



Employment Law Update

**New Zealand Payroll Practitioners Association 11th
Annual Conference**

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| Specific advice should always be obtained before relying on any aspect of the content of this presentation or associated materials.

Overview

Top trends –
following recent
cases

Employment
Relations
Amendment Bill

Parental Leave &
Minimum Wage

Fair Pay Agreements

Employment
Relations (Triangular
Employment)
Amendment Bill



Trends

Increase in compensatory awards



Waikato District Health Board v Archibald [2017]



Working on public holidays – *Wendco (NZ) Limited v Labour Inspector of MBIE* [2017].



Entitlements on public holidays

- Time and a half for hours worked
- Alternative day's holiday IF day would otherwise have been a working day for employee



How to determine “what would otherwise be a working day”



Employers have operated 3 week reference period



Case held that reference period is 3 – 6 months

Labour Inspector v Smith City Group Limited [2018]



Pre-work meetings and after hours cashing up, or waiting for last customers.



Argued - not considered “work” for purpose of the Minimum Wage Act 1983 - no obligation to pay.



Held: morning meetings, cashing up, handing over, or waiting until last customers leave will be considered “work” - entitled to be paid.



Obligation to make back payments to hundreds of affected employees for the last six years.

Changes to Legislation

LAW

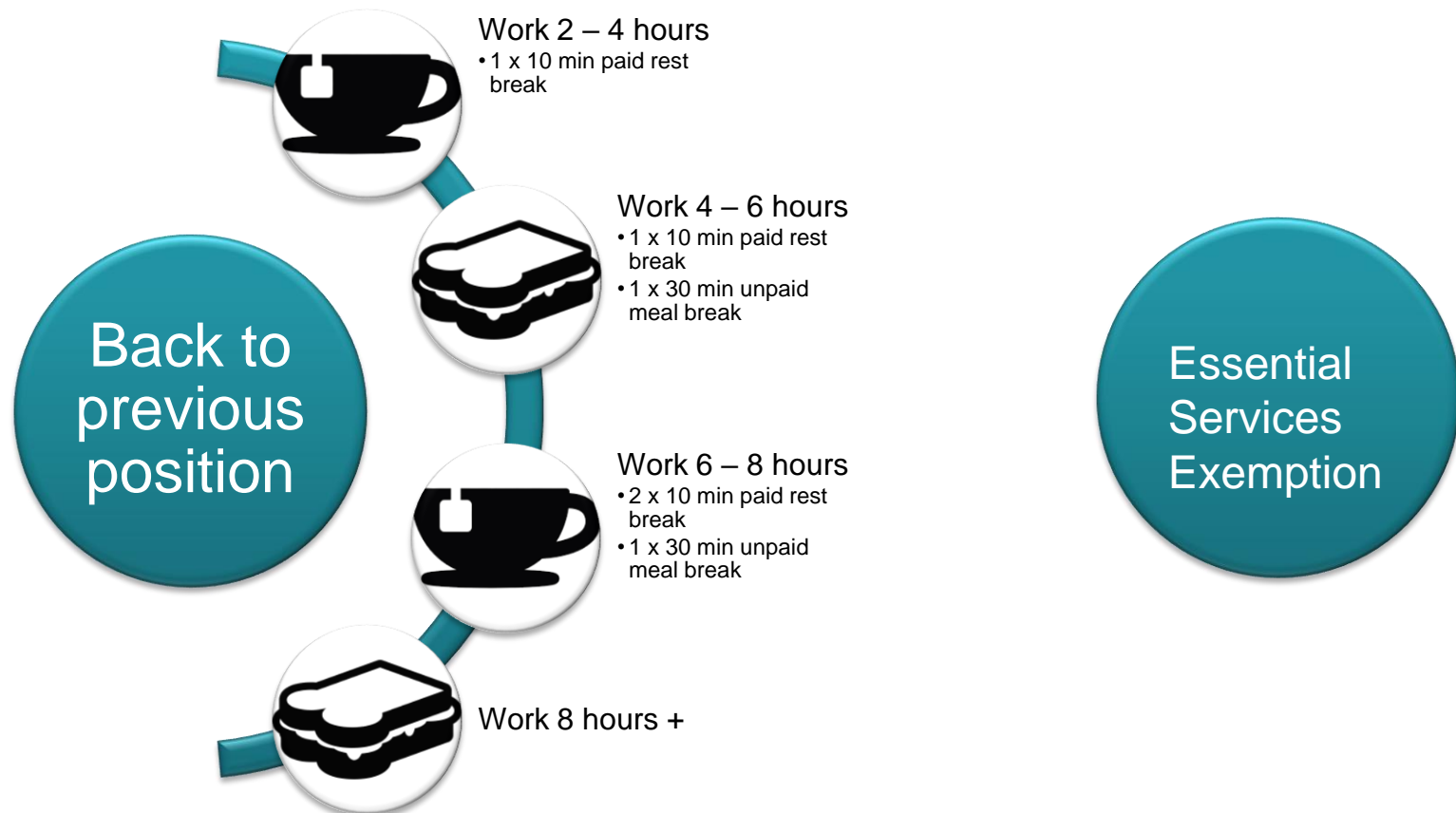
Employment Relations Amendment Bill: Overview



