tribunal. Examines the process of mediation, outlining the responsibilities of the parties, the strategy, bargaining power, and preparation of the client for mediation.

GRILLS, Walter, *Dispute Resolution in the Employment Tribunal: Part Two*, *New Zealand Journal of Industrial Relations*, 1992, 18(1): 84-93.

Explains in detail the process of adjudication before the Employment Tribunal under the ECA. Describes the physical setting, the adjudication format, cross ex-

amination, and the presentation of evidence.

HUGHES, John, The Employment Court, "Judicial Activism," and the Coalition Agreement, California Western International Law Journal, 1997, 28:167.

This article examines the development and creation of the Coalition Agreement and analyzes areas of contention under the ECA: recognition of representatives, personal grievances, and fixed-term contracts.

HUGHES, John, et al., Personal Grievances, Wellington, New Zealand, Butterworths, 1996.

Outlines general grievance procedure and dedicates sections to specific grievances such as unjustifiable dismissal, discrimination, sexual harassment, and duress. Also covers possible remedies and alternatives to the personal grievance procedure.

MACFIE, Rebecca, Employers' Use of Lockouts Under the Employment Contract Act 1991: A New Balance of Power?, New Zealand Journal of Industrial Relations, 1992, 17(3):319-31.

Examines the case law on lockouts under the ECA and investigates whether the bargaining environment of the ECA has made the lockout a more powerful weapon.

NEW ZEALAND, LAW COMMISSION, Aspects of Damages: Employment Contracts and the Rule in *Addis v. Gramophone Co.* New Zealand Law Commission Report No. 18, Wellington: Law Commission, 1991.

Discusses the implications of the rule in *Addis v. Gramophone Co.* [1909] A.C. 488, which denies damages for the harshness and oppression accompanying a dismissal from employment and any loss sustained from the discredit thrown upon that employee. This limit is inconsistent with the general principles of the law of damages, creating uncertainty about the application of the rule.

SHEEHAN, Kim, Comment, Has Employment At-Will Outlived Its Usefulness? A Comparison of U.S. and New Zealand Employment Law, California Western International Law Journal, 1997, 28:323.

Compares U.S. at-will employment and its exceptions with New Zealand employment legislation and proposes the adoption of a "just cause to terminate" requirement for all U.S. employment contracts.

SPELL, Chester S., The Evolution of Rights Disputes and Grievance Procedures: A Comparison of New Zealand and the U.S., California Western International Law Journal, 1997, 28:199.

This article traces the historical development of rights dispute legislation in New Zealand, examines the role of the Employment Tribunal, and contrasts the Tribunal with the development of grievance procedures in the U.S.

SZAKATS, Alexander, Supplement to Dismissal and Redundancy Procedures, A Second Edition, Wellington, New Zealand: Butterworths, 1991.

Updates the commentary contained in Dismissal and Redundancy Procedures to take account of the ECA.

BARGAINING & TRADE UNIONS

BEAUMONT, Craig & JOLLY, Peter, Wage Bargaining and the Employment Contracts Act, Wellington, N.Z. Reserve Bank of New Zealand, 1993.

Outlines Nash's axiomatic approach to wage bargaining and argues that under the ECA employers have less to lose from organized work disruptions than do employees. Wage levels will likely decline under the ECA unless it results in strong productivity growth. The ECA, it is argued, will have significant implications on monetary policy.

BEAUMONT, Craig, Wage Determination Under the Employment Contracts Act in Historical Context, Wellington, New Zealand, Reserve Bank of New Zealand, 1993.

Outlines the statutory framework of wage determination as well as conciliation and arbitration procedures prior to the ECA. Suggests changes in wage determinations and union involvement in bargaining as a result of increased wage flexibility under the ECA.

BOXALL, Peter & HAYNES, Peter, Unions and Non-Union Bargaining Agents Under the Employment Contracts Act 1991: An Assessment After Twelve Months, *New Zealand Journal of Industrial Relations*, 1992, 17(2):223-32.

Records a study of the impact of the ECA on unions and non-union bargaining agents. Discusses both trade unions and non-union agents, alternative worker agents, and employer agents.

CHURCHMAN, Peter, Bargaining Under the Employment Contracts Act: Recent Case Law Developments, *New Zealand Journal of Industrial Relations*, 1993, 18(1):125-33.

Analyzes some cases interpreting the provisions of Part II of the ECA which relate to wage bargaining. Discusses the issues of authorization for collective bargaining and ratification of contracts.

Complaint Against the Government of New Zealand Presented by the New Zealand Council of Trade Unions, Geneva: International Labour Office, 1993.

This set of documents relates to the NZCTU's complaint to the Freedom of Association Committee of the International Labour Organization on February 9, 1993, regarding allegations of infringements of trade union rights in New Zealand.

CREGAN, Christina, et al., Restoring Democracy to the Workplace? An Analysis of Union Membership Patterns Before and After the Employment Contracts Act, New

Zealand Journal of Industrial Relations, 1995, 20(1):57-75.

Investigates the impact of the ECA on trade union membership. Two separate surveys were conducted in Dunedin, on the eve of the legislation and one year later.

DANNIN, Ellen, Bargaining Under New Zealand's Employment Contracts Act: The Problem of Coercion, *Comparative Labour Law Journal*, 1996, 17:455.

