

Employment Law Reforms Announced

The Government has announced its first tranche of employment law reforms.

The Bill will be introduced to the House on Monday 29 January 2018, and its first reading is expected to take place on Thursday 1 February 2018.

90 day trial periods

The Government has signalled changes to the 90 day trial period legislation, which differ from the measures under Labour's election policy.

The Government's Bill will return the law to the pre-2010 position. The 90 day trial provisions will be available only to businesses with fewer than 20 employees. This will mean that 70% of employees in New Zealand will be exempt from the application of trial periods, but 95% of all businesses will still be able to use them given the large number of small employers in New Zealand.

Probationary periods will remain available to all employers.

The Government has indicated that it will undertake further research into 90 day trial periods and close monitoring of their use.

Other measures

Rest and meal breaks will be guaranteed to most employees, in a return to more prescriptive guidelines akin to those that existed in 2015. However, limited exceptions will exist where it is not practicable for workers to take breaks simultaneously.

The Government has also stated that it will provide guaranteed pay and conditions for vulnerable workers in the event of a change of employer. However, details as to exactly how the new amendments will differ from the current protections are as yet unknown.

Unions and collective bargaining

Under the new laws, employers will be required to provide information about unions to prospective employees, new employees will be entitled to the same terms of employment as workers on a collective agreement in their first 30 days, and there will be greater protections against discrimination on the basis of union membership.

The changes will also cover union access, permitting reasonable access without gaining prior consent and ensuring what the Government has described as "reasonable time" in a workplace to conduct its duties.

The changes will reintroduce the duty to conclude collective bargaining, unless there is a good reason preventing the parties from doing so. There will also be a requirement to include pay rates in collective agreements. Employers will not be permitted to opt out of multi-employer collective agreements.

The changes will enable workers to engage in low-level industrial action without the threat of pay deductions.

Longer term changes

Reforms around the ability of film and television workers to engage in collective bargaining (otherwise known as the "Hobbit Law"), automatic passing on of terms of employment to non-union members, the rights of foreign workers in New Zealand, and "fair pay" laws have been placed on a longer timeframe by the Government, with progress expected over the coming 12 months.

If you would like advice on any of the above please do not hesitate to contact Simon Lapthorne, Partner, lapthorne@ktc.co.nz, +64 9 366 5161, or Hannah King, Solicitor, king@ktc.co.nz, +64 9 366 5112.