



COVERSHEET

Minister	Hon Brooke van Velden	Portfolio	Workplace Relations and Safety
Title of Cabinet paper	Providing greater certainty for contracting parties	Date to be published	14 October 2024

List of documents that have been proactively released		
Date	Title	Author
September 2024	Providing greater certainty for contracting parties	Office of the Minister for Workplace Relations and Safety
28 August 2024	Providing Greater Certainty for Contracting Parties ECO-24-MIN-0179 Minute	Cabinet Office
15 August 2024	Regulatory Impact Statement: Contractors – Providing greater certainty for contracting parties	MBIE
11 July 2024	Briefing: Contractors – Options for an exclusion that gives more weight to intent	MBIE
7 June 2024	Briefing: Initial analysis of Proposal to put more weight on 'intention' when assessing employment status	MBIE
13 May 2024	Aide Memoire: Meeting with Freightways on 16 May 2024	MBIE
29 April 2024	Aide Memoire: Meeting with Uber on 1 May 2024	MBIE
19 April 2024	Briefing: Scope of policy work on the contractor/employee boundary	MBIE
27 March 2024	Aide Memoire: Meeting with NZ Post on 28 March 2024	MBIE
19 December 2023	Briefing: Issues related to the definition of employee	MBIE

Information redacted

YES

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 reasons of privacy of natural persons, confidential advice to Government, international relations, information subject to an obligation of confidence, free and frank expression of opinion and legal professional privilege.



Cabinet Economic Policy Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Providing Greater Certainty for Contracting Parties

Portfolio **Workplace Relations and Safety**

On 28 August 2024, the Cabinet Economic Policy Committee (ECO):

- 1 **noted** that challenges by workers who are contractors, to test their employment status, create costs for workers and businesses, discourage potential business models, disincentivise businesses from offering jobs and benefits to workers, create business uncertainty, and disincentivise investment;
- 2 **noted** that the National-ACT Coalition Agreement commits to give greater weight to the intention of contracting parties and that the Coalition Government's Quarter 3 Action Plan includes an action to take Cabinet decisions on legislative amendments to clarify the employment status of contractors;
- 3 **agreed:**
 - 3.1 to give greater weight to the intention of contracting parties, therefore providing more certainty in a timely manner;
 - 3.2 that an exclusion from the test in section 6 of the Employment Relations Act 2000 (the section 6 exclusion) be created with the following criteria:
 - 3.2.1 there is a written agreement that specifies the worker is an independent contractor; and
 - 3.2.2 the worker is not restricted from working for others; and
 - 3.2.3 the worker is:
 - 3.2.3.1 not required to be available to work certain times, days or for a minimum period; or
 - 3.2.3.2 able to sub-contract the work; and
 - 3.2.4 the business does not terminate the agreement for not accepting an additional task;

Legal professional privilege and International Relations.

- 6 **noted** that the Minister for Workplace Relations and Safety finds trade agreements to be highly beneficial to New Zealand businesses, however on balance, believes increasing legal certainty will also benefit New Zealand businesses and workers;
- 7 **agreed** that the hiring business be required to give the worker a reasonable opportunity to seek advice on the written agreement;
- 8 **agreed** that the policy changes above be given effect through the Employment Relations Amendment Bill, Confidential Advice
- 9 **invited** the Minister for Workplace Relations and Safety to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraphs;
- 10 **authorised** the Minister for Workplace Relations and Safety to make further decisions, consistent with the policy in the paper under ECO-24-SUB-0179, on any issues that arise during the Parliamentary process, including any transitional provisions;
- 11 Confidential Advice

Rachel Clarke
Committee Secretary

Present:

Hon David Seymour
Hon Nicola Willis (Chair)
Hon Brooke van Velden
Hon Shane Jones
Hon Louise Upston
Hon Paul Goldsmith
Hon Tama Potaka
Hon Matt Doocey
Hon Simon Watts
Hon Melissa Lee
Hon Penny Simmonds
Hon Chris Penk
Hon Nicola Grigg
Hon Andrew Bayly
Hon Andrew Hoggard
Hon Mark Patterson
Simon Court MP
Jenny Marcroft MP

Officials present from:

Office of the Prime Minister
Office of Hon Brooke van Velden
Ministry of Business, Innovation and Employment
Ministry of Foreign Affairs and Trade
Officials' Committee for ECO