Considers how much pressure labor law can allow to be used to force an employee to agree to an employer's terms.

DANNIN, Ellen, Getting to Impasse: Negotiations Under the National Labor Relations Act and the Employment Contracts Act with Clive Gilson, *American University Journal of International Law and Policy*, 1996, 11:917.

Compares how two statutes founded upon opposing principles as to the purposes of labor law have dealt with the problem of resolving impasses in bargaining when the statutes fail to include impasse procedures.

DANNIN, Ellen, Solidarity Forever? Unions and Bargaining Representation Under New Zealand's Employment Contracts Act, *Loyola International and Comparative Law Journal*, 1995, 18(1):1.

Explores the question why New Zealand union Density has declined under the ECA. Canvasses the ways in which law and its interpretation has contributed to this decline.

Employment Contracts Act Handbook, New Edition, Wellington, N.Z., Working Life Communications, 1993.

Intended for union educators, workers and members, this book focuses on union membership, bargaining and terms and conditions employees must include when negotiating employment contracts.

Enterprise Bargaining: Experiences From New Zealand Workplaces, ACIRRT Working Paper, No. 24, Sydney, NSW: University of Sydney, Australian Centre for Industrial Relations Research and Teaching, 1993.

Includes papers presented at ACIRRT conference: (1) Overview-Economic Deregulation, Industrial Relations Reform and the ECA; (2) Developing Enterprise Bargaining-Single Bargaining Units; (3) The Impact of Enterprise Bargaining on New Zealand Workers; (4) Enterprise Bargaining-the N.Z. Telecom Experience; (5) An (Australian) Employer Association View of New Zealand Enterprise Bargaining.

GRILLS, Walter, Commentary: The Impact of the Employment Contracts Act On Labour Law: Implications For Unions, *New Zealand Journal of Industrial Relations*, 1994, 19(1):85-101.

Argues that the primary impact of the ECA on labor law has been to abolish the legal status accorded trade unions. Discusses the achievements of the Council of

Trade Unions, the absence of the term union from the Act, and the work of the Employment Court.

HARBRIDGE, Raymond, *Collective Bargaining Coverage in New Zealand: The Impact of the Employment Contracts Bill*, *Australian Bulletin of Labour*, 1991, 17(4).

Examines changes in collective bargaining and employment relationships with the introduction of the ECA. Analyzes bargaining outcomes of over 1,100 collective employment contracts which cover about 100,000 private sector workers.

HARBRIDGE, Raymond, *Bargaining and Worker Representation Under New Zealand's Employment Contracts Legislation: A Review After Two Years*, Wellington: Industrial Relations Centre, Victoria University of Wellington, 1993.

Sees the ECA as responsible for the final demise of conciliation and arbitration as a means of resolving disputes. Considers collective bargaining under the new regime and presents data on union membership to illustrate the decline in union participation since the implementation of the ECA.

HARBRIDGE, Raymond & CRAWFORD, Aaron, *The Impact of New Zealand's Employment Contracts Act on Industrial Relations*, *California Western International Law Journal*, 1997, 28:235.

This article examines the effects of decentralization of collective bargaining in exchange for individual contracts, specifically focusing on trends in collective bargaining coverage and outcomes, union membership and density, and disputes and industrial disputation.

HARBRIDGE, Raymond & HINCE, Kevin, *Employment Relations in New Zealand: A Review of Bargaining and Worker Representation in 1993-1994*, *British Review of New Zealand Studies*, 1994, 7:113-26.

Reports on two empirical studies on the impact of the ECA, one on the collective bargaining system and the second on the changes in structure and membership of trade unions. Considers the collapse of collective bargaining and changes for those retaining collective coverage. Identifies the extent of the decline in union membership and union density.

HARBRIDGE, Raymond & HINCE, Kevin, *Labour-Management Relations at the Work-Place: A Comparative Review-Australia, New Zealand, Asia and the South Pacific*, Wellington, New Zealand, Industrial Relations Centre, Victoria University of Wellington, 1996.

Considers labor market relations in Australia, New Zealand, Asia, and the South Pacific in terms of two extreme strategic approaches: (1) The Unitarist Approach-based upon individualism and total acceptance of the free-market ideology and (2) Pluralist Collectivist Approach which continues to see a positive role from the collective, both at the macro and micro level, and continues to explore areas of mutuality in that relationship.

KELSEY, Jane, *Employment and Union Issues in New Zealand, 12 Years On*, California Western International Law Journal, 1997, 28:253.

This article investigates the effects of labor market deregulation on unions and workers and identifies the pressures currently facing unions as a result.

McANDREW, Ian, *The Structure of Bargaining Under the Employment Contracts Act*, New Zealand Journal of Industrial Relations, 1992, 17(3):259-82.

Reports, through presentation of research data from case studies and a survey, on the structure of bargaining and associated contract structures emerging under the ECA. Surveys firms throughout New Zealand about their experiences in developing new contracts.

McANDREW, Ian & BALLARD, Matt, *Negotiation and Dictation in Employment Contract Formation in New Zealand*, New Zealand Journal of Industrial Relations, 1995, 20(2):119-41.

Examines how negotiation behaviors have changed since the advent of the ECA. Reviews the bargaining provisions of the Act and the influence of unionization in the determination of employment conditions.

A Quality Future: Working Together for Growth in New Zealand, Wellington: New Zealand Council of Trade Unions, 1992.

