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Party Politics

With the election only two days away, the political parties are attempting to re-focus the public's attention on policies and divert attention from other distractions. As always, employment law is among the issues up for debate. Several changes are proposed to the employment law landscape under each of the parties' platforms. Our understanding of some of the key election policies is outlined below.

The National Party

The current government proposes to "build flexibility and create jobs" under the premise that a flexible and fair labour market is critical for building a stronger and more competitive economy and creating jobs. Specifically, among its proposals the government intends to:

1. "Help young people into jobs" by introducing a "Starting-Out Wage", set at 80% of the minimum wage. The Starting Out Wage will be available for 16 and 17 year olds in their first six months of work with a new employer, 18 and 19 year olds who have come directly off a designated benefit (having been on that benefit continuously for more than 6 months before starting work), and 16-19 year olds in training in a recognised industry training course;
2. Extend flexible working arrangements by allowing parties to agree on such arrangements without invoking a formal process, extending the right to request the arrangements to all employees, removing some of the restrictions around making requests, and promoting the benefits of flexible working arrangements;
3. Improve collective bargaining by removing the requirement to conclude collective bargaining (with a view to avoiding protracted negotiations and workplace disruption), removing the requirement that non-union members are employed under a collective agreement for their first 30 days, allowing employers to opt out of

negotiations for multi-employer collective agreements and applying partial pay reductions for partial strikes or low level industrial action;

4. Review the law on constructive dismissal to "take a close look at how allegations of constructive dismissal can be better managed" and used less often as an allegation of last resort; and
5. **Kiwisaver:** Halve the tax credit to 50c for every \$1 contributed by members, up to a maximum of \$521 per year, end tax free employer contributions, and increase employee and employer contributions to 3%.

These policies reflect a continuation of the changes that National has already made since coming into leadership.

The Labour Party

The Labour Party has a vision to "protect New Zealanders at work, including the right to a fair day's pay for a fair day's work, the right to join unions and bargain collectively, the right to have a voice at work and the right to be protected from unfair or unsafe treatment at work". Specifically, among its proposals Labour intends to:

1. Increase the minimum wage to \$15 an hour;
2. Amend the Employment Relations Act 2000 to implement an Industry Standard Agreements framework, ie collective agreements representing the employment 'standards' in a particular industry, agreed in the first instance between unions and employer organisations in the defined industry;
3. Repeal the 90 day trial periods law and the provisions relating to union access as introduced by the National government and restore reinstatement as the primary remedy when an employee has been unjustifiably dismissed, along with the test of justification;

Party Politics continued...

4. Provide for employees to have the right to strike when a collective agreement is in force where the employer makes a significant proposal for restructuring or outsourcing that in effect renders the collective agreement ineffective;
5. Ensure that workers employed in precarious forms of employment (such as labour hire, casual employment and contracting) are given similar rights to those in more traditional forms of employment;
6. Extend the right to organise and collectively bargain to contractors who are primarily selling their labour, as well as ensuring an effective and cheap disputes resolution procedure;
7. Repeal the National Government's changes to the Employment Relations Act in regard to workers in the film and video production industries. (The controversial "hobbit" Act);
8. Develop legislative and policy responses that recognise the right to equal pay, require a positive duty to advance equality, and provide the mechanism to determine work of equal value;
9. Ensure that information about pay rates is made available so that comparisons can be made and unfair inequalities in pay rates between men and women are revealed; and
10. *Kiwisaver*: Make KiwiSaver compulsory for every employee aged 18 to 65 from 2014, gradually increase employer contributions at a rate of 0.5 percent a year from 3 percent to 7 percent over 9 years, retain the current minimum employee contribution of 2 percent, and spread the \$1,000 kick-start over 5 years. Labour will not make any more changes to the member tax credit.
5. Improve workplace democracy and union representation;
6. Implement international standards on the right to strike, worker accident compensation, pay equity and breastfeeding breaks;
7. Support initiatives for multi-party bargaining, including multi-employer collective bargaining, and collective bargaining for contractors;
8. Increase workplace access to subsidised early childhood and after school care;
9. Work towards a shorter (35 hour) working week;
10. Introduce stronger laws for key health and safety areas including hazardous substances, harassment, occupational cancer, pregnancy, lone working, stress;
11. Support a review of the State Sector Act and the Public Finance Act to provide greater collaboration across government agencies; and
12. *Kiwisaver*: Create a public option KiwiSaver fund to "lower costs and boost people's nest egg on retirement". The fund will be managed by the Guardians of the New Zealand Superannuation Fund — a \$16 billion fund.

The Maori Party

The Maori party has centred on four key areas in its policy approach:

1. Te Tiriti o Waitangi in employment legislation (including the need for employers to promote and observe Te Tiriti o Waitangi within the employment environment and in enhancing the employment relationship);
2. Cultural competency in the workplace (including monitoring all agencies for cultural competency to ensure the quality of services, access and outcomes are achieved, requiring Chief Executives to report 6 monthly on how they are progressing positive outcomes for whanau, and including cultural competence as an important standard in justice, health, education and social services);
3. The institution of an Employment Equity Act;
4. The repeal of the 90 day trial period legislation; and
5. *Kiwisaver*: Lower the entitlement age for some New Zealanders "to allow more equitable uptake of New Zealand superannuation for all citizens".

Summary

In this election campaign there are clearly distinct policies aligned to the right and left of politics and their respective ideologies.

The Green Party

Among its proposals, the Green party intends to:

1. Increase the minimum wage to at least \$15 an hour, ensuring it does not fall below 66% of the average wage;
2. Improve rights and protection for casual, seasonal, fixed term and temporary workers;
3. Require employers to consider, in good faith, requests for flexible working arrangements from the parents of young children;
4. Support a complete review of the Employment Relations Act (including repealing the 90 day trial period law);