Amendment Bill: 90 Day Trial Period



Amendment Bill: Rest and Meal Breaks



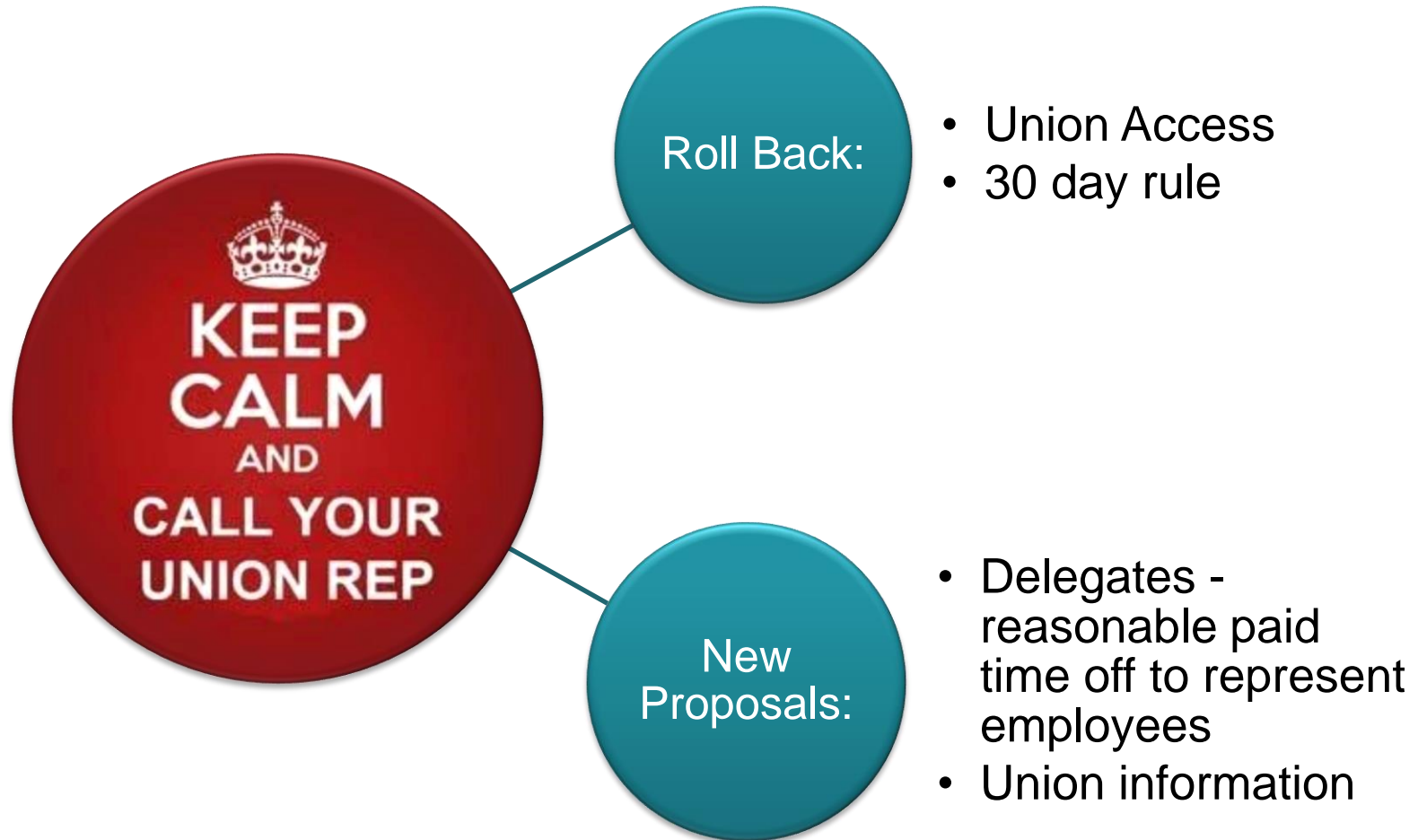
Amendment Bill: Reinstatement



Reinstatement restored as the primary remedy in unjustified dismissal cases

- “Practicable and reasonable”
- If proceedings brought before Act in force = BAU
- If proceedings brought after Act comes into force, new law applies irrespective of when PG occurred

Amendment Bill: Union Issues



Amendment Bill: Collective Bargaining

Initiating bargaining:

- Union 60 days
- Employer 40 days

Rates of pay in collective agreement

No deductions for partial strikes

Duty of good faith to conclude a collective agreement

Cannot opt out of MECA bargaining

Minimum Wage/Paid Parental Leave



Minimum Wage

- 1 April 2018 = \$16.50 per hour
- \$20 per hour by 2021

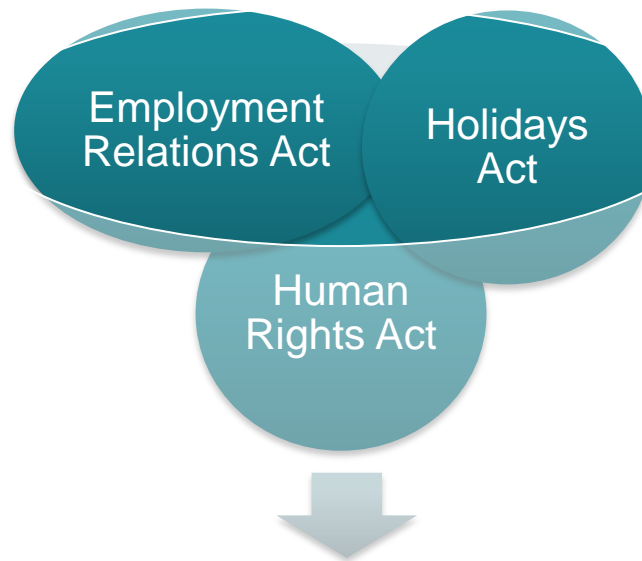


Paid Parental Leave