This publication is intended to outline briefly the New Zealand Council of Trade Unions' contribution as a union movement to the goal of a fully employed, high-skilled, high wage economy. Argues trade unions are a legitimate part of the modern economic framework of New Zealand.

WALSH, Pat, *Bargaining Options Under the Employment Contracts Act*, New Zealand Journal of Industrial Relations, 1991, 16(2):167-74.

Examines factors that may influence employees in exercising their bargaining options. Suggests that collective bargaining and collective contracts, especially in the State Sector, will continue to be of central importance for many employers, but some groups of employees with special bargaining strengths will negotiate outside the main structures.

WEVERS, Francis, *A Guide to Negotiating an Employment Contract*, Wellington, New Zealand: Butterworths, 1991.

Details the key elements of a job which should be clarified on the outset of a working relationship. Defines the good employer concept and the requirement for contracts to provide effective procedures for the settlement of personal grievances and disputes. Discusses Alternative Dispute Resolution by arbitration, mediation, arbitration-mediation, and mini-trial. Explains grievance procedures stipulated in the ECA.

WOMEN & MINORITIES

Part-time Employees

JOBSON, Rachel Anne, Part Time Workers and the Employment Contracts Act 1991: Women Bargaining a Better Deal, Wellington, New Zealand: Victoria University of Wellington Research Paper, 1994.

Argues that ECA disempowers those workers who most need assistance in employment bargaining. Recorded interviews and published research show the only factors which enable them to negotiate the terms and conditions of employment are education, financial status, and collective action.

People with Disabilities

BASCAND, Philippa & FRAWLEY, Stephen, Possible Consequences of the Employment Contracts Act For People With Disabilities, New Zealand Journal of Industrial Relations, 1991, 16(3):309-15.

Canvasses some issues that surround the employment of workers with disabilities under the ECA. Looks at ability of employees with disabilities to negotiate contracts from less comparable positions of strength and the underlying reasons for this imbalance. Discusses use of bargaining agents as mechanism for addressing this imbalance in power.

Retail Workers

Shortchanged: Retail Workers and the ECA, Auckland, New Zealand: National Distribution Union, 1996.

Detailed account of the effects of the ECA on retail workers, setting out how the ECA has systematically undermined the pay and conditions of retail workers.

Women

BERI, Suzi, Bread, If We're Lucky, But Roses are in Short Supply for Women in the Employment Contracts Regime, Wellington: Women's Legal Group, Faculty of Law, Victoria University of Wellington, 1993.

Considers how women are faring in the employment regime. Undertakes analysis of women's experience from feminist perspective focusing on the bargaining regime and the situation for European, Maori, and Pacific Island women. Argues that the ECA formula will entrench inequality for women in employment.

BRORENS, Irena & GRACE, Celia, Employment Contracts Act: Ways to Protect Ourselves, Wellington: Women's Legal Group, Faculty of Law, Victoria University of Wellington, 1993.

Focuses on the impact of the ECA on retail workers, as a group of predominantly women workers, and the impacts on their union. Discusses impact of ECA in terms of unionization and bargaining power.

HAMMOND, Suzanne & HARBRIDGE, Raymond, The Impact of the Employment Contracts Act on Women At Work, Wellington, New Zealand: Industrial Relations

Centre, Victoria University of Wellington, 1993.

Examines the hypothesis that a legal regime based on principles of freedom of contract has no advantage for women workers and that women are in fact less well off in such a system. Presents analyses of empirical data on effect of ECA on collective bargaining coverage and content of collective contracts.

HARBRIDGE, Raymond & STREET, Maryan, Labour Market Adjustment and Women in the Service Industry: A Survey, *New Zealand Journal of Industrial Relations*, 1995, 20(1):23-34.

Studies a discrete and relatively homogeneous group of women workers who were located in the same segment of the labor market, to assess the impact of the ECA on their wages and working conditions, and to provide a fuller picture of the ECA's impact across the New Zealand workforce.

HILL, Linda & DU PLESSIS, Rosemary, Tracing the Similarities, Identifying the Differences: Women and the Employment Contracts Act, *New Zealand Journal of Industrial Relations*, 1993, 18(1):31-43.

Studies union organizing of occupations in which women are typically employed. Examines variety of ways in which the ECA has impacted the unions which cover predominantly female occupational groups.

HYMAN, Prue, Equal Pay for Women After the Employment Contracts Act: Legislation and Practice: The Emperor With No Clothes? *New Zealand Journal of Industrial Relations*, 1993, 18(1):44-57.

Outlines the changes to the Equal Pay Act 1972 and other relevant legislation made at the time of passage of the ECA. Discusses what meaning and coverage remain. Suggests that the legal uncertainties and accentuation of previous difficulties in using the legislation, in the current economic and industrial relations climate, render it almost useless.

HYMAN, Prue, Women and Economics: A New Zealand Feminist Perspective, 1994.

Presents a feminist critique of recent events in New Zealand. Chapters four through six focus on employment and the impact of the ECA.

MULGAN, Margaret, Women at Work: Insuring Equity in the Employment Relationship: The Case for a Minimum Code V, 1993, 18(1):9-14.

Discusses women at work in terms of (1) the nature of the employment contract, (2) the history of the development of labor law, and (3) changes caused by the ECA. Examines the necessity of a minimum code for employment and suggests its content and enforcement.

