



Overall GCPI Score

**6.89**  
Maturing

STRONG 7.50-10.00

MATURING 5.00-7.49

EMERGING 2.50-4.99

WEAK 0.00-2.49

GCPI grading key

 <b>SUB-INDEX A: PROTECTIONS FOR FAMILY CAREGIVERS</b>		7.33
<b>A1. Pregnancy and Maternity Leave Coverage</b> <i>(No sub-categories)</i>	7.28	
<b>A2. Protections during Pregnancy and Maternity Leave</b> Financial Protections Employment Protections	9.50 10.00 9.00	
<b>A3. Paternity Leave Policies</b> <i>(No sub-categories)</i>	9.25	
<b>A4. Dependent Care Leave Policies</b> <i>(No sub-categories)</i>	7.67	
<b>A5. Flexible Work Arrangements</b> <i>(No sub-categories)</i>	5.63	
<b>A6. Family-Friendly Workplace Policies</b> Nursing Support in the Workplace Workplace Safety for Pregnant and Nursing Women	4.69 6.88 2.50	



Source: Encyclopedia Britannica

 <b>SUB-INDEX B: PROTECTIONS FOR DOMESTIC WORKERS</b>		6.44
<b>B1. Coverage under National Labor Laws</b> <i>(No sub-categories)</i>	7.50	
<b>B2. Fair Employment Process</b> Standard Terms of Employment Regulations for Recruitment and Employment Process	3.99 4.64 3.33	
<b>B3. Decent Working and Living Conditions</b> Working Hours and Environment Rest and Leave Wages Social Security Living Conditions for Live-in Workers	5.77 4.20 8.00 6.67 10.00 0.00	
<b>B4. Labor Rights</b> Freedom of Association and Access to Collective Bargaining Access to Complaint Mechanisms Enforcement and Protection Mechanisms	8.33 10.00 7.50 7.50	
<b>B5. Protections for Forced/Under-age Domestic Workers</b> Protections against Forced/Compulsory Labor Protections for Under-age Laborers	6.60 10.00 3.20	
<b>B6. Protections for Migrant Domestic Workers</b> Employment Support Support After Termination of Employment	NA NA NA	

## Introduction

New Zealand is an island country in the South Pacific composed of two main islands (the South and North Islands) and smaller surrounding islands. Since gaining full independence in 1947, New Zealand has had a constitutional monarchy with a parliamentary system of government. The parliamentary system consists of a single-chamber House of Representatives (the Parliament), a smaller cabinet of ministers, and a prime minister. According to the Economist, New Zealand had the 4th highest democracy index in 2019, with a score of 9.26.<sup>1</sup>

Historically, New Zealand has had an economy heavily based on exports.<sup>2</sup> In the World Bank's 2019 Economy Rankings, New Zealand ranked as the nation with the highest Ease of Doing Business ranking.<sup>3</sup>

<sup>1</sup> The Economist, "Democracy Index 2019", 2019. <https://www.eiu.com/topic/democracy-index>.

<sup>2</sup> Jack Vowles, "New Zealand", *Britannica*, January 01, 2021. <https://www.britannica.com/place/New-Zealand>.

<sup>3</sup> The World Bank, "Ease of Doing Business rankings", 2019. <https://www.doingbusiness.org/en/rankings>

In terms of the country's worker protections for workers in the formal economy, New Zealand has done well. Overall, the country has ratified 61 ILO conventions and has 33 currently in force. There is, however, a lack of domestic worker protections in the country. In the GCPI Index, New Zealand had a score of 7.33 for Sub-Index A, but a lower score of 6.44 for Sub-Index B.

As a developed country, New Zealand's female labor force participation is fairly high. According to the World Bank, women's labor force participation in New Zealand sits at 65.7% in 2020.<sup>4</sup> New Zealand is one of the most progressive countries in terms of improving women's rights. Today, New Zealand has had women hold all of the highest positions in Parliament, (prime minister, governor-general, attorney-general, and chief justice).<sup>5</sup> However, even though women's rights and workers' rights have made significant advances in New Zealand, there has been little to no advancement in domestic workers' rights and protections.

