



DYHRBERG DRAYTON
EMPLOYMENT LAW

What's New Update

November 2012

Labour Minister steps down

Hon Kate Wilkinson resigned as Labour Minister effective 5 November 2012, following the release of the report from the Royal Commission on the Pike River Coal Mine tragedy. Ms Wilkinson said *'The Pike River Mine tragedy of 19 November 2010 happened on my watch as Minister of Labour'*. She said resigning her position as Minister of Labour was *'the right and honorable thing to do'*. Hon Chris Finlayson has been appointed by Prime Minister John Key as acting Minister of Labour. Ms Wilkinson retains her Ministerial warrant and other portfolios.

Proposed Labour Law Changes

Cabinet has agreed to further improvements to the Employment Relations Act 2000, including changes to Part 6A that deals with the cleaning, catering, orderly, and laundry industries. The object of Part 6A is to provide continuity of employment for employees in specific industries when a business is restructured or sold. The proposed changes come in the wake of a review of Part 6A which found there were significant operational issues around transferring employees' entitlements and information to the new employer. In particular, the review found small and medium sized businesses faced proportional/greater costs to adhere to the requirements of Part 6A. The changes (as well as those announced in May) will be reflected in a new Bill to amend the Employment Relations Act 2000, planned to go before Parliament later this year. The changes to Part 6A include:

- A requirement for the outgoing employer to forward employees' information to the incoming employer, such as employment agreements, PAYE, wage and time records, or leave records;
- A process to help the employers agree how to apportion liabilities for accrued service-related entitlements of employees who are transferring their employment to the new employer;
- A requirement that employees must decide to transfer to a new employer within five working days (or a longer timeframe if agreed between the outgoing employer and incoming employer);

- Incoming employers with fewer than 20 employees will be exempt from the provisions of Part 6A; and
- Additional penalties and compliance orders for non-compliance with Part 6A, and provision for litigation in the District Court.

Other changes include:

- Good faith bargaining will **not** require the parties to agree a collective employment agreement;
- Employers will be able to deduct the pay of workers carrying out partial strikes;
- Unions must give all employers advance written notice of the intention to strike;
- Employers will be able to opt out of multi-employer bargaining;
- Removing the 30-day rule that provides new workers are covered by the terms of a collective agreement for the first 30 days of their employment;
- Empowering the Employment Relations Authority to declare in certain circumstances that collective bargaining has ended;
- Changes around the disclosure of personal information following Employment Court judgments involving Massey University; and
- All workers will be able to ask for flexible work arrangements, and without having to wait until they have been employed for six months.

The changes are being promoted as a package to create more flexible working conditions for workers, improve efficiencies and make arrangements fairer for both workers and employers (in particular small to medium size businesses).

Christmas shut-down

Our office will be closed from Monday, 24 December 2012, reopening on Monday, 14 January 2013.