SAYERS, Janet Grace, Women, The Employment Contracts Act and Bargaining: A Discussion Paper, *New Zealand Journal of Industrial Relations*, 1991, 16(2):159-66.

Discusses the issues of women and bargaining in context of likely future trends in female labor force participation. Covers structural location of women in an increasingly fragmented market and the impact of that on women's bargaining power, socialization and perceptions of women's bargaining effectiveness, and the impact of social policy initiatives of the New Right on women's employment choices.

SAYERS, Janet Grace, Women, The Employment Contracts Act and Labor Flexibility, Palmerston North, New Zealand: Department of Human Resource Management, Faculty of Business Studies, Massey University, 1992.

A working paper discusses some of the implications of "labor flexibility" under the ECA for women workers, particularly in the areas of part-time work, union organization, and skill levels. Discussion uses a post-fordist model which visualizes three tiers in the labor market: core workers, peripheral workers, and external workers. Author concludes by suggesting future research projects.

WILSON, Margaret, Contractualism and the Employment Contracts Act 1991: Can They Deliver Equality For Women? *New Zealand Journal of Industrial Relations*, 1994, 19(3):246-74.

Considers whether employment equity for women will ever be possible under the ECA. Reviews the inequality of women's lack of bargaining strength under the past and present frameworks and discusses the relationship between women's political power and contractual bargaining strength.

WRIGHT, Frances M., Equal Pay and the Employment Contracts Act 1991, *Auckland University Law Review*, 1993, 7(2):501-08.

Claims that the philosophy of the ECA and the institutional system within which an equal pay claim would now have to be brought are so different that the Equal Pay Act 1972 is virtually useless. Looks at the English Equal Pay Act 1970, which was designed to operate in an individual contract environment.

EFFECTS OF THE EMPLOYMENT CONTRACTS ACT

Economic Effects

BAIRD, Charles W., The Employment Contracts Act and Unjustifiable Dismissal: The Economics of an Unjust Employment Tax, Wellington: New Zealand Business Roundtable, 1996.

Argues that the principle deficiency of the ECA is the imposition of an unjustifiable dismissal restriction which, in effect, reassigns job property rights away from employers to employees. It is argued that this constitutes a tax on employers and a benefit (increased job security) for employees. Reference is made to two empirical studies in the United States.

EASTON, Brian, The Economic Impact of the Employment Contracts Act, California Western International Law Journal, 1997, 28:209.

This article criticizes the ECA as promoting minimal economic benefit and poor productivity growth, based on empirical evidence and systematic analyses.

SAVAGE, John, What Do We Know About the Economic Impacts of the ECA?: Paper Presented to a Conference on the Employment Contracts Act, Auckland, May 15, 1996, Wellington: New Zealand Institute of Economic Research, 1996.

Considers the economic outcomes of the ECA by looking at empirical evidence. First part of the paper reflects on how the period since 1991 measures up in terms of economic performance—with particular focus on labor market outcomes and extent to which ECA can be linked to improved performance. Second part of paper reports on firm level, which provides micro-perspective.

Employment Levels & Wage Rates

MALONEY, Tim, Has New Zealand's Employment Contracts Act Increased Employment and Reduced Wages? Auckland, New Zealand: University of Auckland, Department of Economics, 1994.

A study estimating the effects of the ECA on employment levels and average wages rates in New Zealand. Argues that these results are related to the decline of unionization evident in New Zealand since the passing of the ECA.

State Sector

SIMPSON, Tony, The Employment Contracts Act in the State Sector, Wellington: Victoria University of Wellington, Industrial Relations Centre, 1992.

Considers what the changes brought by the ECA have signified in the state sector. Highlights three historical moments in New Zealand's employment history: 1912, 1962 and 1968. Warns that the ECA will increase state sector disruptions in industrial relations in the medium term and Government will in time significantly change employment law.

Types of Work

BROSNAN, Peter, Plus Ça Change . . . : The Employment Contracts Act and Non-Standard Employment in New Zealand, 1991-1995, Wellington: Industrial Relations Centre, Victoria University of Wellington, 1996.

Defines 'non-standard' as other than permanent and full-time employment. Concludes that the ECA has not yet facilitated a pronounced shift to non-standard employment, but employers may expect it to increase.

Work Stoppages

HENNING, John, The Employment Contracts Act and Work Stoppages, New Zealand Journal of Industrial Relations, 1995, 20(1):77-92.

Analyzes the main stoppage statistics 1960-1993, examining the size, duration, and monetary cost of work stoppages, and considers reasons for the trends in these data and some implications arising from these developments.

General Studies

ARMITAGE, Craig & DUNBAR, Richard, Labour Market Adjustment Under the Employment Contracts Act, *New Zealand Journal of Industrial Relations*, 1993, 18(1):94-112.

Surveys labor market adjustment under the ECA and indicates adjustments have occurred, particularly in terms of employment contracts structures and several important bargaining issues.

BRADFORD, Max, Report of the Labour Committee On the Inquiry Into the Effects of the Employment Contracts Act 1991 on the New Zealand labor market: second session, forty-third Parliament (I.9D), Wellington: New Zealand House of Representatives, 1993.

Findings on the effects of the ECA reported in terms of attitudes towards the Act and its effects on workplace relations, unionism, and use of bargaining agents, youth and female employees, wages and conditions, productivity, level of employment, labor market efficiency, and international competitiveness.