Useful statistics about domestic work in New Zealand are difficult to discern, because the government's data does not usually group "domestic work" as a single job category. Instead, the many types of domestic work are treated as individual job categories. This makes gathering information about domestic workers difficult. Additionally, due to a lack of domestic worker protections, much paid domestic work falls within the informal economy, making data even less available. According to the ILO's 2013 report on domestic workers, there were 2,200 domestic workers in New Zealand, with 2,100 being women.<sup>6</sup>

## Key Care Policies

The Employment Relations Act 2000 (ERA) is New Zealand's primary labor law. It establishes the Employment Relations Authority and Employment Court which resolve most labor disputes. It also provides the basis of terms and protections for labor in New Zealand. The Act establishes precedents for employers, unions, and it covers all employees with contracts. However, because "domestic worker" is not listed as a distinct category under the definition of

"employee" in the Act, there is ambiguity as to whether or not domestic workers are fully covered by the ERA. Domestic workers who work as independent contractors or who work directly under a homeowner, and not through a third party, would still be counted as being in an employment relationship however. Domestic workers with informal employment arrangements and no written contract are more vulnerable because they are covered under ERA protection.

New Zealand's Holidays Act 2003 defines and sets requirements for guaranteed annual leave, sick leave, and bereavement leave. The Act also defines payments that are associated with compensation for not taking leave. Many dependent care policies are included in the Holidays Act 2003 as well. In Sections 63-66 of the Act, it prescribes a worker's use of sick days in order to care for sick/injured family, given that the employee has been employed for at least 6 months, working an average of 10 hours a week.

The Parental Leave and Employment Protection Act 1987 protects the rights of employees during parental leave and defines parental leave durations for female and male employees. The Act also outlines the eligibility requirements needed in order to receive the minimum 20 weeks of parental leave. New regulations were added to the Act in 2016 which define all necessary documentation needed to receive or transfer paid parental leave.

## Recent Care Policy Developments

Recent changes to key care policy developments in New Zealand include the expansion of and further funding for family care. In Section 88 of the Public Health and Disability Act 2000, where the Funded Family Care Notice 2013 was inserted, new amendments have been made to expand funded family care to cover disabled children over the age of 18 as well as to raise pay rates for family carers from the minimum wage of NZD17.70 (USD11.70/hour) to between NZD20.50 and NZD25.50 (USD13.56 and USD16.87), given experience and qualifications. These changes took effect in 2020.<sup>7</sup>

In 2019, the Mahi Aroha Carers' Strategy Action Plan 2019-2023 was put into effect. This cross-government plan was created in order to support and mobilize

<sup>4</sup> The World Bank, "Labor force participation rate, female (% of female population ages 15+) (national estimate) - New Zealand", September 20, 2020. <https://data.worldbank.org/indicator/SL.TL.FCACT.FE.NE.ZS?locations=NZ>

<sup>5</sup> New Zealand History, "Suffrage 125" Stories of Women's Activism, n.d.: 2. <https://nzhistory.govt.nz/culture/suffrage125/three-waves-of-womens-activism>.

<sup>6</sup> ILO, "Domestic workers across the world: Global and regional statistics and the extent of legal protection", 2013: 118. [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_173363.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_173363.pdf).

<sup>7</sup> Library of Congress, "New Zealand: Major Changes to Funded Family Care Policy Announced", August 13, 2019. <https://www.loc.gov/law/foreign-news/article/new-zealand-major-changes-to-funded-family-care-policy-announced/>

family carers, especially those of native populations. The plan helps carers find support, be recognized, and helps with carers' work and study.<sup>8</sup>

The Parental Leave and Employment Protection Act 1987 was also amended. In 2016 regulations were added to the Act in order to provide necessary documentation for parents to request paid parental leave.

New Zealand has also ratified PO29 Protocol of 2014 of the Forced Labour Convention, which promises that victims of labor abuse be protected and compensated. However, clear legislation to support this has not been put into effect.

## Key Actors

There are several governmental agencies that administer and enforce care policies, starting with the **Ministry of Business, Innovation, and Employment**. This Ministry is behind some of the most important worker protection legislations of New Zealand including the Employment Relations Act 2000, which is the overarching legislation for all employment policies. Many other legislations use the Employment Relations Act 2000 for reference as well, which increases the Ministry's responsibility. Another key legislation the Ministry is responsible for is the Parental Leave and Employment Protection Act 1987 and its newest versions.

