

Short-Form Departmental Disclosure Statement

Employment Relations Amendment Bill

A short form disclosure statement for proposed government amendments to a Bill seeks to bring together in one place some selected information to support and enhance the Parliamentary and public scrutiny of those proposed amendments.

It highlights certain significant powers or features in the proposed amendments that might be of particular Parliamentary or public interest and warrant an explanation.

There was no original disclosure statement for this Bill.

This disclosure statement was prepared by the Ministry of Business, Innovation and Employment.

The Ministry of Business, Innovation and Employment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

21 October 2014

Significant Legislative Features

Offences, penalties and court jurisdictions

1. Do the proposed amendments create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalties)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	YES
<p><i>Clause 12A (new section 50KA) and clause 61 (new section 174C(1A)) of the Employment Relations Amendment Bill amend the jurisdiction of the Employment Relations Authority (the Authority). New section 50KA moderates the Authority's ability to issue a declaration or determination that bargaining is over. New section 174C(1A) provides that if the Authority reserves its determination of a matter, it may require the provision of further information or evidence from the parties before it provides a written determination.</i></p> <p><i>Clause 32 (new section 69G(1) and 69G(7)) of the Employment Relations Amendment Bill introduces two new timeframes into the election process. The introduction of specific timeframes will give the Authority the ability to penalise certain parties where the timeframes are not complied with.</i></p>	

1.1. Was the Ministry of Justice consulted about these provisions?	YES
<p><i>The jurisdiction of the Employment Relations Authority in relation to issuing a declaration or determination that bargaining is over was discussed and considered during the Bill process with the Ministry of Justice.</i></p> <p><i>The introduction of further timeframes into the election process in clause 32 (new section 69G(1) and 69G(7)) of the Employment Relations Amendment Bill was consulted on by the Ministry of Justice, who did not raise any issues.</i></p>	

Privacy issues

2. Do the proposed amendments create, amend, or remove any provisions relating to the collection storage, access to, correction of, use or disclosure of personal information?	YES
<p><i>The SOP makes minor and technical amendments to employee transfer costs information provisions in the Bill.</i></p> <p><i>In clause 39, new section 69OB(1) amends the definition of individualised employee information, replacing the word "wage" with "wages"; this is a minor and technical change.</i></p> <p><i>In clause 40A, new section 69OD(6)(a)(ii) and (b)(ii), a subsection reference is updated from section 69OC(5) to section 69OC(3C). This is a minor and technical change with no substantive effect.</i></p>	

Compulsory acquisition of private property

3. Do the proposed amendments contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4. Do the proposed amendments create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the burden of proof for offences

6. Do the proposed amendments:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

7. Do the proposed amendments create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

8. Do the proposed amendments create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

9. Do the proposed amendments create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO

10. Do the proposed amendments create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

11. Do the proposed amendments contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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