



The \$200k Income Threshold: Market Response

The Employment Relations Amendment Act 2026 is now in force.

One of the key changes is a new income threshold that prevents employees earning \$200,000 or more (total remuneration) from bringing personal grievance claims relating to their dismissal.

There has been strong interest in how organisations intend to respond to these changes. To better understand the market response, we surveyed employer clients on their intended approach and key concerns.

Here's what we found:

54%

of employers undecided on approach for new employees

57%

of employers undecided on approach for existing employees

Nearly two in three employers who have decided (**62%**) intend to take advantage of the new laws for new hires, meaning those employees above the threshold must negotiate unjustified dismissal provisions themselves.

29%

of respondents intend that the new laws will apply to new employees above the threshold and they will not have the ability to pursue unjustified dismissal claims.

25%

of employers intend that existing employees will not have unjustified dismissal protections from 21 February 2027 when the 12 month transition period ends.



A small minority intend to opt back in to unjustified dismissal protections (**7%**) for both new and existing employees.



Only **4%** of employers indicated they would negotiate customised arrangements (i.e 'no fault' provisions and/or exist packages) for new employees, and **5%** for existing employees.

37%

of private sector employers will take advantage of the new laws for new hires

17%

of public sector employers will take advantage of the new laws for new hires

This can also be observed in relation to existing employees, with **31%** of the private sector intending for the threshold provisions to apply to existing employees, compared with **15%** of the public sector.

Many employers remain undecided on approach

The survey results show that the market response to the introduction of the income threshold is largely undecided.

Some organisations intend to take advantage of the new laws, with **29%** of respondents indicating that new high earning employees will not have unjustified dismissal protections, and **25%** indicating that existing employees will not have unjustified dismissal protections after the 12-month transitional period. Private sector respondents were more likely than public sector respondents to indicate they intend to rely on the new threshold settings for both new and existing employees.

However, more than half of employers reported that they have not yet decided how they will respond (**54%** being undecided in relation to new employees, and **57%** undecided in relation to existing employees).

Survey comments suggest that this uncertainty is driven, at least in part, by how the broader market is expected to respond. Many organisations appear to be adopting a 'wait and see' approach.

Approximately **7%** of respondents indicated that they would opt back in to unjustified dismissal protections for both new and existing employees over the threshold. Employers also have the option of negotiating customised arrangements, including 'no fault' termination provisions and/or exit packages, with only **4%** indicating that this is the approach they intended to take with new employees and **5%** for existing employees.

Other respondents commented on the administrative and practical challenges of the threshold being based on total remuneration rather than base salary, as well as concerns about how the income threshold provisions will be interpreted and applied by the Employment Relations Authority and the Employment Court, and ongoing political uncertainty, as discussed further below. These factors appear to be contributing to employers taking a cautious approach, pending greater clarity on how other employers will respond and the outcome of November's general election.



"We are waiting to see what major players in the market do before making and announcing a stance."

Survey respondent

Sector divide

The survey highlighted a split between the public and private sectors. More than a third (**37%**) of private sectors employers intend to take advantage of the new laws for new employees, compared with **17%** of public sector employers. This can also be observed in relation to existing employees, with **31%** of the private sector intending for the threshold provisions to apply to existing employees, compared with **15%** of the public sector.

A higher proportion of public sector employers indicated an intention to opt back into unjustified dismissal protections for all existing employees, with **12%** of public sector respondents indicating an intention to take this approach, compared with **6%** in the private sector.



Complexity of calculating total remuneration

Many employers raised practical difficulties with calculating total remuneration, particularly where pay includes variable components such as bonuses, commissions, overtime, or allowances. Respondents noted that these variable elements can cause employees to move in and out of the \$200,000 threshold, creating uncertainty and making it difficult to administer consistently in practice.

This complexity appears to be contributing to employer hesitancy about taking advantage of the new laws. As one respondent observed, it is *“not straightforward when bonuses and incentives apply year by year.”* Others highlighted the administrative difficulties, commenting that *“knowing when staff hit the \$200k mark is administratively complex,”* and that *“the bulk of affected staff achieve their \$200k via commission or bonus, which makes this extremely problematic.”*



Legal uncertainty

Legal uncertainty was also a prominent theme in the survey responses. Many employers expressed concern about how the income threshold provisions will be interpreted and applied in practice, and whether the removal of unjustified dismissal protections will, in fact, reduce legal risk.

