



Workplace relations in New Zealand's screen sector

Workplace law changes are expected for screen production in New Zealand. The changes, proposed by industry and largely adopted by Government, will see contractors allowed to bargain collectively.

Currently, most workers in New Zealand's screen sector are contractors not entitled to employment rights, including the right to negotiate working conditions collectively. In 2018, the Government brought together industry, business and worker representatives to design a model that allows collective bargaining in the screen sector. The Government has mostly agreed to their recommendations, and is now drafting legislation to implement them.

These are the key aspects of the new model:

- Whether a screen sector worker is a contractor or employee will continue to be determined solely by the type of written agreement they have. In practice, this means workers can carry on as contractors, with the continued flexibility this provides.
- New universal terms will apply to all contract relationships in the screen industry. These relate to good faith between parties; protection from bullying, discrimination and harassment; fair and reasonable contract termination; and fair rates of pay.
- Contractors will be able bargain collectively at occupational and enterprise levels, with clear processes covering how bargaining is initiated, carried out and concluded.
- A tiered dispute resolution system will support parties to resolve issues.

The proposed model will go through detailed legislative design and the Parliamentary process, and is subject to change. We expect Parliament to pass the changes into law in mid-2020.

Why is this change needed?

The Government wants to restore screen workers' right to bargain collectively, while allowing them to continue as contractors.

A 2010 law change means all screen workers are independent contractors, unless they have a written employment agreement. Workers cannot challenge their employment status, effectively denying them access to rights like collective bargaining.

The proposed changes restore workers' collective bargaining rights. They also support the industry's desire to establish minimum standards, create clear expectations for production companies and workers, and prevent problems such as bullying, harassment and discrimination.

What type of work may be covered?

The model will apply to screen production work such as films, drama serials, commercials and video games. Its exact coverage will be determined during drafting in consultation with the industry.

Collective agreements will apply to all covered contractors, either at an enterprise level or an occupational level. Occupational groups may include performers, technicians, writers, visual effects artists, and game developers.

Exemptions from or variations to collective agreements will be possible in some circumstances. Individual contracts will continue to be possible, as long as they meet the minimum terms of any relevant collective agreement.

Employees in the screen sector will continue to work under standard employment law.

What will the agreements include?

It's proposed that all collective agreements will need to contain terms on minimum pay rates, agreed breaks, whether public holidays are recognised (and if so, how), hours of work and availability, dispute resolution processes and termination processes.

The agreements may also cover any other matters agreed between the parties.

How will disputes be resolved?

A dispute resolution scheme will be available to all parties, including mediation, arbitration and litigation. The proposals also require parties to act in good faith, and prohibit industrial action.

Who will do the bargaining?

We expect industry bodies and organisations (including unions or guilds) will bargain on behalf of production companies and workers.

There will be set requirements for these representatives to follow around initiating bargaining and ratifying agreements, which will be developed as legislation is drafted.

What will the impact be on productions?

Collective bargaining will establish minimum terms and conditions, such as wages, overtime and holidays, helping to provide certainty for production planning. The nature and scope of these conditions will be determined by parties during the bargaining process.

We expect Parliament to pass the changes into law in mid-2020. Any productions underway or in a sufficiently advanced stage of planning are not expected to be affected. It has been proposed that collective agreements come into effect six months after they are agreed, to give parties advance notice of new minimum terms.

New Zealand is a globally-acclaimed destination for screen projects. We have a proven track record and excellent reputation, generated by the talented individuals involved in all aspects of screen production. A contractor-based model means continued flexibility within this expert and diverse workforce.

Can I have my say on these changes?

Yes. A law will now be drafted to implement this model. Once this legislation is introduced later this year, it will go through the full legislative process. You will be able to comment on the draft law when it is before Select Committee.

Where can I find more information?

Visit www.mbie.govt.nz/screenworkers or email screenenquiries@mbie.govt.nz.