GILSON, Clive & WAGAR, Terry, The Impact of the New Zealand Employment Contracts Act on Individual Contracting: Measuring Organizational Performance, *California Western International Law Journal*, 1997, 28:221.

A statistical analysis that attempts to determine whether, under the ECA, employers' pursuit of individual contracts, rather than collective agreements, resulted in increased organizational performance.

HARBRIDGE, Raymond & MOLDER, James, Collective Bargaining and the New Zealand's Employment Contracts Act 1991: One Year On, Wellington: Industrial Relations Centre, Victoria University of Wellington, 1992.

Reviews the effects of the ECA through primary data such as actual employment contracts gathered from a wide range of businesses and unions.

HARBRIDGE, Raymond, New Zealand's Collective Employment Contracts: Update Nov. 1992, *New Zealand Journal of Industrial Relations*, 1993, 18(1):113-24.

An update to paper by Harbridge & Moulder (1993): reviews the effects of the ECA through primary data such as actual employment contracts gathered from a wide range of businesses and unions. Considers the structure of collective contracts and content of contracts—especially with respect to wages and working time arrangements.

HINCE, Kevin & HARBRIDGE, Raymond, The Employment Contracts Act: An Interim Assessment, *New Zealand Journal of Industrial Relations*, 1994, 19(3): 235-55.

Focuses on the impact and outcomes of the ECA on the New Zealand labor market, using selected companies as case studies. Argues that similar or better economic outcomes, with less social divisiveness, could have been achieved by an

alternative strategy.

HOWARD, Colin, Interpretation of the Employment Contracts Act 1991, New Zealand Business Roundtable & New Zealand Employers' Federation, 1995.

Comments on employment law developments since the ECA. Primary emphasis on legal developments but also considers political, social, and economic aspects. Considers debate as to whether the main aim of the ECA, to restore the contract as the central feature of the employment relationship, is being thwarted by judicial and quasi-judicial interpretation.

KERR, Roger, The New Zealand Employment Contracts Act: Its Enactment, Performance, and Implications, California Western International Law Journal, 1997, 28:89.

This article describes the beneficial impact the ECA has had on employers, employees, and the New Zealand economy, while also addressing the inevitable implications of such substantial legislation.

KNOWLES, Anne K., The Employment Contracts Act 1991: An Employer History, California Western International Law Journal, 1997, 28:75.

This article traces the historical development of New Zealand industrial relations legislation. It praises the ECA due to its positive contribution to the economy, improved unemployment rates, and better labor market relationships.

Labour, Employment and Work in New Zealand: Proceedings of the Sixth Conference, Phillip Morrison ed., 1994.

Collects the conference proceedings which address a wide range of labor and employment issues since the enactment of the ECA.

NEW ZEALAND EMPLOYERS' FEDERATION, A Review of the Employment Contracts Act, Wellington, New Zealand: The Federation, 1991.

Published as part of role to monitor the practical effects of the ECA for members. Argues that six months have been sufficient to identify positive outcomes of the legislation and isolate areas of concern for employers.

NEW ZEALAND EMPLOYERS' FEDERATION, The Employment Contracts Act: A Survey of Its Use, Wellington: New Zealand Employers' Federation, 1992.

A survey of over 10,000 Employers' Federation members of the four regional associations to determine not only what has taken place as a result of the ECA but how the process occurred.

NEW ZEALAND, INDUSTRIAL RELATIONS SERVICE, A Survey of Labor Market Adjustment Under the Employment Contracts Act 1991, Nov. 1993, Wellington, New Zealand: The Department, 1993.

A second survey of labor market adjustment. Comprises two surveys of employees and enterprises. Objectives of the studies were to investigate the size and

coverage of employment contracts, the method and selection and type of representation used in the bargaining process, the process by which contracts are concluded (including dispute resolution), and the effects on overall market flexibility.

RASMUSSEN, Erling & DEEKS, John, *Contested Outcomes: Assessing the Impacts of the Employment Contracts Act*, California Western International Law Journal, 1997, 28:275.

This article attempts to settle frequently disputed issues regarding productivity, unemployment, and the economic impact of the ECA through a statistical analysis.

SAVAGE, John, *A Preliminary Report on the Results of a Survey on the Employment Contracts Act: Report to the New Zealand Employers' Federation*, Wellington: New Zealand Institute of Economic Research, 1996.

A firm-level survey to investigate the impacts of the ECA. Looks at changes to industrial relations, employment contracts, labor market outcomes, and the firms surveyed.

TWEEDIE, Richard, *An Employers' Stocktake: An Address*, Wellington: New Zealand Employers' Federation, 1994.

Brief speech notes and OHPs of discussion of the achievements of value for employers in light of the ECA. Outlines economic performance, employee satisfaction, stoppages, employment figures, and wages.

WHATMAN, Richard, et al., *Research Notes: Labor Market Adjustment Under the Employment Contracts Act*, New Zealand Journal of Industrial Relations, 1994, 19(1):53-73.

Reports on the second of two surveys, conducted by the Heylen Research Centre in late 1993, contracted by the Department of Labour to assess labor market adjustment.

MODEL CONTRACTS

ANDERSON, G.J. *Model Contract of Employment, Revised Version*, Wellington, New Zealand: The Association, 1991.