Respondents noted the risk of other claims being brought, including claims based on discrimination, breach of contract, or health and safety obligations. Parallels were also drawn with earlier employment law reforms, such as the introduction of trial periods for all employers, where the apparent simplicity of the legislative change did not always translate into greater certainty or fewer disputes.



“There is a real risk of other claims and potential for business to misunderstand the scope of the legislative change.”

Survey respondent



“Limiting personal grievances for unjustified dismissal will just make employees and lawyers look at other avenues.”

Survey respondent

Feedback that the \$200,000 threshold is too low

A further observation among some respondents is that the \$200,000 threshold is set too low. A number of employers noted that because total remuneration is made up of incentives, allowances, or other forms of variable pay, the threshold captures a broader group of employees than intended, including employees who do not have executive influence or strong bargaining power.

As one respondent observed: “\$200k seems a low remuneration to apply this kind of provision to,” while another noted that: “the threshold is far too low and covers not only senior leaders and executives, but also individual contributors.” Others described the threshold as “an arbitrary decision that does not reflect bargaining power,” with one respondent stating simply that they “believe the threshold is significantly too low.”

Respondents also raised concerns about the potential impact on trust, engagement, and retention. One employer noted the challenge of “how we balance the opportunity the law presents with care for our people,” while another described a clear “misalignment with our values and equity principles.”



“The threshold is far too low and covers not only senior leaders and executives, but also individual contributors.”

Survey respondent



Potential repeal or amendment following the election

Finally, a number of employers indicated that political uncertainty is influencing their approach to the income threshold. Some respondents expressed concern that the provisions may be amended or repealed following a change of government, making it undesirable to make any long-term changes to employees terms and conditions of employment at this stage.

Respondents referred explicitly to the possibility of reversal, noting: “change of government and possible reversal,” and stating: “I expect the next Labour government would reverse these changes.” Others described treating the provisions as provisional, commenting that: “we are treating this as potentially temporary,” while one respondent summed up the sentiment succinctly: “I like it, but Labour won’t.” This anticipated uncertainty is reinforcing the, overall, cautious approach observed across the survey.

What does this mean for employers?

The survey results show there is no settled position on how the \$200,000 income threshold will be applied by most employers in practice. While some employers intend to take advantage of the default position under the new laws, many are still considering how to implement the changes in their organisation. Uncertainty around how total remuneration should be calculated, how the provisions will be interpreted by the Authority and the Courts, the risk of alternative claims, and concerns about culture, engagement and fairness are all influencing decision making. In the short term, this appears to be driving a wait and see approach, with employers continuing to monitor market practice, legal developments, and the political space.

Factors employers should be considering include:



- What approach will you take to new and existing employees?
 - Wait and see?
 - Case by case, the same for everyone or adopt your own criteria (eg. a higher threshold, base remuneration or categories of role/seniority)?
 - Do nothing and let the new laws take effect by default?
 - Opt back in to unjustified dismissal protections for some or all employees?
 - Negotiate customised arrangements (longer notice, exit payments/arrangements)



- Updates to employment agreement templates including any clauses that deal with termination processes or employment relationship problem resolution;



- Good faith obligations in negotiating employment agreements or variations, and at remuneration review/incentive payment time if an employee will move above the threshold;



- Internal processes and delegated authority to terminate employment of employees over the threshold;



- Recruitment, retention and employee engagement; and



- A cost/benefit analysis of negotiating customised exit arrangements/payments.

Methodology

We received **168** responses from private and public sector employer clients across a wide range of industries, including financial services, education, and healthcare. Over **41%** of respondents employ more than **500** staff in New Zealand, and more than a quarter operate internationally, providing a broad cross section of employer perspectives. Almost all respondents, **97%**, employ staff that are at or above the income threshold.

How we can help

The survey highlights that there is no single “right” approach. The appropriate response will depend on an organisation’s workforce composition, sector obligations, governance settings, and risk appetite. We are already supporting a range of public and private sector employers to assess their options, sense check market practice, update employment documentation and navigate the practical and employee/union relations implications of the new regime.

If you would like to discuss what the income threshold means for your organisation, please contact your usual Simpson Grierson adviser.

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