

Employment Relations Amendment Bill 2025: Key Changes at a Glance

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Introduction

The Government has introduced long-signalled reforms to employment law through the **Employment Relations Amendment Bill 2025**. The proposed changes are positioned as a significant shift aimed at **increasing flexibility in employment relationships** and **reducing compliance burdens for businesses**. Below is a high-level summary of the proposed amendments and their implications for employers and employees.

Clarifying Contractor Status

Key Criteria: The Bill introduces a new “Contractor Gateway” test to determine when a worker qualifies as a genuine independent contractor. A worker will be deemed a “specified contractor” if:

- A written agreement states they are an independent contractor;
- They are free to work for others;
- They are not required to be available at specific times or for a minimum duration;
- They can subcontract their work (with some limits);
- They are not penalised for declining additional tasks;
- They had a reasonable opportunity to seek legal advice before signing.

Implications: This change is designed to provide legal clarity when engaging contractors. In practice, this would mean a contractor who meets the above criteria cannot later claim employee status or pursue employment-related claims against the business.

Overhaul of the Personal Grievance System

Major Changes:

- **Greater focus on employee behaviour:** The Authority and Court must weigh the employee's behaviour more heavily when determining remedies. If the employee contributed to the issue—even if not through serious misconduct—their remedies (e.g. lost wages or compensation) can be reduced by up to 100%.
- **Serious misconduct = no remedies:** If the employee's actions amount to serious misconduct, they may be denied all remedies—even if the employer mishandled the process.
- **Higher procedural fairness threshold:** Minor procedural errors by employers will no longer automatically lead to a finding of unjustified dismissal. Instead, the focus shifts to whether the overall treatment was fair.

Concerns: These changes may be welcomed by employers frustrated by speculative or opportunistic claims. However, they raise questions about how "contribution" will be interpreted. The Bill does not define what level of employee behaviour might disqualify remedies—whether any contribution is enough, or whether a material contribution is required. In many cases, employees may have contributed to some degree, especially in disputes involving misconduct or poor performance. While the proposed change will likely achieve the objective of reducing speculative or unmeritorious claims, the lack of clarity could dissuade employees from pursuing otherwise valid claims if they risk receiving little or nothing for their efforts.

Salary Threshold for Unjustified Dismissal Claims

Overview: Employees earning more than **\$180,000 per annum** will no longer be able to bring personal grievance claims for unjustified dismissal. This is intended to reflect the more commercial nature of senior employment relationships and reduce litigation risks for employers.

Key Points:

- **12-Month Transition:** Existing high earners retain grievance rights for 12 months post-enactment. This protection also applies to employees who move into new roles due to restructuring.
- **Applies Immediately:** The threshold applies immediately to any new employment agreements signed after the Bill becomes law.

Contracting Back In: A Practicality Check Employees above the threshold can “opt back in” to the personal grievance regime if both parties agree. While this option exists, it’s likely that few employees will feel empowered to negotiate for these protections at the outset of a new role. In reality, this mechanism may primarily benefit high earners covered by collective agreements that include opt-in clauses.

Removal of the 30-Day Rule

The Bill removes the requirement for new employees to be employed under collective agreement terms for their first 30 days. Employers can now offer individual terms immediately, even if a relevant collective exists. Employees remain free to join a union and be covered by a collective agreement—this change simply removes automatic initial coverage.

What’s Next?

The Bill is currently at **first reading** stage and must still go through **select committee** scrutiny. This next phase will allow for **public submissions**, where individuals and organisations can voice feedback and propose amendments.

If you would like assistance preparing a submission on the Bill, please contact our employment law team.