

What might the election results mean for employment law?

The general election results are in, but with special votes outstanding, we are still waiting to see which party(s) will form New Zealand's next Government. With how the votes currently stand, we thought it timely to take a look at some of the employment law changes National and Act have proposed.

90-day trial periods

Currently, an employer with fewer than 20 employees can lawfully include a provision in an employee's employment agreement that allows them to dismiss the employee within the first 90 days without having to establish good cause or work through a full process. An employee lawfully dismissed under this provision cannot bring a personal grievance in respect of the dismissal.

National and Act have both signaled they will reintroduce the ability for **all** businesses, regardless of how many employees they have, to utilise the 90-day trial period. National listed this in their "100 Day Action Plan", so we would expect to see this legislation come in rather quickly.

Fair Pay Agreements

National and Act have also both indicated they would repeal the Fair Pay Agreements Act. There are applications currently going through the process, with at least 5 industries bargaining, however none have been concluded as of yet. If National and Act were to form a coalition and repeal the legislation as quickly as they have signaled, it may be gone before any agreements are finalised.

Employment Relations Authority

Act have also said they intend to target the Employment Relations Authority (**Authority**) by:

- Requiring Authority members to release a determination within one month of an investigation hearing (as opposed to the three-month current timeframe).
- Firing any Authority members who do not meet that deadline.
- Preventing the Authority from unilaterally reinstating a dismissed employee and instead, leaving it to the employer to decide whether the employee will be reinstated.
- Removing the eligibility for remedies if the employee's behaviour contributed to the personal grievance.

Sick leave

In 2021, a Labour-led government increased employees minimum sick leave entitlement from five to 10 days per year. National have said they have no plans to change this, whereas Act have said they would reverse it.

Independent Contractors

Act have also said they intend to address the legal issues surrounding employee vs contractor. As a result, Act have said they would amend the Employment Relations Act so that contractors who have explicitly signed up for a contracting arrangement can't challenge their employment status. They would require the contract between the parties to meet certain minimum standards that protect workers' freedom to contract.

We will continue to keep you updated as the Government is formed.

Want to know more?

If you have any questions about the proposed changes, please contact our specialist [Employment Team](#).