

Employment Relations (Extended Time for Personal Grievance for Sexual Harassment) Amendment Bill

Member's Bill

Explanatory note

General policy statement

Currently, an employee who wishes to raise a personal grievance that involves allegations of sexual harassment must do so in a period of 90 days.

The purpose of this Bill is to extend the time available to raise a personal grievance that involves allegations of sexual harassment from 90 days to 12 months. Coming forward to report sexual harassment can be difficult, and it is common for victims of sexual harassment to wait a long time before coming forward, if at all.

For a person who has been the subject of sexual harassment, 90 days may not be enough as it can take people some time to consider what has occurred and feel safe to raise it with others. This deadline imposes an arbitrary deadline on victims of workplace sexual harassment and makes it less likely they can formally raise concerns about the behaviour of colleagues.

This Bill will improve the personal grievance process for victims of workplace sexual harassment by allowing them sufficient time to consider what has happened to them before deciding to come forward.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides for the Bill to come into force on the day after Royal assent.

Clause 3 identifies the Employment Relations Act 2000 (the **principal Act**) as the Act being amended by the Bill.

Clauses 4 and 5 contain consequential amendments.

Clause 6 amends section 114 of the principal Act to extend the period within which a personal grievance may be brought to 12 months where that personal grievance involves sexual harassment.

Clause 7 consequently amends section 115A of the principal Act to take account of the amendment in *clause 6*.

Clause 8 provides for transitional matters.

Dr Deborah Russell

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Employment Relations (Extended Time for Personal Grievance for Sexual Harassment) Amendment Act **2021**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

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3 Principal Act

This Act amends the Employment Relations Act 2000 (the **principal Act**).

4 Section 54 amended (Form and content of collective agreement)

In section 54(3)(a)(iii), replace “the period of 90 days” with “the relevant periods”.

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5 Section 65 amended (Form and content of individual employment agreement)

In section 65(2)(a)(vi), replace “the period of 90 days” with “the relevant periods”.

6 Section 114 amended (Raising personal grievance)

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(1) In section 114(1), replace “subject to subsections (3) and (4)” with “subject to subsections **(1A)**, (3) and (4)”.

(2) After section 114(1), insert:

(1A) Despite **subsection (1)**, an employee who wishes to raise a personal grievance that involves allegations of sexual harassment must, subject to subsections (3) and (4), raise the grievance with his or her employer within the period of 12 months beginning with the date on which the action alleged to amount to a personal grievance occurred or came to the notice of the employee, whichever is the later.

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(3) In section 114(3), after “90-day period,” insert “or 12-month period if **subsection (1A)** applies.”.

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7 Section 115A amended (Notifying controlling third party of personal grievance)

(1) In section 115A(1), delete “90-day” in each place.

(2) In section 115A(2), delete “90-day”.

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(3) In section 115A(3), delete “90-day”.

(4) Replace section 115A(6) with:

(6) In this section,—

employee notification period means—

(a) the period of 12 months beginning with the date on which the action alleged to amount to a personal grievance occurred or came to the notice of the employee (whichever is later), in respect of a personal grievance that involves allegations of sexual harassment; or

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(b) the period of 90 days beginning with the date on which the action alleged to amount to a personal grievance occurred or came to the notice of the employee (whichever is later), in any other case

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employer notification period means the period of 90 days beginning with the date on which the employer's employee raised the personal grievance with the employer

relevant notification period means the employee notification period or the employer notification period.

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8 Schedule 1AA amended

In **Schedule 1AA**,—

- (a) insert the Part set out in the Schedule of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Schedule
New Part 4 inserted into Schedule 1AA

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Part 4**Provisions relating to Employment Relations (Extended Time for
Personal Grievance for Sexual Harassment) Amendment Act 2021** 5

- 17 Application of extended time period for personal grievance for sexual
harassment**
- (1) Any personal grievance proceedings brought before the Authority or the court
(or a court on appeal), but not finally determined or completed, before the com- 10
mencement of the 2021 Amendment Act must be determined or completed
under the law as it was at the time the proceedings were brought.
- (2) In this clause, the **2021 amendment Act** means the Employment Relations
(Extended Time for Personal Grievance for Sexual Harassment) Amendment 15
Act **2021**.