Prepared for the New Zealand Library Association. Contains commentary on the terms of the employment relationship, restraint of trade and other restrictive provisions, union membership, and grievance procedures.

GENERAL

ANDERSON, Gordon, *The Employment Contracts Act 1991: An Employers Charter?* New Zealand Journal of Industrial Relations, 1991, 16:127-42.

Focuses on the changed nature of bargaining, the role of trade unions, and the

change to a contract-based system of labor law brought about the ECA. Explains that the emphasis is not on individual workers confined to their own workplace and the fundamental relationship is between employer and employee. Assesses the importance of the Employment Court and the retention of personal grievance and dispute procedures.

BROSNAN, Peter & REA, David, *An Adequate Minimum Code: The Basis For Freedom, Justice and Efficiency in the Labor Market*, *New Zealand Journal of Industrial Relations*, 1991, 16(2):143-58.

Explores the case for expanding and improving the minimum code of employment protections. Argues that recent changes to these protections, in particular the ECA and the decline in social welfare entitlements, have left many people vulnerable to exploitation and poverty. Explains that adequate minimum code encourages more efficient use of labor.

CHURCHMAN, Peter & GRILLS, Walter, *New Zealand Law Society Seminar: Employment Contracts Act Revisited*, Wellington: The Society, 1992.

Notes that the intention of the ECA was to "break the mold" in the area of industrial relations and human resource, and argues that this has occurred. Looks at the role and function of the employment tribunal, roles and opportunities for lawyers, redundancy, and recent developments with respect to partial lockout and implied terms.

CLARK, Helen, *Employment Relations: The New Direction Under Labor*, *New Zealand Journal of Industrial Relations*, 1993, 18(2):153-62.

Outlines objections the New Zealand Labour Party has to the ECA and outlines proposed new legislation of the Labour Party—The Labour Relations Act.

COMMONS, Andrew, *Dependent Contractors: In From The Cold*, *Auckland University Law Review*, 1996, 8(1):103-23.

Outlines distinction between dependent and independent contractors and uses the social dividend model to establish access to employment law protection. Considers the position of dependent contractors in New Zealand and recommends including them in an extended coverage of the ECA.

DANNIN, Ellen, *Brother, Can You Spare a No-Wage Job? Labour Law Reform in New Zealand in Labour Gains*, *Labour Pains-Socialist Studies / Etudes Socialistes*, Cy Gonick, et al., eds. 1995, 10:405.

Relates experience with the ECA to current issues in Canada.

DANNIN, Ellen, *Examining Employer Association Proposals for Labour Law Reform: An American Perspective*, *New Zealand Journal of Industrial Relations*, 1990, 15:161.

Examines employer proposals for labor law reform which led to the ECA and considers the nature of the campaign to promote the Act.

DANNIN, Ellen J., Introduction: Confronting the Employment Contracts Act, California Western International Law Journal, 1997, 28:1.

An introduction to the ECA and its effects on unions and collective bargaining in New Zealand, as well as its possible impact on other countries.

Divergent Paths? Industrial Relations in Australia, New Zealand and the Asia Pacific Region: Proceedings of the 7th AIRAANZ Conference, University of Auckland, Jan. 1993, Auckland: Association of Industrial Relations Academics of Australia and New Zealand, 1993.

Contains a variety of papers and abstracts including: An Assessment of the Impact of the ECA on Bargaining Arrangements; Changing Patterns of Employment Relationships; Disputes and Grievances under the ECA; Common Law v. Labour Law: The New Zealand Debate; Labour Market Deregulation and the State Employer.

EASTON, Brian, The Commercialisation of New Zealand, 1997.

Describes and analyzes the origins, theory, history and politics of changes in policy, with chapters six and seven focusing on changes in the labor market and unions.

Employment Law, Present Developments, Future Issues: Papers from a Seminar Held on Friday 8th Oct. 1993 at Wellington, Wellington, New Zealand: The Institute, 1993.

Comprises seven individual papers: (1) An Overview of the Impact of the ECA on Labor Law; (2) Address by the Minister of Employment; (3) Aspects of the Right to Strike and Lockout under the ECA; (4) Personal Grievances; (5) Implications of the Privacy Act; (6) Enforcing Safety Standards; (7) Address of Labour Spokesperson on Employment.

EPSTEIN, Richard Allen, Employment Law: Courts And Contracts, Wellington: New Zealand Business Roundtable, 1996.

Brief paper which considers what the general attitude to specialized courts (such as the Employment Tribunal and Employment Court) should be, and how an employment contract—particularly a contract designed to terminate at the end of a fixed period—should be viewed. Also includes discussion on the economics of unjustifiable dismissal.

FRENCH, Christine & TREMEWEN, Paul, New Zealand Law Society Seminar, Employment Law Update, Wellington: The Society, 1994.

Outlines (1) the important distinction between contracts OF services and contracts FOR services; (2) what should be put into an employment contract and what can be left out; (3) how to conduct an employment-related case, and (4) latest case law on bargaining, partial lockouts, restraint of trade covenants, constructive dismissal, and redundancy dismissals.

FRYER, Glenda & OLDFIELD, Yvonne, *New Zealand Employment Relations*, Auckland: Longman Paul, 1994.

