



EMPLOYMENT LAW REFORM – FINALLY HAPPENING

PRESENTATION TO REGISTERED MASTER BUILDERS ASSOCIATION
CONSTRUCTIVE, SEPTEMBER 2025

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EMPLOYMENT RELATIONS AMENDMENT BILL

- Providing greater certainty for contracting parties
- Strengthening consideration of and accountability for employee's behaviour in personal grievance process
- Wages and salary threshold for unjustified dismissal personal grievances
- Revocation of 30-day rule and reinstatement of related information requirements from 2015–19 period

CONTRACTING PARTIES

Contracting – a convenient arrangement /mutually beneficial

Worker

- Claim expenses against business
- Higher rate of payment
- No concerns if comes to an end.

Business

- Greater flexibility
- Less admin
- No paid leave

However

Section 6 Employment Relations Act

- Court/Authority must determine the “*real nature*” of the relationship
- Must consider “*all relevant matters*”
- Statements describing relationship nature are not determining factors

AMENDMENTS WOULD CREATE A CATEGORY OF SPECIFIED CONTRACTOR WHO WOULD BE EXCLUDED FROM DEFINITION OF EMPLOYEE

Requirements:

- Written agreement specifying person is independent contractor
- No restriction on performing work for any other person (except while performing work for engager)
- Arrangement does not terminate if Person declines additional work
- Reasonable opportunity to seek independent advice before entering contract
- **Either:** Specified Contractor
 - Not required to perform work at specified time or day or for minimum period; **OR**
 - Is allowed to subcontract the work – with vetting only to ensure compliance with statutory requirements.

MAXIMUM THRESHOLD FOR BRINGING PERSONAL GRIEVANCE

- Employee may not bring a personal grievance *in respect of dismissal* if salary or annual wages exceed **\$180,000***
 - Not including bonuses, overtime, penal rates, employer superannuation contributions etc
 - Threshold to increase annually in accordance with average earnings in Quarterly Employment Survey
- Employee and Employer **may agree** that threshold provision will not apply
- Does not apply for up to 12 months after amendment comes into force – **unless** employer and employee **agree**
- Expectation is that parties will agree new terms eg no threshold; higher remuneration; longer notice periods.

REMEDIES WHERE A PERSONAL GRIEVANCE HAS BEEN ESTABLISHED

Currently Authority/Court, in deciding remedies, must:

- Consider extent to which employee contributed to situation giving rise to grievance; and
- Reduce remedies that would otherwise have been awarded.

Under the Bill -

- **No** remedies to be awarded if actions of employee amount to **serious misconduct**
- If **any** employee contribution, remedies limited to lost wages ie no reinstatement; compensation for hurt, humiliation etc or lost benefits
- Remedies may be reduced by up to **100%**

NEW NON-UNION EMPLOYEES WHERE EMPLOYER IS PARTY TO A COLLECTIVE EMPLOYMENT AGREEMENT

Currently

- Collective applies for first 30 days of employment
- Employer must share new employee information with union
- After 30 days, collective applies unless employer and employee agree variation

Under the Bill

- Employer must inform the new employee about the collective agreement; provide a copy;
- Inform the union *if the employee agrees*.

OTHER AREAS TO WATCH

Holidays Act

Minister has directed change to course of reform advanced by previous government. Intends to have new legislation passed in current Parliamentary term.

Topics for attention include:

- Moving from entitlement system to accrual system for annual holidays
- Pro-rating sick leave entitlements
- Easier calculations for rates of paid leave
- Pay-as-you-go holiday pay

Health and Safety at Work Act

Smaller business required to manage only critical risks

Clarifying extent of landowners responsibility



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PRESENTED BY MICHAEL LEGGAT, BARRISTER & SOLICITOR, WELLINGTON

By arrangement with Registered Master Builders, Michael provides free initial consultations to members on employment and related workplace matters.

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For further details for members:
<https://www.masterbuilder.org.nz/Offsite/Resources/Benefits/Offsite/My-Benefits.aspx#>