

House of Representatives
Supplementary Order Paper

Tuesday, 8 April 2014

Employment Relations Amendment Bill

Proposed amendments

Hon Simon Bridges, in Committee, to move the following amendments:

Clause 12: new section 50K

In *clause 12*, after *new section 50K(5)* (page 13, after line 31), insert:

“(6) This section applies subject to **section 50KA**.”

New clause 12A

After *clause 12* (page 13, before line 32), insert:

12A New section 50KA inserted (Declaration or determination under section 50K not to be made if breach of duty of good faith by party seeking declaration)

After **section 50K**, insert:

“**50KA Declaration or determination under section 50K not to be made if breach of duty of good faith by party seeking declaration**

“(1) The Authority must dismiss an application made under **section 50K(1)** and must refuse to make a declaration or determination under **section 50K(3) or (4)** if the Authority is satisfied that the party seeking the declaration has failed to observe good faith as described in **subsection (3)**.

“(2) However, the Authority is not precluded from making a declaration or determination if the party seeking the declaration has failed to observe good faith, but the Authority is satisfied that the party has rectified the failure.

“(3) The failures to observe good faith are as follows:

“(a) a failure to comply with the duty of good faith in section 4, if the failure—

“(i) relates to the collective bargaining in respect of which the declaration is sought; and

- “(ii) has undermined the collective bargaining:
- “(b) a failure to deal in good faith in any mediation or facilitation directed by the Authority under **section 50K(2)** (whether in relation to the Authority or the other party or parties to the collective bargaining).
- “(4) To avoid doubt, for the purposes of **subsection (3)(a)**, a failure may relate to a matter before or after the application for the determination is made.
- “(5) If the Authority is precluded by **subsection (1)** from making a declaration or a determination, the Authority may make orders or recommendations or issue directions about what steps the parties to the collective bargaining ought to or must take, including (but not limited to) how the party who has failed to observe good faith may rectify the failure.”

New clause 60A

After *clause 60* (page 56, after line 12), insert:

- 60A Section 173A amended (Recommendation to parties)**
In section 173A(6), replace “section 174(a)” with “**section 174E(a)**”.

New clause 61AB

After *clause 61A* (page 60, after line 21), insert:

- 61AB Section 181 amended (Report in relation to good faith)**
In section 181(2), replace “section 174” with “**section 174A(2), 174B(2), 174C(2), or 174D(2)**”.

Explanatory note

This Supplementary Order Paper amends the Employment Relations Amendment Bill.

New section 50K in *clause 12* is amended to make it subject to *new section 50KA*. *New section 50K* provides for the Employment Relations Authority to determine whether collective bargaining has concluded because of difficulties in concluding collective bargaining. If the Authority determines that collective bargaining has concluded, it must make a declaration to that effect.

New section 50KA inserted by this Supplementary Order Paper precludes the Authority from making a declaration if the party seeking the declaration has not observed good faith and this has undermined the collective bargaining, unless the Authority is satisfied that the party has rectified the failure.

This Supplementary Order Paper also inserts *new clauses 60A and 61AB*. These make drafting changes that are consequential on the *new sections 174 to 174E* inserted by *clause 61*.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.