Introductory workbook on New Zealand employment relations discussing: (1) system of employment relations; (2) role of each party to the employment; (3) contracts of employment; (4) bargaining process; (5) terms of the contract; (6) enforcement provisions in the employment contracts act; (7) personal grievances; (8) employment equity (EEO); and (9) work organization and workplace reform.

HARBRIDGE, Raymond, *Employment Contracts: New Zealand Experiences*, Wellington, New Zealand: Victoria University Press, 1993.

Reprints a number of different papers which are split into three sections: Overview, Effects on Employers, and Effects on Workers and their Unions. Papers include the following: Bargaining and the ECA; An Overview; Collective Employment Contracts; A Content Analysis; Personal Grievances; The ECA in the State Sector; The Process of Developing Employment Contracts; A Management Perspective; Women, The ECA and Labour Flexibility; Organizing Workers; The Effects of the Act on Union Membership and Organization.

HARBRIDGE, Raymond, *Employment Contracts: Bargaining Trends and Employment Law Update, 1993-1994*, Wellington, New Zealand: Industrial Relations Centre, Victoria University of Wellington, 1994.

Splits into two sections. Section One presents data collected on a wide range of different employees and specific terms of employment (such as wages and leave provisions). Section Two contains an update on case law heard over the last twelve months (such as personal grievances, redundancy, holidays, and health and safety).

HARRISON, Rodney, *Employment Contracts Act 1991: Some Key Legal Issues*, Auckland: Auckland District Law Society, 1991.

Key legal aspects of the ECA are considered, such as the nature of employment contracts, redundancy agreements, creation of an employment contract, formal requirements, dispute procedures, expiration of contracts, the s57 jurisdiction: harsh and oppressive contracts. Also looks at strikes and lockouts and enforcement within the Employment Tribunal and Court.

HODGE, W.C., *Employment Law*. *New Zealand Recent Law Review*, 1992, 2:111-22.

Examines legal ramifications of the Employment Contracts over first twelve months. Considers cases relating to freedom of association, bargaining, harsh and oppressive behavior, lockouts, and dismissal. Mentions the impact of the Bill of Rights.

HUGHES, John, *The Role of Labour Law: The Future of Institutions and Personal Grievances*, Wellington: Industrial Relations Centre, Victoria University of Wel-

lington, 1991.

Examines the likely legal consequences in relation to personal grievances and institutional arrangements should the Employment Contracts Bill 1990 be passed in its [then] present form.

HUGHES, John, *The Employment Contracts Act One Year On: Institutions and Grievance Handling*, Wellington: Industrial Relations Centre, Victoria University of Wellington, 1992.

Canvasses procedural changes and likely changes introduced by the ECA; outlines remedies available to aggrieved parties and outlines the ECA's relationship to other workplace legislation.

KIELY, Peter & CAISLEY, Andrew, *Discrimination in Focus*. *New Zealand Journal of Industrial Relations*, 1992, 17(3):359-70.

Examines statutory provisions on discrimination, including ECA, Race Relations Act, and Human Rights Commission Act. Outlines remedies available and analyzes grounds for a charge of discrimination and types of behavior constituting sexual harassment under the ECA.

KIELY, Peter & CAISLEY, Andrew, *One Year of Practice With the Act*, *New Zealand Journal of Industrial Relations*, 1992, 17(2):233-41.

Outlines topics which have emerged over the first twelve months since the passing of the ECA. Discusses the sanctity of contracts, the "right to manage," the expiry of collective employment contracts, implied terms, partial lockouts, strikes and lockouts, and picketing.

McARTNEY, Robyn, *Unilateral Change of Terms of Employment: Is the Employee Powerless?*, Wellington, New Zealand: Victoria University of Wellington Research Paper, 1996.

Discusses common options available to employees when terms of employment change. Concludes that both employer and employee should plan for contractual changes and incorporate terms of redress in the employment contract.

McCARTHY, Paul, *Negotiating Employment Contracts in New Zealand*. Auckland: CCH New Zealand, 1991.

Focuses on negotiating skills which have become an important feature of New Zealand employment with the ECA, as well as the wider environment. The aim of the text is to enhance the opportunities presented by the new legislation so parties can negotiate from an informed position. Topics covered include resolving conflict and skills for negotiation.

MOSSOP, Joanna, *Nothing to Fear but Fairness: The Implied Term of Trust and Confidence in New Zealand Employment Law*, Wellington, New Zealand: Victoria University of Wellington Research Paper, 1996.

Concludes that judges have not clarified the confusion and philosophical inco-

herence of implied term of trust when applying it to employment law. Suggests that while the courts have focused on the employer's obligations they can also fruitfully apply the term to employee's obligations.

Moving Forward Conference, May 15, 1996, Auckland, New Zealand, Wellington: New Zealand Employers' Federation, 1996.

Papers: (1) ECA: A Permanent Fixture Celebrates the ECA and its Benefits; (2) What do we Know about the Economic Impacts of the ECA?; (3) Labour Markets that Work (NB: OHPs only); (4) The ECA and Workplace Best Practice; (5) Freedom of the Labour Market—Some Australian Reflections; (6) Small Business benefits of the ECA; (7) Maori and the ECA; (8) Why New Zealand is Doing it Right; (9) Women and the ECA; (10) Deregulation of the New Zealand Labour Market: Things Done and Left Undone; (11) Why Not Full Employment by 2000?