- 22 weeks from 1 July 2018
- 26 weeks by 2020

Domestic Violence – Victims Protection Act

- In force 1 April 2019
- Amends:



- 10 days paid leave – affected by domestic violence
- Statutory right to request short term flexible working
- New ground of personal grievance and discrimination

Holidays Act Working Group

Full review of the Holidays Act

Employer, worker and government representatives

Purpose:

Make recommendations on options for clear and transparent set of rules for providing entitlements to and payment for holidays and leave

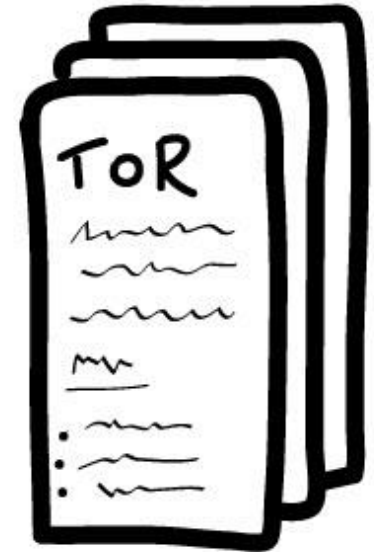
Able to be implemented by payroll system

Apply to increasingly diverse range of working and pay arrangements

Protect overall entitlements for employees



Terms of Reference



Promote purpose of Holidays Act – balance between work and other aspects of life, minimum entitlements

