

Version  
as at 1 July 2023



# **Epidemic Preparedness (Employment Relations Act 2000—Collective Bargaining) Immediate Modification Order Revocation Order 2022**

(SL 2022/94)

Epidemic Preparedness (Employment Relations Act 2000—Collective Bargaining) Immediate Modification Order Revocation Order 2022: revoked, on 1 July 2023, by clause 5.

Cindy Kiro, Governor-General

## **Order in Council**

At Wellington this 4th day of April 2022

Present:

Her Excellency the Governor-General in Council

This order is made under section 15 of the Epidemic Preparedness Act 2006—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Workplace Relations and Safety made after being satisfied of the matters required by section 15(2)(b) of that Act and after receiving from the chief executive of the Ministry of Business, Innovation, and Employment a written recommendation stating the matters required by section 15(2)(a) of that Act.

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### **Note**

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This order is administered by the Ministry of Business, Innovation, and Employment.**

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## Order

### 1 Title

This order is the Epidemic Preparedness (Employment Relations Act 2000—Collective Bargaining) Immediate Modification Order Revocation Order 2022.

### 2 Commencement

This order comes into force on 6 May 2022.

### 3 Revocation

The Epidemic Preparedness (Employment Relations Act 2000—Collective Bargaining) Immediate Modification Order 2020 (LI 2020/61) (the **principal order**) is revoked.

### 4 Savings

- (1) The revocation of the principal order does not affect the previous operation of that order or anything done or suffered under it.

*Periods modified by principal order*

- (2) The modifications made to sections 43(2)(b)(i) and (ii), 50(2) and (3), and 53(3) of the Employment Relations Act 2000 by clauses 4, 5, 6, and 8 of the principal order continue to have the effect of excluding from the periods specified in clauses 4(2) and (3), 5(2), 6(2), and 8(2) of the principal order any days during which the Epidemic Preparedness (COVID-19) Notice 2020 was in force before 6 May 2022.

*Ratification procedure if new ratification procedure notified under principal order*

- (3) Subclause (4) applies to a union bargaining for a collective agreement or variation of it if, while the principal order was in force, the union—
- (a) notified the other intended party or parties of a new ratification procedure under clause 7(2)(a) of the principal order; but
  - (b) did not ratify the collective agreement or variation in accordance with the new ratification procedure under clause 7(2)(b) of the principal order.

- (4) After the revocation of the principal order, the union mentioned in subclause (3) may—
- (a) ratify the collective agreement or variation in accordance with the new ratification procedure notified under clause 7(2)(a) of the principal order; or
  - (b) notify the other intended party or parties to the collective agreement or variation that—
    - (i) the new ratification procedure notified under clause 7(2)(a) of the principal order no longer applies; and
    - (ii) the ratification procedure that was notified at the beginning of bargaining, in accordance with section 51(2) of the Employment Relations Act 2000, applies.

## 5 Revocation of this order

This order is revoked on 1 July 2023.

Michael Webster,  
Clerk of the Executive Council.

## Explanatory note

*This note is not part of the order, but is intended to indicate its general effect.*

This order revokes the Epidemic Preparedness (Employment Relations Act 2000—Collective Bargaining) Immediate Modification Order 2020 (the **principal order**) on 6 May 2022 (the **revocation date**). The principal order modified restrictions and requirements imposed by the Employment Relations Act 2000 (the **Act**) that the Minister for Workplace Relations and Safety was satisfied would be impossible or impracticable to comply (or comply fully) with due to the effects or likely effects of COVID-19.

The requirements modified by the principal order are set out in the following sections of the Act:

- section 43, which requires an employer that initiates bargaining or that receives a notice initiating bargaining for a collective agreement to draw the existence and coverage of the bargaining, and the intended parties, to the attention of all employees whose work would be covered by the intended coverage clause as soon as possible and no later than—
  - 10 days after bargaining is initiated, if only 1 employer is identified as an intended party to the bargaining; or
  - 15 days after bargaining is initiated, if only 1 employer is identified as an intended party to the bargaining:

- section 50(2), which applies if an employer receives 2 or more notices of initiation of bargaining from different unions that relate to the same type of work. If the employer wishes to request that bargaining is consolidated (a **consolidation request**) they must make that consolidation request within 40 days after receiving the first notice:
- section 50(3), which requires a union that receives a consolidation request to respond within 30 days after receiving the request:
- section 51, which prohibits a union from signing a collective agreement or a variation of the collective agreement unless the agreement or variation has been ratified in accordance with a ratification procedure notified by the union at the beginning of bargaining for the collective agreement or the variation:
- section 53, which provides that a collective agreement continues in force for a period not exceeding 12 months past its expiry date if—
  - the union or the employer initiated collective bargaining before the collective agreement expired and for the purpose of replacing the collective agreement; and
  - bargaining continues for a collective agreement to replace the collective agreement that has expired.

The effects of the modifications made by the principal order are to—

- modify the maximum time frames under section 43 of the Act to exclude the period while the Epidemic Preparedness (COVID-19) Notice 2020 (the **Epidemic Notice**) is in force; and
- modify the maximum time frames under section 50(2) and (3) of the Act to exclude the period while the Epidemic Notice is in force; and
- allow the union to notify the other intended party or parties to a collective agreement of a new ratification procedure to ratify the collective agreement (eg, online balloting, videoconferencing, or teleconferencing) if a union committed at the outset of collective bargaining to a ratification procedure that is no longer practicable (eg, in-person ratification meetings); and
- modify the maximum 12-month period for which a collective agreement can continue in force past its expiry date while bargaining continues for a replacement collective agreement to exclude the period while the Epidemic Notice is in force if the 12-month period would otherwise end while the Epidemic Notice is in force or up to 3 months after it expires or is revoked.

The Minister for Workplace Relations and Safety is satisfied that the requirements modified by the principal order will no longer be impossible or impracticable to comply with by the revocation date.

The effect of the revocation of the principal order is to—

- end, on the revocation date, all the modifications made by the principal order; but

- otherwise not affect the operation of the principal order, or anything done or suffered under it, before the revocation date.

Despite the revocation,—

- the effect of the modifications before 6 May 2022 to exclude the period while the Epidemic Notice was in force from the time periods in the Act continues so that the relevant periods continue to exclude any days during which the Epidemic Notice was in force before 6 May 2022; and
- a union that notified the other intended party or parties of a new ratification procedure under clause 7(2)(a) of the principal order can choose whether to continue to use the new ratification procedure or revert back to the ratification procedure that was notified to the other intended party or parties at the beginning of bargaining.

This order is revoked on 1 July 2023.

Issued under the authority of the Legislation Act 2019.  
Date of notification in *Gazette*: 7 April 2022.

## Notes

### **1** *General*

This is a consolidation of the Epidemic Preparedness (Employment Relations Act 2000—Collective Bargaining) Immediate Modification Order Revocation Order 2022 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2** *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3** *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4** *Amendments incorporated in this consolidation*

Epidemic Preparedness (Employment Relations Act 2000—Collective Bargaining) Immediate Modification Order Revocation Order 2022 (SL 2022/94): clause 5