NEW ZEALAND EMPLOYERS' FEDERATION, *The Way Ahead Under the Employment Contracts Act*, Wellington, New Zealand: The Federation, 1991.

Overviews practical aspects of the recently passed ECA, including, the status of current awards, employment legislation which shall continue to apply under the new Act, negotiation and the use of bargaining agents, occupational health & safety, and the status of unions. Includes a flow-chart of contract negotiation.

NEW ZEALAND EMPLOYERS' FEDERATION, *Forward to the Past: The Labour Opposition's Industrial Relations Policy*, *New Zealand Journal of Industrial Relations*, 1993, 18(2):205-13.

Criticizes the labor relations policy of the Labour Party in its proposed Labour Relations Act. Defends the ECA. Compares both policies with the International Labour office.

PEARSON, Michael. *The Case Against Employment Contracts*, *Management (Auckland)*, 1991, 38(5):58-60, 65-68.

Describes the debate between government, employers, and unions on the need for the employment contracts legislation. Focuses on the principle of labor market flexibility which underlies the act, whether this will achieve economic development, and if there is sufficient legislative protection from exploitation for workers.

ROTH, Paul. *A Contract Law Perspective On the Individual-Collective Employment Contract Nexus: What Is the Status of a S19(2) Agreement?* *Otago Law Review*, 1993, 8(1):77-92.

Explores the concept of the collective contract and its relationship to individual contracts. Queries precise legal status of individual arrangements entered pursuant to s19(2) and why these have not hitherto raised conceptual difficulties.

RUSSELL, Anthony. Philosophy And Application—The Contractual Basis of the Employment Contracts Act 1991, *New Zealand Business Law Quarterly*, Aug. 1995, 1(3):145-63.

Author examines the ECA in operation and, while acknowledging that the philosophy of the Act has been compromised by the courts, suggests that this stems from fundamental contradictions and misconceptions apparent in the Act itself, rather than from judicial activism or misinterpretation.

SAVAGE, John. A Simple Framework for Analysing the Impact of the ECA, Wellington: New Zealand Institute of Economic Research, 1996.

Presents a model of how the labor market works which may be used as a basis for analyzing the impact of the ECA.

SCOTT, Jane, Contesting Symbolic Space: The Struggle Over the Employment Contracts Act 1991, *New Zealand Journal of Industrial Relations*, 1996, 21(3):277-95.

Reports on how debate over ECA was conducted in the media, considering different symbolic resources available to capital and labor and structural inequality between them. Explains changes in nature of media organizations and summarizes the findings of the media coverage of the Employment Contracts debate in light of these.

Sexual Harassment: A Guide to Your Rights: Human Rights Act v Employment Contracts Act, Auckland: New Zealand, Working Women's Resource Centre, 1996.

A guide to dealing with sexual harassment claims under both the ECA and the Human Rights Act. Warns that after a claim has been started under one of these Acts it cannot be brought under the other.

SILVERSTONE, Brian & DALDY, Bridget, Labour Market Activity in New Zealand: Recent Trends and Outlook, *British Review of New Zealand Studies*, 1994, 7:127-41.

Gives brief analysis of recent macro-economic trends in the New Zealand labor market, followed by an assessment of the implications of these developments for sub-labor market groups and for productivity and real wages. Notes changes resulting from ECA and outlines future impact.

TOOGOOD, Kit & MUIR, Phillipa, New Zealand Law Society Seminar: Employment Contracts Bill, Wellington: The Society, 1991.

This paper indicates the significance of the changes made between the ECA, as introduced and as reported back from the Labour Committee to the N.Z. House of Representatives on April 23, 1991.

TOWNER, R.L., Employment Law [new legislation/ dismissal law/ receivers/ redundancy], *New Zealand Recent Law Review*, 1991, 2:103-16.

Discusses changes in the legislation governing employment. Describes the salient

features of the ECA. Surveys the most important case law in relation to the law of dismissal and the obligations of receivers who take over the running of a company.

WILSON, Ross. Employment Contracts Act: Do the Courts Need To Act To Protect Workers? Without More Intervention Are the Rights of Workers Being Reduced or Compromised?, New Zealand Law Conference Papers, Wellington, 1993, 2:377-84.

Author argues there is a clear need to provide greater protection for workers under the ECA, and that the court is unable to override the clear requirements of the law. He suggests that the Employment Court has been subject to criticism from the Business Roundtable and the New Zealand Employers' Federation whose agenda is to have the Court abolished. Suggests worker's rights are being reduced and calls for repeal of the ECA and substitution of a fairer regime.

ADDENDUM:

Transcripts of interviews conducted by Professor E.J. Dannin are held in Alexander Turnbull library.

This bibliography was prepared by:

Lynne Jones, Library Assistant, Auckland District Law Society Library;
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Ann Marie Rotondo, Lead Articles Editor, Cal. Western Int'l Law Journal; and
Rebecca Sutton, Deputy Librarian, Coopers & Lybrand (Auckland).

AVAILABILITY OF MATERIALS:

For assistance in obtaining any of the materials listed in the above bibliography, contact the Law Library at Victoria University of Wellington (Tel: (04) 472-1000, Fax: (04) 495-5161, E-mail: <Victor.Lipski@vuw.ac.nz>, or the Auckland District Law Society Library (Tel: (09) 303-1040, Fax: (09) 303-3359, E-mail: <Research@adls.org.nz>.