

KiwiSaver

Parliament introduced the KiwiSaver Bill on 28 February 2006. KiwiSaver is a voluntary, work-based saving scheme, which is due to take effect in April 2007. The focus of KiwiSaver is to encourage employees to save for their retirement. The Inland Revenue Department will administer the scheme using the existing PAYE tax system.

Savings will be looked in until the participating employee reaches the eligible age for NZ superannuation, although exceptions are made in cases of financial hardship, permanent emigration or after a minimum of 3 years, to contribute towards a deposit on a first home.

Participation in KiwiSaver is voluntary, however, employees between the ages of 18-65 years old are automatically registered when they commence new employment. After 6 weeks of new employment, the employee is entitled to opt out of KiwiSaver. The employer, at a default rate of 4 percent deducts contributions towards the scheme directly from the participating employee's gross salary or wages. Employees have the option of contributing a higher rate of 8 percent into the scheme. KiwiSaver also allows beneficiaries and the self-employed to join the scheme, but contributions must be paid directly to their chosen scheme provider. The Government issued a tender process last month to select a limited number of KiwiSaver scheme providers, which we will announce in our next newsletter.

The Government incentive to encourage participation in KiwiSaver is to provide all participants with an upfront contribution of \$1,000 per person. This is subject to income testing and other criteria and will be locked in until the participant reaches retirement age or 5 years, whichever is greater. After 3 years of saving, the Government will offer the participant a first home deposit subsidy of \$1,000 per year of membership, to a maximum of 5 years.

Employer's responsibilities under KiwiSaver:

- Information packs of KiwiSaver must be distributed to all new employees and existing employees that opt into the scheme;
- Enrol new employees for KiwiSaver who do not opt out and enrol existing employees who choose to opt into the scheme;
- Employee's contributions must be deducted and forwarded to IRD along with their PAYE.

Employers are entitled to:

- Elect an initial scheme provider for employees who have not selected their own KiwiSaver scheme provider;
- Make voluntary employer contributions into KiwiSaver.
- Apply for an exemption from the automatic enrolment requirements if they have a registered superannuation scheme that meets certain criteria.

Please note: Employers are not obliged to offer their employees any financial advice.

The KiwiSaver Bill has been referred to the Finance and Expenditure Committee for consideration and it is likely that the Bill will be enacted.

Minimum Wage (Abolition of Wage Discrimination) Amendment Bill

Sue Bradford's Minimum Wage (Abolition of Wage Discrimination) Amendment Bill proposes to end the age discrimination in employment by requiring employees 16-17 years old to be paid the same minimum wage as adult workers. This Bill was introduced in Parliament on 7 December 2005, passed its first

Reading on 22 February 2006 and has been referred to the Transport and Industrial Relations Select Committee for consideration. Submissions to the Transport and Industrial Relations Select Committee close on 21 April 2006.

The Green Party supports an immediate increase in the minimum wage for all workers, especially the 16-17 year olds, who at present are paid \$7.60 an hour. Labour in co-operating with the Greens and New Zealand First, has pledged to raise the minimum wage to \$12.00 an hour for employees aged 18 years and over. However, the rate for 16-17 year olds will remain the same until 2008 and then only 'if' economic conditions allow. The Greens believe this unacceptable and want to see an immediate increase in the minimum wage and have those aged between 16-17 years old included.

Overall, the Bill recognises that there is justification for paying a lower minimum wage to apprentices, genuine trainees and disabled workers who on account of their impairment, are incapable of earning wages at the minimum rate.

Employment Relations Amendment Bill

The Employment Relations Amendment Bill was introduced to Parliament on 15 February 2006 and is designed to protect New Zealand's most vulnerable workers (see March 2006 newsletter). The Bill proposes to amend Part 6A of the Employment Relations Act to clarify the protections for the vulnerable employees within the cleaning, food catering, caretaking and laundry industries, who are affected by the sale or transfer of a business or contracting out of work.

The Bill will give effect to the original policy intent of the 2004 amendments and reverse the effect of last years Employment Court's decision of *Gibbs v Crest Commercial Cleaning* that said employees did not have employment protection in succession to contract situations.

This protection was provided to ensure that groups of vulnerable employees have the right to transfer to a new employer on their existing terms and conditions of employment when they are affected by restructuring situations.

The Bill Aims to:

- Explicitly state that 'restructuring' includes the restructuring situations such as contracting out, contracting in, succession to contract and subsequent contracting situations and the sale or transfer of an employer's business and provide a definition for each;
- Clarify that the right to transfer applies regardless of whether a contract expires or is terminated, or ends before a new contractor is appointed; and
- Clarify that the right to transfer applies even where the new contract holder is not currently an employer or does not intend to have employees perform the work.

These proposed changes will make it difficult for new contractors to tender competitively in terms of labour costs, as a new contractor will have little choice but to employ the same employees who have previously been performing the work and on the same terms and conditions as the previous contractor.

The Bill was recently referred to the Transport and Industrial Relations Select Committee and it is highly likely that the Bill will be enacted by Parliament.

If you would like further information about any of the topics, which have been raised in this newsletter, please telephone Rebecca Emery or Matt Hanna on (07) 827-5147.