Other key actors are the Ministry of Health and District Health Boards. The Ministry of Health administers most of New Zealand health care policies including the Public Health and Disability Act 2000. The District Health Boards (DHB) were created by the Public Health and Disability Act 2000 and implement the policies defined in the legislation in New Zealand communities. The DHB also owns and funds all public hospitals in New Zealand.



## Sub-Index A: Protections for Family Caregivers

New Zealand has strong protections for working women during their pregnancy and maternity leave,

but its score for Sub-Index A was slightly lowered because of its lack of flexible work arrangements and safety rules for pregnant and nursing women at the workplace. New Zealand's dependent care leave policies can also be improved in terms of their pregnancy and maternity coverage. Its overall score for Sub-Index A is 7.33 (out of 10), which falls at the high end of the 'Maturing' Index Band of the GCPI.

### A1 Pregnancy and Maternity Leave Coverage (7.28/10)

Under the Parental Leave and Employment Protection Act 1987, primary carers are offered at least 20 weeks of unpaid maternity leave and are eligible for paid maternity leave, if specific household and employment requirements are met. However, there is no compulsory maternity leave that eligible working women are guaranteed after childbirth. Working women are also not guaranteed extended or additional maternity leave in the case of simultaneous multiple births or any documented medical illness, complications, or risk of complications arising out of pregnancy or childbirth. Some women are also not included in the Employment Relations Act 2000, which excludes non-contract workers from receiving parental leave.

### A2 Protections during Pregnancy and Maternity Leave (9.50/10)

Under the Parental Leave and Employment Protection Act 1987, payment for maternity leave comes out of public money (general taxes), so employers' are not liable. Prenatal, maternity, and postnatal services are also available for all legal residents or spouses of legal residents. Through Paid Parental Leave (PPL), the compensation rate in 2020 was between \$189 and \$606.46 per week for up to 26 weeks.<sup>9</sup> Full job security is also lacking during maternity leave. But employers are prohibited from requiring pregnancy tests for employment purposes or discriminating on the basis of marital status or family responsibilities.

### A3 Paternity Leave Policies (9.25/10)

Spouses are also allowed to take partner leave, if they have worked for the same employer for an average of 10 hours a week in the last 6 or 12 months. Partners are granted at least 1-2 weeks of partner leave, depending on how long they have worked for an employer. Partner leave can be extended up to 26 weeks if necessary or if any complications arise with the mother or child. Unfortunately, non-contracted

<sup>8</sup> Library of Congress, "New Zealand: Major Changes to Funded Family Care Policy Announced", August 13, 2019. <https://www.loc.gov/law/foreign-news/article/new-zealand-major-changes-to-funded-family-care-policy-announced/>

<sup>9</sup> New Zealand Inland Revenue, "Paid parental leave payments", 2020. <https://www.ird.govt.nz/paid-parental-leave/payments>

workers are not eligible to receive partner leave or paid partner leave.

#### A4 Dependent Care Leave Policies (7.67/10)

Under the Holidays Act 2003, an employee is entitled to sick leave if they have completed 6 months' current continuous employment with the employer or, over a period of 6 months, worked for the employer for at least an average of 10 hours a week. Sick leave is 5 days per year and may be taken if the employee is sick/injured or if the employee's spouse/child/family member is sick/injured. However, non-contracted workers are not eligible to take sick leave.

#### A5 Flexible Work Arrangements (5.63/10)

Part 6AA of the Employment Relations Act 2000 gives employees the right to request flexible working arrangements e.g. reduced working hours if caring for children or older parents. However, employers are not required to consider family responsibilities of workers when assigning night work.

#### A6 Family-Friendly Workplace Policies (4.69/10)

For pregnant and nursing mothers, nursing accommodations and breaks are required, but paid nursing breaks are not. In addition, pregnant women are only allotted only 10 special days during their pregnancy to leave the workplace in order to undergo medical examinations related to their pregnancy, all of which are unpaid. Pertaining to the workplace, there is no written legislation that requires employers to make the workplace safer for pregnant women, specifically.

## Best Practices

Many financial support options are provided by the New Zealand government, and not private employers. This decreases labor disputes between employees and employers, and reduces reliance on the Authority Employment Court.

