Keeping up with employment laws

LEGAL MATTERS

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Parliament has recently passed a series of changes to our employment laws.

They are often quite detailed and technical, but in general terms the changes are:

- Flexible working requests will be able to be made by all employees, not just those caring for others, and can be made more than once per year. Employers will need to respond in one month instead of three months.
- Vulnerable (protected) workers (usually catering and cleaning workers) will not be able to automatically transfer to a new employer if the new employer (and associated entities) employs 19 or fewer employees.
- If employees do transfer, the old and new employers must agree on liability for holiday, sick and bereavement leave and the law fixes an apportionment if the employers do not agree.
- New employers taking on employees in protected employment will be able to obtain information from the old employer about employees' leave entitlements, employment agreements, wage and time records and personnel files.
- Some information provided to employers as part of an interview process for selections, promotions etc will no longer have to be provided to employees. The excluded information is about other people or is evaluation material or opinion relating to an employee's continued employment, or is about the identity of the person who supplied the information.
- Rest and meal breaks will become more flexible and negotiations with employees allowed.

Timing of rest breaks can now suit the business needs for service or production. Breaks can also be restricted where the nature of the work makes that necessary. Rest breaks negotiated must still comply with the Act and be paid.

- Collective bargaining no longer has to result in an agreement. Currently bargaining has to continue until agreement is reached. Employers can now opt out of multi-party bargaining.
- Employers will be able to reduce employees' pay during partial strikes.
- Employers will be able to negotiate employment terms with new employees who are not union members, rather than having to initially apply the collective agreement.
- The Employment Relations Authority will now have to give its decision at the conclusion of the hearing, with a written decision within three months. Alternatively the authority can provide an indication of its findings on the day, subject to any additional evidence. A written decision within three months is still required.

The new law is yet to be given the Royal Assent (signed by the Governor-General) and will come into effect four months after that happens.

How all these changes work in practice will remain to be seen and are likely to be subject to testing in the Employment Relations Authority and Employment Court.

- Column courtesy of Rainey Collins Lawyers, phone 0800 733484. If you have an inquiry, email aknowsley@raineycollins.co.nz.