



# CRA BULLETIN

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Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

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## CHANGES TO THE EMPLOYMENT RELATIONS ACT (Part 1)

The first new legislation to be passed by the new Parliament was the Employment Relations Amendment Act. These amendments will take effect from 6 March 2015 and we will outline the first three changes here and address the remaining ones in another Bulletin.

The three main changes in the new legislation that are addressed here are:

- flexible working arrangements
- rest and meal break rules
- continuity of employment – Part 6A of the Employment Relations Act 2000.

### Flexible work

The changes to flexible working arrangements aim to improve people's participation in the labour market and to better reflect modern lifestyles. The key changes are:

- extending the statutory right that caregivers currently have, to request flexible working arrangements, to all employees
- removing the requirement of six months' prior employment with the employer, so employees can ask for flexibility from their first day on the job
- removing the limit on the number of requests an employee can make in a year stops people contracting out of legal rest and meal breaks or the requirement to give compensation instead of breaks
- reducing the timeframe within which an employer must respond to a request from 3 months to 1 (and requiring that the response be made in writing and include an explanation of any refusal).

The amended legislation is allowing all employees the opportunity to apply for flexible working arrangements. Previously it only applied in care giving situations.

### Rest and meal breaks

The amendments make the rest and meal break rules in the Employment Relations Act (the ER Act) more flexible. The Act determines that employees are entitled to reasonable rest and meal breaks. The Act also enables employers and employees to negotiate, in good faith, rest and meal breaks that meet legal requirements and allow the business to work.

The Act:

- allows reasonable limits to be agreed or imposed as to when rest breaks and meal breaks can be taken
- gives employers the ability to say when breaks will be taken, if they cannot agree with employees
- gives employees the right to be reasonably compensated where the employer cannot reasonably give the employee rest and meal breaks
- requires employers to pay employees for rest breaks
- stops people contracting out of legal rest and meal breaks or the requirement to give
- does not overrule any other law that makes an employee take rest and meal breaks in a certain way.

**Continuity of employment – Part 6A of the Employment Relations Act**

In regards to these changes, the ERA is mainly focused on the employers engaging the following category of employees and this will remain the same:

- cleaning services, food catering services, caretaking or laundry services for the education, aged-care and health sectors
- orderly services in the aged-care sector
- cleaning services or food catering services in the public service or local government sector
- cleaning services or food catering services in relation to any airport facility or for the aviation sector, and
- cleaning services or food catering services in relation to any other place of work.

As our industry does not employ 'vulnerable employees' this part of the changes is not particularly relevant. However Members need to be careful when transferring their undertaking and should seek specialist advice before embarking on any such process.

The following three changes to the Employment Relations Act will be covered in the next Bulletin:

- the collective bargaining framework (including strikes and lockouts)
- the duty of good faith
- provisions for the Employment Relations Authority (the Authority)