The Working for Families tax credit, Supported Living Payment, Emergency Benefit, and JobSeeker Payments are all government-run and provide constant financial support for many New Zealand residents. Most programs also have appeal processes that allow residents who were denied these financial support options to appeal their rejections. Through discussions with the appropriate Ministry involved with each program (the Ministry of Justice or the Ministry of Social Development), appeal forms can be reviewed by the

respective Ministry's Appeals Authority/Board which has the final say in overturning a financial assistance rejection.



## Sub-Index B: Protections for Domestic Workers

New Zealand scored more poorly for Sub-Index B. Most worker protection legislation in New Zealand does not actively exclude all types of domestic workers. However, there are still several omissions and ambiguities in the coverage of domestic workers. As a result, New Zealand scored a 6.44 (out of 10.00) which falls in the middle of the Emerging GCPI Index Band.

### B1 Coverage under National Labor Laws (7.50/10)

Under the Employment Relations Act 2000, domestic workers are not specifically excluded from the definition of "employee" used throughout the legislation, however, there remains confusion as to the full extent of coverage provided to domestic workers under the Act.<sup>10</sup> However, the Human Rights Act explicitly excludes domestic workers from protections against employment discrimination on the basis of sex, religious belief, disability, age, political opinion, etc.

### B2 Fair Employment Process (3.99/10)

Under the Employment Relations Act 2000, all employees are required to have a signed, written contract of employment. These contracts must include information about the nature of the work, wages, and hours of work. However, the details about how wages are calculated also does not need to be specified in the contract. There is no information about living conditions that must be specified in the contracts of live-in domestic workers.

### B3 Decent Working and Living Conditions (5.77/10)

Under certain residence criteria, domestic workers are eligible for healthcare coverage under the Public Health and Disability Act 2000. They are eligible for employment injury benefits under the Accident Compensation Act 2001. They are eligible for old-age

<sup>10</sup> New Zealand Ministry of Business, Innovation, and Employment, "Employment Relations Act 2000", 2020: 6. [https://www.legislation.govt.nz/act/public/2000/0024/latest/DLM58619.html?search=sw\\_096be8ed81a33c7f\\_aaccommodations\\_25\\_se&p=1](https://www.legislation.govt.nz/act/public/2000/0024/latest/DLM58619.html?search=sw_096be8ed81a33c7f_aaccommodations_25_se&p=1)

benefits, under the New Zealand Superannuation and Retirement Income Act 2001. However, domestic workers have no protections regarding their standby or on-call work. Domestic workers (as engaged in “residential work”) are explicitly excluded from coverage in the Health and Safety at Work Act 2015. In addition, there are no minimum standards specified regarding the living conditions for live-in domestic workers.

#### **B4 Labor Rights (8.33/10)**

Domestic workers do have the right to establish their own organizations or join workers' organizations. They also have the right to collective bargaining. However, the Human Rights Act explicitly excludes domestic workers from protections against employment discrimination on the basis of their sex, religious or ethical belief, disability, age, political opinion, etc. Aside from these exclusions however, domestic workers are able to access complaint mechanisms and there are penalties for employers for non-compliance with domestic worker protections. Labor inspectors are only able to enter a private home where a domestic worker is employed if they have the express permission of the homeowner or a court-ordered warrant.

#### **B5 Protections for Forced/Under-age Domestic Workers (6.60/10)**

There are clear protections against forced work, as defined in the Crimes Act 1961 (Section 98) which prescribes a maximum of 14 years of imprisonment for perpetrators involved with the forced labor industry. There is less regulation around under-age domestic work, especially for workers between 16 and 18 years who do not have automatic opportunities for further education or vocational training while those younger do. Under-age domestic workers also have no protections against work that is excessively demanding.

#### **B6 Protections for Migrant Domestic Workers (-/10)**

New Zealand was not scored for this category because they do not offer visas specifically for migrant domestic workers.<sup>11</sup> Only the domestic staff of foreign diplomats in New Zealand are able to apply for a work visa and work in a domestic role, as a cook, nanny, etc. Other than that, domestic workers are not on the long-term or regional skill shortage lists making it

difficult for foreigners to secure visas to enter New Zealand in order to work as migrant domestic workers.

## **Policy-Practice Gap**

### **Lack of comprehensive national records and reporting on domestic work**

New Zealand lacks comprehensive data on the types of domestic workers, including migrant domestic workers, in the country. The country also lacks data on the extent and nature of domestic servitude. Without national records, it is difficult to measure the effectiveness of existing protections provided by national labor laws, because statistical evidence cannot be drawn. This lack of data begins with a narrow occupational definition that excludes many private domestic workers that work in an informal setting without contracts.

