

Guide to Labour's Employment Relations Amendment bill

The very first sentence of Labour's new law makes it clear unions are the winners. It says, "...a suite of changes to promote and strengthen collective bargaining and union rights in the workplace."

Labour goes on to admit this law is to strengthen "union rights" for "union members". It totally ignores the vast majority (82.3%) of workers who do not belong to a union.

90-day trial periods

Clause 29 on pages 14.

This large change, eliminating 90-day trial periods for all firms except small businesses, is a single paragraph. It restricts the 90-day trial periods only to businesses with fewer than 20 employees. Note the definition is "20 employees", regardless of whether full-time or not.

This means an employer with a small number of staff may decide to hire more full-time workers, and not give part-time opportunities to students or mothers returning to the workforce because they want to keep under the 20 employees cap.

Rest and meal breaks

Clauses 35 to 37 on pages 21 to 26.

These changes are spread over pages 21 to 26 with most of the detail dealing with how long an employees' work day is. Many workers might be able to take their breaks at times that suit them. However, if there is no agreement, the law then sets specific times when breaks must be taken. This gives businesses no flexibility to move breaks around if they need to. For example, the weather might change, it could be rush-hour for a café, or a delivery truck might arrive requiring unpacking.

Employees transferring to replaced contractors

Clauses 30 to 34 on pages 14 to 21.

Labour is removing the exemption for small and medium sized businesses from the requirement for employees of contractors to be allowed to transfer. How this works is if an office building uses a contractor to do their cleaning, and then decides to replace that cleaning contractor with a new one, employees of the old contractor have the option of joining the new contractor.

Small businesses under 20 staff were exempt because of the burden and disruption to their business of being forced to take on new staff they were not expecting, or even know anything about. Labour are removing that exemption for small businesses which potentially damages small businesses, or makes them reluctant to grow and take on new work.

Concluding bargaining

Clauses 9 to 11 on page 6, and clause 14 on page 7, and clause 28 on page 14.

The new law imposes extra requirements on businesses, in order to advantage unions, when negotiating agreements. The existing law already ensures that businesses must negotiate new agreements in good faith. These new requirements include forcing workers to pay money to a union, even if they do not want to – this is contained in clause 33(2)(b) on page 6.

Forcing businesses into contracts across an industry

Clause 13 on page 20.

Labour will force businesses into negotiating the same employment contracts across multiple companies in an industry, if that is what the union wants. This means, for example, an employer cannot innovate by offering their workers extra rewards for doing new things in order to be more efficient than their competitors.

In the end, it will be families who pay the price for these changes through higher prices for the stuff they buy, lower pay packets due to poor productivity, or not having new goods or services to buy that they want.

Forcing businesses to help unions recruit new members

Clauses 17 to 20 on pages 8 to 12.

Whenever a new employee joins a company that has a collective agreement, the new employee must be treated as a union member for the first month, even if they are not.

This even means the new employee's details must be given to the union so they can try to recruit them – unless the employee specifically objects.

Finally, unions can require businesses to hand-out promotional material about the union to new staff.

All these changes are designed by Labour to ensure unions can try and recruit new employees. This is an important issue for them because overall union membership has fallen dramatically over the last few decades.

Partial strikes on full-pay

Clauses 21 to 23 on page 13, and clause 41 on page 26.

Employers will be forced to pay the full salary or wages to someone, even if they have broken their employment agreement and are on a partial strike. Again, the purpose of this is to give unions an advantage when dealing with businesses by allowing them to disrupt the business without any cost to the unions.

Union access to workplaces whenever they want

Clauses 5 to 8 on pages 5 to 6.

Unions already have very easy access to workplaces to meet with their members at work. Currently, unions must let employers know in advance they are coming, so businesses can deal with issues like health and safety in a factory for example. Yet Labour think even this easy access is too hard, so are taking away the notice given to employers.

Employers must now pay union members for doing union work

Clause 4 on page 5.

Labour have inserted a new piece into the law requiring employers to pay their staff who have taken time out of the business to work on union issues. This might be for only a few hours at a time, but it all adds up.