

New Zealand Government reform Employment Relations Act

January 2018

On 25 January 2018 Workplace Relations and Safety Minister Iain Lees-Galloway announced a new Bill to amend the Employment Relations Act 2000, enacting the Labour-led Government's 100-day commitments for workplace relations.

The Bill is designed to increase protections for workers and reinforce the role of collective bargaining in the industrial relations system to improve wages and conditions. The Bill contains reversals of the previous National Government's employment reforms, as well as new proposals.

Significantly, the Government has softened its approach to 90-day trial periods. These will now be limited to businesses with fewer than 20 employees.

The Bill will be introduced to the House of Representatives in February 2018 and there will be an opportunity to submit on the legislation at select committee.

The reforms announced today are part of a suite of industrial relations measures from the Ardern Government, including its intention to pass Equal Pay legislation, lift the minimum wage to \$20 by 1 April 2021, and create a framework for Fair Pay Agreements.

The design of Fair Pay Agreements and other larger, more structural changes to workplace relations will be worked through over the next twelve months. Minister Lees-Galloway has stated he intends to undertake extensive consultation with business and unions in the development of these reforms.

New proposals

- A requirement to include pay rates in collective agreements, based on recent case law. Pay rates may include pay ranges or methods of calculation.
- A requirement for employers to provide reasonable paid time for union delegates to represent other workers (for example in collective bargaining negotiations).
- A requirement for employers to pass on information about unions in the workplace to prospective employees along with a form for the employee to indicate whether they want to become a union member.
- Greater protections against discrimination for union members including an extension of the 12-month threshold to 18 months relating to discrimination based on union activities and new protections against discrimination on the basis of being a union member.

Rights for employees

- Restoration of statutory rest and meal breaks. These will be subject to a limited exception for workers in essential services who cannot be replaced (e.g. air traffic controllers).
- Restriction of 90-day trial periods to SME employers (fewer than 20 employees). Large businesses may use probationary periods but will need to follow a fair dismissal process.
- Reinstatement will be restored as the primary remedy to unfair dismissal.
- Further protections for employees in 'vulnerable industries' (Part 6A). These changes repeal the SME exemption from coverage, provide additional time for employees to decide whether to transfer to a new employer, and provide increased safeguards on transfer of inaccurate information.



Collective bargaining and union rights

- Restoration of the duty to conclude bargaining unless there is a good reason not to. This is complemented by repeal of the process to have bargaining declared over.
- Restore the previous provision for unions to initiate bargaining up to 20 days before employers.
- Removal of the MECA opt-out whereby employers can refuse to bargain for a multi-employer collective agreement.
- Restoration of the 30-day rule where for the first 30 days new employees must be employed under terms consistent with the collective agreement to allow them to decide whether to join a union.
- Repeal of partial strike pay deductions where employers can deduct wages for low level industrial action, for example a breach of uniform regulations.
- Restoration of union access without prior employer consent. Union access will still be subject to requirements to access at reasonable times, giving regard to business continuity, health and safety.

Further information

Hawker Britton's Occasional Paper on NZ Labour's election policies is available [here](#).

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