

EMPLOYMENT LAW CHANGES

This article first appeared in Issue 3 Channel Magazine - September 2010

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Further employment law changes are on the horizon... again. The much anticipated results of the National Government's review of both the Holidays Act 2003 and the Personal Grievance regime in the Employment Relations Act 2000 were announced by the Minister of Labour, Kate Wilkinson, on 18 July 2010.

Employer's benefits

From an Employer's perspective the changes look set to simplify matters. The Government plans to extend the ability to employ an employee on a 90 day trial period to all employers, rather than just those with less than 20 employees. Those employees employed on a 90 day trial period who don't quite 'fit the bill' can be dismissed without justification during that 90 days as the employee will be prohibited from bringing a personal grievance for unjustified dismissal.

Employers should also benefit from changes designed to make calculating payment for sick leave, bereavement leave, public holidays and alternative holidays much easier for those employees whose hours of work are irregular. It should soon be as simple as averaging gross earnings for the preceding 52 weeks or whatever lesser period the employee has been with the employer.

The 'mental health day' could soon be a thing of the past if the Minister of Labour has her way. Employers may soon be able to request proof of sickness or injury from an employee who is sick or injured for less than the current 3 consecutive days provided the employer foots the bill.

The disciplinary procedure process also looks set to be simplified with the implementation of a Code of Employment Practice Around Disciplinary and Dismissal Procedures. The intent is a move away from the "pedantic scrutiny" approach to investigating an employer's process. As a result, one of the most significant changes of the review may be the focus on the merits of the employer's decision rather than on complete procedural correctness.

Employee's benefits

Employees are not forgotten in the Minister of Labour's proposal. Those employees who do not want their full four week entitlement to annual leave may be able to request that some of their holidays are exchanged for cash. According to the Labour Minister, employers will not be able to pressure employees to exchange holidays for cash, but can decline a request.

Employees should also benefit from increased penalties for breach of obligations under the Employment Relations Act or Holidays Act. The maximum threshold for penalties for breaches is set to double from \$5,000 to \$10,000 for an individual, and from \$10,000 to \$20,000 if the employer is a company or other body corporate.

Remember, ignorance of the law is no excuse ... so watch this space!