

Employment Relations Act 2000

SECTION 62

Employee bound by applicable collective agreement may agree to additional terms and conditions of employment

(1) The terms and conditions of employment of an employee who is bound by an applicable collective agreement may include any additional terms and conditions that are—

(a) mutually agreed to by the employee and the employer, whether before, on, or after the date on which the employee became bound by the collective agreement; and

(b) not inconsistent with the terms and conditions in the collective agreement.

(2) If the applicable collective agreement expires or **the employee resigns from the union that is bound by the agreement,—**

(a) the employee is employed under an individual employment agreement based on the collective agreement and any additional terms and conditions agreed under subsection (1); and

(b) the employee and employer may, by mutual agreement, vary that individual employment agreement as they think fit.

SECTION 63

Terms and conditions for first 30 days of employment of new employee who is not member of union

(1) This section—

(a) applies to a new employee who—

(i) is not a member of a union that is a party to a collective agreement that covers the work to be done by the employee; and

(ii) enters into an individual employment agreement with an employer that is a party to a collective agreement that covers the work to be done by the employee; but

(b) does not apply to an employee who—

(i) resigns as a member of a union and enters into an individual employment agreement with the same employer; or

(ii) enters into a new individual employment agreement with the same employer.

(2) For the purposes of subsection (1)(a), a collective agreement that includes a coverage clause referring to named employees, or the work done by named employees, to whom the collective agreement applies must be treated as covering the work or type of work done by the named employees (whether done by those employees or any other employees).

(3) For the first 30 days after the new employee commences employment with the employer, the employee's terms and conditions of employment comprise—

(a) the terms and conditions in the collective agreement that would bind the employee if the employee were a member of the union (other than any bargaining fee payable under Part 6B); and

(b) any additional terms and conditions mutually agreed to by the employee and employer that are no less favourable to the employee than the terms and conditions in the collective agreement.

(4) If the work to be done by the new employee is covered by more than 1 collective agreement, subsection (3)(a) applies to the collective agreement that binds the greatest number of the employer's employees in relation to the work the employee will be performing.

(5) No term or condition of employment may be expressed to alter automatically after the 30-day period in a way that makes it less favourable to the employee than the collective agreement.

(6) For an employee who holds a minimum wage exemption permit under section 8 of the Minimum Wage Act 1983, the terms and conditions under subsection (3) are subject to the terms of the permit relating to the wages to be paid.

Section 62: replaced, on 6 May 2019, by section 22 of the Employment Relations Amendment Act 2018 (2018 No 53).

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