

PARLIAMENTARY BRIEFING

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EMPLOYMENT RELATIONS AMENDMENT BILL POSES THREATS FOR HEALTH SYSTEM

ERA Amendment Bill threatening

The Transport and Industrial Relations Select Committee is currently considering the Employment Relations Amendment Bill 2013. The ASMS has made a written submission critical of the Bill's provisions and we hope to make oral submissions soon. We believe that the Bill poses a number of threats to New Zealand's health system which is extremely dependent on its highly professional and skilled workforce.

Since 1991 New Zealand has had two broad conflicting forms of industrial law. From 1991 to 2000 we had the Employment Contracts Act which, consistent with the ideology of that decade, saw employment through a narrow contractualist lens. The assumption was that employment could be reduced to words in a contract, it was little more than a commercial transaction, and that there was a level playing field between employer and employee. This approach lent itself to a more adversarial approach to employment relations.

Since 2000 we have had a fundamentally different and opposite approach under the Employment Relations Act (ERA) where the focus is on the employment relationship, not the contract only. In most jobs and occupations there is a significant imbalance in the employer-employee relationship, favouring the employer. The ERA endeavours to reduce this imbalance by focussing on the quality of the employment relationship between employer and employees (which is also seen as enhancing productivity) and the rights of employees to negotiate collectively through their applicable unions.

In contrast to its predecessor, the ERA has fostered the development of a single set of transparent, fair conditions of employment for DHB employed senior doctors and dentists codified ultimately in their multi-employer collective agreement. This has also been the case with other parts of the DHB workforce including nurses and resident doctors. The ERA has proved a good framework for systematically working through sometimes very difficult issues for our members who form a crucial part of the New Zealand public health system.

Unfortunately the Bill seeks to encroach upon the principles of the ERA in three main ways thereby posing threats to New Zealand's health system. Some of the principles of the first more adversarial form of industrial law are being introduced (rather like a Trojan Horse) into the shell of the second more cooperative form. The ASMS will discuss each of these three threats in subsequent *ASMS Parliamentary Briefings* but in summary they are:

1. Removing the obligation to conclude a collective agreement negotiation.
2. Allowing employers to opt out of a multi-employer collective agreement negotiation.
3. Removal of protection for new appointments in their first 30 days.

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The Association of Salaried Medical Specialists (ASMS) represents salaried senior doctors and dentists. The large majority of our members are employed by DHBs. Outside the College of GPs we are the largest organisation representing doctors in New Zealand. Central to our existence is to promote the right of equal access for all New Zealanders to high quality public health services.

The ASMS publishes the ASMS Parliamentary Briefing to provide considered advice to MPs of issues and concerns where we believe we have the experience and expertise.

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