The Australian and New Zealand Standard Industrial Classification 2006 (ANZSIC06) classifies all industry types and figures associated with them, although there is no single encompassing category for domestic workers. The categories which include domestic workers are Residential Care Services and Social Assistance (QQ113), Personal Care, Funeral and Other Personal Services (RS212), and Private Households Employing Staff (RS215).<sup>12</sup> Because of the limited data this provides, there is weak analysis available on known cases of domestic servitude, and inconsistent reporting across government departments.

### **Unclear inclusion of domestic workers in national labor legislation**

The most comprehensive labor legislation in New Zealand is the Employment Relations Act 2000. Throughout the entire legislation, the Act refers to a worker as an “employee.” However, there continues to be ambiguity regarding the inclusion of all categories of domestic workers in this definition of “employee.” The types of domestic workers that are clearly included are those that work under a contract of service (i.e. not independent or self-employed contractors). Greater clarity is required from the government to confirm that domestic workers who work as self-employed contractors are also covered under the Employment Relations Act. The Minimum Wage Act 1983 and the Holidays Act 2003 both refer to the Employment Relations Act 2000 to define “employee”. Therefore, formal inclusion under the

<sup>11</sup> Immigration New Zealand, “Recorded Occupations of Work Visa principal applicants, by occupation standard and year of application decision”, December 03, 2020: 12. <https://www.immigration.govt.nz/documents/statistics/statistics-work-applications-approved-by-occupation>.

<sup>12</sup> Rachel Hyde, “Domestic Workers In New Zealand And The Implications Of International Labour Organization Convention No 189”, Faculty of Law, 2013: 7-8. <https://researcharchive.vuw.ac.nz/xmlui/bitstream/handle/10063/3346/thesis.pdf?sequence=2>.

Employment Relations Act will ensure that no category of domestic worker is denied the key protections prescribed by these other legislations as well.

This lack of coverage affects migrant domestic workers too. With an aging population in New Zealand, many migrant careworkers have been approved to enter the country to help look after aged or disabled clients, and some of this work may occur within a household setting. Prior to COVID-19, roughly 1,000 of such visa applications were approved each year.<sup>13</sup> It is therefore vital that the legal protections for domestic workers are clarified to ensure the security of migrant domestic workers as well.

- Detail what constitutes decent living conditions for live-in workers (B3.5)
- Increase accessibility for law enforcement to investigate “residential” workplaces (B4.3.1)

## Recommendations

### Family Caregiver Protections

- Provide eligible working women with extended maternity leave in the case of simultaneous multiple births (A1.5)
- Allow all categories of working women and men (including workers in informal employment) with guaranteed parental leave (A1.2, A3.2)
- Provide a universal right for employees with care responsibilities to request reduced working hours, flexitime, telecommuting, and consideration when assigning night-work (A5)
- Provide more comprehensive workplace safety protections for pregnant and nursing mothers (A6)

### Domestic Worker Protections

- Ratify and enforce ILO Convention No. 189
- Require greater clarity about wage calculations and other wage information to be included in domestic workers’ contracts (B2.1.4)
- Introduce regulations around how private employment agencies recruit and place domestic workers in private homes (B2.2.1)
- Require employers to provide domestic workers with a safe and healthy working environment (B3.1.5)
- Require overtime compensation rate of at 1.25 times domestic workers’ regular rate (B3.3.2)

<sup>13</sup> Immigration New Zealand. Recorded Occupations of Work Visa Principal Applicants, by occupation standard and year of application decision. <https://www.immigration.govt.nz/documents/statistics/statistics-work-applications-approved-by-occupation>.



## Global Care Policy Index

The Global Care Policy Index (GCPI) is a composite index that provides a single numerical assessment of a country's support for and protection of home-based caregivers and careworkers who do the important but often invisible work of caring for the young, old, disabled and infirm within the country.

Refer to the [GCPI website](#) for the index's methodology and New Zealand's Technical Report containing detailed index questions and score elaborations.

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[https://globalcarepolicy.common.yale-nus.edu.sg/country\\_profile/New\\_Zealand](https://globalcarepolicy.common.yale-nus.edu.sg/country_profile/New_Zealand).

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