Clarity and certainty for employers

Simpler regime for payment and entitlement to holidays and leave

Can be implemented by a payroll system

Minimise compliance costs

Ensure balance of decision making re requests for leave

Applicable to a range of working and remuneration arrangements

Protect overall entitlements of employees

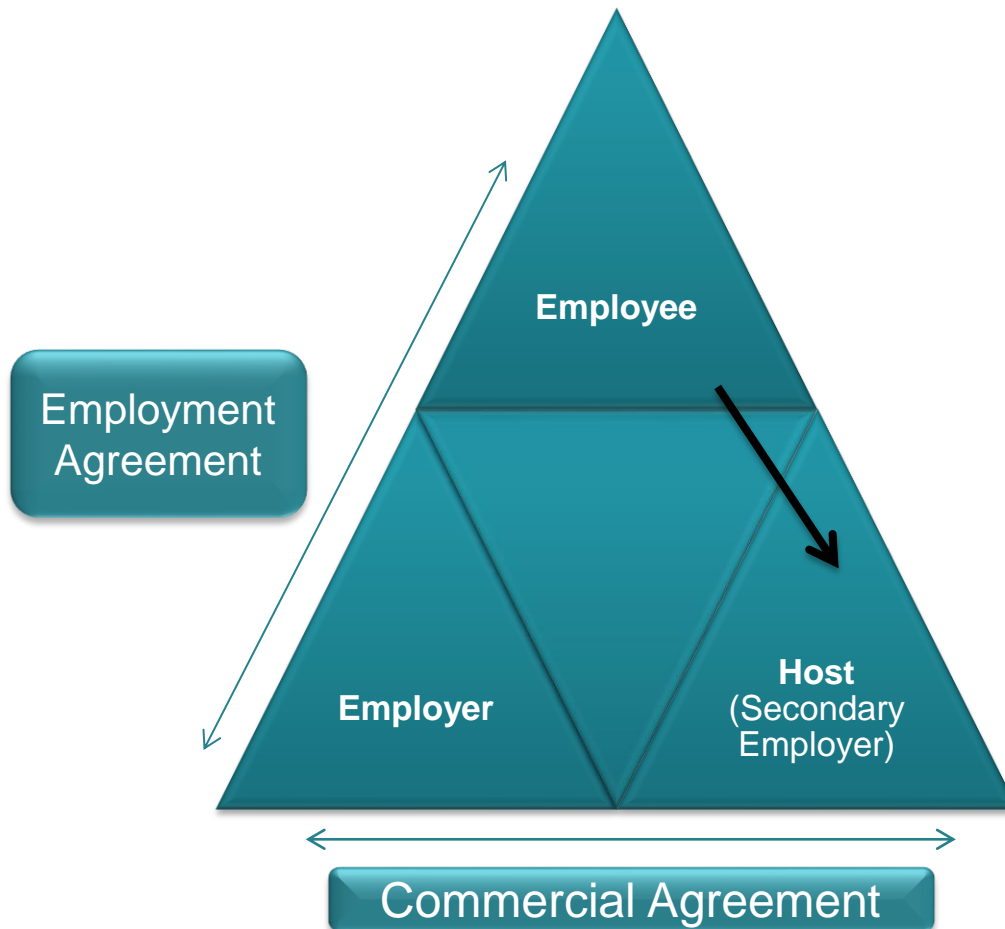


Still to come

Fair Pay Agreements



Employment Relations (Triangular Employment) Amendment Bill



- Before SC – submissions closed on 11 May
- Introduces concept of “primary employer” and “secondary employer”
- Ability to join secondary employer to PG



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Mark is an employment law specialist with extensive experience as an advocate in personal grievance claims, conducting private negotiations on behalf of clients, and appearing in the Employment Relations Authority and Employment Court. He is focused on providing advice that is pragmatic, commercially-driven and relevant.

Mark has advised some of New Zealand's leading organisations on all aspects of their employment needs. He has developed a strong base of knowledge across a number of industry sectors, including professional services, logistics, manufacturing and air transport.

Firm facts

- 4 integrated full service offices
- 200+ employees
- 15+ ASX and NZX listed companies work with us
- Global access to 19,000 high quality lawyers in 100+ countries through our membership of TerraLex legal services network.

