

Employment law changes in the offing

Before the election we reviewed the major parties' campaign promises, and now the hot topic in employment law is which of those promises Labour will keep.

It's widely expected that Labour will continue to increase wages in broad sweeps, through –

- Minimum Wage Orders
- Extension of the Living Wage to Government suppliers
- The extension of employee benefits to dependent contractors
- Fair Pay Agreements
- Pay Equity legislation.

Minimum Wage

The Labour Government has raised the minimum wage for the past three years. The next increase is expected on 1 April 2021, from the current \$18.90 per hour to \$20 an hour.

The Living Wage

The public sector has already adopted the living wage of \$22.10 per hour and Government now intends forcing contractors who provide cleaning, catering and security services to the government, to do the same.

Labour's Election Manifesto seems to hedge this on COVID-19, when it says it "will extend Living Wage guarantees to workers who the government pays via contractors in priority industries such as cleaning, catering and security guards, and then further as the COVID-19 recovery allows."

More Sick Leave

Sick leave is expected to increase from the present minimum entitlement of five days per year to ten – 100 percent. As all employees, casual, part time or permanent, and soon, dependent contractors, are affected, it will be interesting to see whether this contributes to the Government's aim of improving productivity.

Dependent Contractor Benefits

The Government sees dependent contractors as vulnerable and in need of protection. The objective is to make them entitled to the same benefits as employees are entitled to by law, like public holidays and annual, sick, bereavement and family violence leave.

In some forums there is reference to contractors being entitled to all the minimum employment standards, but that is not always clear.

Pay Equity and Fair Pay Agreements

Earlier this year the Equal Pay Amendment Act 2020 was passed, with a new Part 4, which sets out an improved process for raising pay equity claims and to eliminate and prevent discrimination on the basis of sex.

Fair Pay Agreements are intended to set fair, basic employment conditions across entire industries. Once bargained between a particular union(s) and employer(s), the intention is that it will become a legal requirement in that sector.

Comment - productivity

These developments in employment law bring to mind a New Zealand Productivity Commission [report](#) with the following bleak observation in the section headed The Challenge for Policymakers (page 52) -

“The Challenge for Policymakers

Since then (2011), successive inquiries by the New Zealand Productivity Commission have identified serious weakness in policymaking and regulatory governance. As such, successfully responding to the challenge of improving New Zealand’s long run productivity performance will require significant capability improvements within the public sector.

Another obvious way in which government can contribute to higher aggregate productivity is by lifting its own performance. In its inquiry into state sector productivity, the Productivity Commission identifies examples of extremely poor productivity growth within the public sector.”

And in the report’s Conclusion (page 60) –

“Conclusion

Of course, getting workers into jobs is important in improving well-being and testament to the benefits of New Zealand’s flexible labour market. However, New Zealand cannot continue to rely on strong labour market growth as a predominant driver of economic growth.

First, with constraints on investment, ongoing strong employment growth works against capital deepening and labour productivity improvements.

Second, because productivity growth is the key driver of higher wages, a strong reliance on employment growth runs the risk of creating many low-productivity jobs that are not well remunerated.

As such, New Zealand’s key economic challenge is to move from a growth strategy based on labour absorption to one in which productivity improvements play a much bigger role.”

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