



ISSUE

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a regular newsletter for clients of
mcphail gibson & zwart ltd

General Election 2023: What's on the cards for employment law

Client Services:

- General advice in relation to all employee-related issues
- Resolving Personal Grievances and Workplace Disputes
- Employment Agreements - drafting and negotiation
- Employment Relations Authority/Employment Court and Mediation Representation
- Employment Relations Strategies
- Training
- Monthly newsletter

With the New Zealand General Election 2023 on Saturday 14 October 2023 fast approaching, in this issue of The Advocate, we have looked into the various parties' policies in respect of employment law and reflected on the changes we have seen over the past three years of Government. Of course, the parties are set out in alphabetical order to maintain our neutrality and avoid any view of bias.

Over the past three years we have seen some substantial developments in employment law through the Courts, and a number of changes to employment legislation. These changes to legislation include:

- Increasing sick leave to 10 days;
- Providing for an entitlement to bereavement leave on the miscarriage or stillbirth of a child;
- Extending the timeframe for raising a personal grievance in respect of sexual harassment from 90 days to 12 months from the date the event giving rise to the grievance occurred;
- Introduction of Fair Pay Agreements—allowing entire industries to bargain for minimum terms and conditions of employment;
- Introduction of the new public holiday to celebrate Matariki;
- COVID-19: Including financial support for businesses, required isolation periods, and mandatory orders to require certain people working in particular roles to be vaccinated against COVID-19;
- A new Privacy Act 2020, replacing the Privacy Act 1993;

- A new Protected Disclosures (Protection of Whistleblowers) Act 2022, replacing the Protected Disclosures Act 2000; and
- Including security guards as “*vulnerable employees*” for the purposes of Part 6A of the Employment Relations Act 2000.

Act New Zealand



- Excluding independent contractor from the definition of “*employee*” under the Employment Relations Act 2000, provided the contracting relationship meets specified criteria;
- Removing one of the public holidays (for example, 2 January), bringing the total number of public holidays down to 11;
- Enforcing a requirement that the Employment Relations Authority deliver its written determination within one month of the investigation meeting;
- Removing eligibility for remedies if an employee's behaviour contributed to the personal grievance for unjustifiable disadvantage or unjustifiable dismissal; and
- Removing the ability for the Employment Relations Authority to unilaterally reinstate an employee.

Similar to the National Party, Act are also committed to the following policies:

- Repealing Fair Pay Agreements legislation;
- Reversing the proposed income insurance policy;
- Removing restrictions on 90-day trial periods.

Disclaimer:

This newsletter is not intended as legal advice but is intended to alert you to current issues of interest. If you require further information or advice regarding matters covered or any other employment law matters, please contact **Dean Kilpatrick, Jane Taylor, Deborah Hendry or Jane Jarman.**

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Green Party of Aotearoa New Zealand



- Expanding Fair Pay Agreements to cover independent contractors and to allow for independent contractors to join collective bargaining;
- Giving greater access rights for unions to worksites, including promoting union membership to non-members at key times such as shortly after beginning employment, or before and during collective agreement negotiations;
- Moving to default union membership when people start a new job (i.e. making union membership opt-out rather than opt-in);
- Increasing paid parental leave to a liveable income for a total of 15 months, and allowing parental leave to be used at the same time by both parents in the first three months after a child is born;
- Progressively increasing paid annual leave from four to five weeks;
- Guaranteeing minimum wage increases that are at least in line with inflation;
- Providing all employees with a right to redundancy pay, and ensuring progress on Labour's income insurance policy; and
- Legislating a right to solidarity strikes and political strikes.

New Zealand Labour Party



- Delivering Fair Pay Agreements and growing wages ahead of inflation;
- Establishing tripartite forums for unions, businesses and Government to work on Fair Pay Agreements, the statutory minimum wage, pay transparency, and their Industry Transformation Plans;
- Introducing a legislative definition of "employee" and "independent contractor";
- Mandatory gender pay gap public reporting for large employers;
- Holidays Act 2003 changes: The Holidays Taskforce prepared a final report in 2019, which the government committed to implementing in full at the time. Some amendments have already been implemented (including increasing sick leave to 10 days and providing for bereavement leave on the stillbirth or miscarriage of a child). The remainder of the changes will require a bill to be drafted and introduced to Parliament. The government has now confirmed a bill will not be introduced before the election.

Changes include expanding the circumstances where an employee may take bereavement leave, providing for sick leave from commencement of employment, further defining the meaning of an "otherwise working day", and changing the calculations for leave entitlements; and

- Employment Relations (Restraint of Trade) Amendment Bill: The Bill is currently working its way through Parliament and is currently open for submissions before going through the select committee phase.

New Zealand National Party



- Repeal Fair Pay Agreements legislation;
- Reverse the proposed income insurance policy;
- Remove restrictions on 90-day trial periods;
- Flexible use of paid parental leave: allowing parents to divide their paid parental leave between them (by taking it at the same time, one after the other or in overlapping instalments).

Te Pāti Māori



- Immediately raising the minimum wage to \$25/hour and legislating for an annual increase to the minimum wage to keep up with cost of living increases;
- Guaranteeing pay equity for Māori nurses and teachers;
- Removing the starting-out and youth minimum wage rates;
- Legislating to allow for multi-employer collective bargaining;
- Legislating for collective bargaining to cover independent contractors.

The Opportunities Party and New Zealand First do not appear to have any employment related policies at the time of publication.

