



## Client Services:

- General advice in relation to all employee-related issues
- Resolving Personal Grievances and Workplace Disputes
- Employment Agreements - drafting and negotiation
- Employment Relations Authority/Employment Court and Mediation Representation
- Employment Relations Strategies
- Training
- Monthly newsletter

You will likely have heard, due to the significant media coverage which this legislation has attracted, that the Domestic Violence Victims' Protection Bill was passed on 25 July 2018 and will come into effect on 1 April 2019.

The purpose of the private member's bill, which was introduced by Green Party MP Jan Logie, is to enhance the legal protection in the workplace for persons affected by domestic violence. It aims to support victims to stay in paid employment, which is seen as a critical step to limiting the effects of domestic violence.

The new law amends the Employment Relations Act 2000, the Holidays Act 2003 and the Human Rights Act and provides for the following:

1. Provides employees, who are affected by domestic violence, with the ability to request a short term variation to their working arrangements (up to 2 months or less) for the purpose of assisting employees to deal with the effects on the employee of being affected by domestic violence.

The Act defines a person affected by domestic violence as:

*"A person who is 1 or both of the following:*

- (a) *a person against whom any other person inflicts, or has inflicted, domestic violence:*
- (b) *a person with whom there ordinary or periodically resides a child against whom any other person inflicts, or has inflicted, domestic violence."*

An employee wishing to use the entitlement is required to make a written request (in the manner prescribed by the legislation) for a variation to their working arrangements which may include changes to their hours of work, location of the employee's employment, duties of work or *'any other term of the employee's employment'*.

Upon receipt of a request an employer is obliged to respond urgently and within 10 working days.

This is similar to, and in addition to, the existing rights employees already have in the Employment Relations act to make a request for flexible working hours.

2. The legislation provides that an employer may only refuse a request if proof of domestic violence is required and it is not provided by the employee or that the request cannot be accommodated reasonably on the following grounds:

- (a) *inability to reorganise work among existing staff:*
- (b) *inability to recruit additional staff:*
- (c) *detrimental impact on quality:*
- (d) *detrimental impact on performance:*
- (e) *insufficiency of work during the periods the employee proposes to work:*
- (f) *planned structural changes:*
- (g) *burden of additional costs:*
- (h) *detrimental effect on ability to meet customer demand."*

Employees will be able to raise a dispute if they believe their employer unreasonably refused a request under this new provision.

## Disclaimer:

This newsletter is not intended as legal advice but is intended to alert you to current issues of interest. If you require further information or advice regarding matters covered or any other employment law matters, please contact **Neil McPhail, Raewyn Gibson,** or **Peter Zwart.**

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## Personal Grievances

The Employment Relations Act has also been amended to deal with 'adverse treatment in employment of people affected by domestic violence'.

In this regard a new class of personal grievance has been added as follows:

*"that the employee has been treated adversely in the employee's employment on the ground that the employee is, or is suspected or assumed or believed to be, a person affected by domestic violence; or"*

## Domestic Violence Leave

The Holidays Act is amended to provide employees who are affected by domestic violence with a minimum entitlement to paid leave for the purpose of assisting the employee to deal with the effects on the employee of being "people affected by domestic violence".

An employee is entitled to take domestic violence leave regardless of how long ago the domestic violence occurred and even if the domestic violence occurred before the person became an employee.

The same qualifying criteria as for sick and bereavement leave are applicable to domestic violence leave.

The entitlement, after 6 months service, is for 10 days domestic violence leave in each 12 month period, however this leave does not accumulate.

The Act requires that an employer may require 'proof' that an employee is a person affected by domestic violence.

Initially the Bill sought to expand the list of prohibited grounds of discrimination under the Employment Relations Act and Human rights Act to include victims of domestic violence, and sought to place certain duties on PCBUs under the Health and Safety at Work Act 2015 to protect victims of domestic violence. However, these proposed amendments were removed from the Bill following the review of the Committee of the whole House on 27 June 2018.

Obviously between now and when these changes are implemented on 1 April 2019 you may wish to consider how you will practically deal with the changes and develop any policies which may be required to ensure compliance with these obligations.

# Employment Relations Practice Course

Our next Employment Relations Practice Course has been set down for **Tuesday 30 and Wednesday 31 October 2018.**

Topics covered include:

- Pre-employment
- Long Term Absences
- Discipline and Termination
- Performance Management
- Holidays Act
- Parental Leave
- Good Faith and Good Faith Bargaining
- Redundancy and Restructuring
- Policies
- Legislative Updates

Places on this course are already filling up fast.

Further information in regard to the course content and registration details can be found on our website – [www.mgz.co.nz/training](http://www.mgz.co.nz/training)

