

## EMPLOYMENT RELATIONS AMENDMENT ACT 2018

### CHANGES TAKING PLACE WITH EFFECT ON 6<sup>TH</sup> MAY 2019

#### **1. Rest and Meal Breaks**

The right to set rest and meal breaks will be restored, the number and duration of which depends on the hours worked. For example, an eight hour work day must include two 10 minute rest breaks and one 30 minute meal break, while a four-hour work day must include one 10 minute rest break.

Rest breaks benefit workplaces by helping employees work safely and productively. Employers must pay for minimum rest breaks but don't have to pay for minimum meal breaks. Employers and employees will agree when to take their breaks. If they cannot agree, the law will require the breaks to be in the middle of the work period, so long as it's reasonable and practicable to do so.

Some limited exemptions may apply for employers in specified essential services or national security services.

#### **2. 90 Day Trial Periods**

90-day trial periods will be restricted to businesses with less than 20 employees.

Businesses with 20 or more employees can continue to use probationary periods to assess an employee's skills against the role's responsibilities. A probationary period lays out a fair process for managing performance issues and ending employment if the issues aren't resolved.

#### **3. Protections for Vulnerable Workers**

Employees in specified 'vulnerable industries' (such as those in the cleaning and catering industries) will be able to transfer on their current terms and conditions in their employment agreement if their work is restructured or transferred to a new employer, regardless of the size of their employer.

Changes also include a longer notice period for employees to elect to transfer to the new employer; this notice period is a minimum of 10 working days.

#### **4. Collective Bargaining and Union Rights**

The duty to conclude bargaining will be restored for single-employer collective bargaining, unless there are genuine reasons based on reasonable grounds not to. This ensures that parties genuinely attempt to reach an agreement.

The 30-day rule will be restored. This means that for the first 30 days, new employees must be employed under terms consistent with the collective agreement. The employer and employee may agree more favourable terms than the collective.

Pay rates will need to be included in collective agreements, along with an indication of how the rate of wages or salary payable may increase over the agreement's term.

Employers will need to provide new employees with an approved 'active choice form' within the first ten days of employment and return it to the applicable union, unless the employee objects. This form will be available for download from [www.employment.govt.nz](http://www.employment.govt.nz) from 06 May 2019.

Employers will need to allow for reasonable paid time for union delegates to undertake their union activities, such as representing employees in collective bargaining. Employees will need to agree with their employer to

do so or, at a minimum, notify them in advance. An employer will be able to deny the request if it will unreasonably disrupt the business or the performance of the employee's duties.

Employers will need to pass on information about the role and function of unions to prospective employees. Unions must bear the costs if they want printed materials to be passed on.