

Employment Changes and your Business. Had enough or ready for more?

Recent government legislative initiatives have seen changes impacting society at large. From the banning of smoking in bars and BZP party pills to the much debated 'Anti-Smacking' bill. Much of this change that affects Joe Public has kept the media busy and the talkback lines ringing off the hook. In fact, the nature and number of changes have resulted in some commentators bandying around descriptions like 'intrusive', 'heavy-handed' and 'the nanny state'!

However, something that seems to have engendered less attention is the extent of recent and proposed legislative change which directly impacts employers and business. Here we focus on a quick stock-take of some of the major changes having an impact on employers today and what's around the corner....

The 2000 Employment Relations Act brought significant change to the employment landscape, in contrast to its predecessor, the more 'employer friendly' Employment Contracts Act. While employers rushed around redrafting employment agreements and taking stock of their current practice, many would have been surprised (or even alarmed) to know, that over the next decade, even more change would be in the wind.

Long discussed, and finally delivered, the 2006 KiwiSaver Act brought superannuation planning and saving to front of mind for kiwis. Taking effect from 1 April 2008 were compulsory superannuation payments by employers to a minimum of 1% of the gross employee salary per annum (for existing employees who 'opt in' and new employees who don't 'opt out').

Despite tax credit offsets, this has left many employers grumbling about the cost of compliance for the 4% employer contributions required by 2011. Together with this disgruntlement is concern about the speed with which the legislation was introduced; not just from the angle of having time to ensure compliance, but also having time to plan and budget for this change.

While employers tried to work out the right policy and approach for KiwiSaver, and company accountants scratched their heads while playing with their calculators, the 2007 Holidays Act amendment was confirmed. This saw the rise in the minimum statutory entitlement for annual leave. With the majority of NZ employees entitled to three weeks holiday per year, this saw a 33% increase in holiday entitlement for many chuffed workers. Meantime, the company accountants got a few more grey hairs while they tried to work out the impact of more pay for less work, and ultimately less productivity. (For companies in sectors which regularly require their staff to work on public holidays, the impact of the Act was even more costly).

Next came the Minimum Wage Amendment Act which was passed in September 2007, for effect on 1 April 2008. The adult minimum wage rose 6.6% to \$12 per hour (following a 9.8% increase last year). This was estimated to affect approximately 10% of New Zealand's workforce. Also, youth minimum wage rates were largely abolished.

Whichever side of the political spectrum you sit on, it would be hard to debate that being in business has become a more costly exercise over the past five years. Reports indicate that employers are already worrying about the impact on their business of additional compliance costs. Business NZ and KPMG reported in their most recent Compliance Cost Survey (2007) that small companies have a compliance burden three times higher than large ones. For a nation made up of small-medium enterprises, it's clear that some organisations simply may not be able to bear the brunt of more legislation which adds cost to their business.

But wait, because there is more. A snapshot of what's to come in a forthcoming review of the Employment Relations Act includes:

- The introduction of a law change that will encourage breastfeeding at work, requiring employers to provide facilities and breaks for breastfeeding women
- Further legislative guidance on workers' rights to meal breaks

- An amendment which will see employees being able to request more flexible working arrangements.

From a cost of compliance perspective, the flexible working arrangements element is likely to have the biggest impact. In short, the proposal is that employees with responsibilities for caring for a child or adult dependent should have more say as to where and when they work. The burden of proof here lies with the employer to establish why the request won't work, rather than the other way around. Therefore the intent of the negotiation in 'good faith' is that the employer must seriously consider all requests and grant them unless they are impractical. Early observations by critics are concerned not only at the length of time which employers may have to spend negotiating these arrangements, but also the extent to which they may impact business performance and productivity.

Let's take the opportunity now to put all this legislative change into context with recent economic developments.

- Exporters are struggling to compete profitably in offshore markets, given the high kiwi dollar
- Manufacturers are struggling to compete with increases in raw materials costs and with the production costs being offered offshore
- The pressure of inflation (interest rates, petrol and food) is hitting employees in the back pocket, who are going cap in hand to their employer for wage increases
- Wage and salary increases continue to put pressure on inflation, (with the Labour Cost Index reporting an increase of 3.4% in salary and wage rates for the March 2008 year)
- Wage inflation is tipped to continue.

Reserve Bank Governor Allan Bollard last month expressed concern about the risk of a wage-price spiral if pay settlements responded to pressure to compensate employees for rising food and energy costs, rather than adjusting to changing economic conditions. Together with this, the Department of Labour has already noted that "Real wage growth has averaged 2.2% a year over the past five years, which has been considerably higher than growth in labour productivity".

In the wake of company profit warnings and generally dire predictions from recent business confidence surveys, increased wage costs and compliance costs will be equally unwelcome to employers.

In summary, it's tough out there. Employment legislative change in the last decade has been rampant, and that trend doesn't look set to abate any time soon. Increased compliance costs, increased inflation and pressure from employees on wage levels continue. As the economy commences a downturn, things will get tougher and tougher for employers who are being beset by constant challenges to maintain (let alone improve) productivity and profit performance.

So what's the good news? If that all leaves you feeling somewhat blue, you can still pick up some comforting fast food from the local takeaway and wash it down with a glass of wine when you get home, because that's still legal. Pessimists might say, you may want to hurry!