

A-Z Guide

EMPLOYMENT RELATIONSHIP PROBLEMS



The Employment Relations Act 2000 establishes eight distinct employment relationships; any of these relationships may experience employment relationship problems for which the Act provides a dispute resolution regime.

The eight employment relationships are defined in section 4 (2). Employment relationships are those between:

- An employer and an employee employed by the employer;
- A union and an employer;
- A union and a member of the union;
- A union and another union that are parties bargaining for the same collective agreement;
- A union and another union that are parties to the same collective agreement;
- A union and a member of another union where both unions are bargaining for the same collective agreement;
- A union and a member of another union where both are parties to the same collective agreement; and
- An employer and another employer where both employers are bargaining for the same collective agreement.

Employment relationship problems can arise at any time after an employment relationship has come into existence and can relate to anything arising out of the employment relationship except any problem with the fixing of new terms and conditions of

employment. Personal grievances, and disputes about the interpretation, application or operation of any employment agreement, are two distinct varieties of employment relationship problems that are provided for in the Act.

Employment relationship problems are not the sole right of employees; employers and unions may pursue employment relationship problems. Problems arising out of actual or anticipated breach of contract (agreement) by employees are actionable in the Employment Relations Authority if they are not resolved by mediation.

The Employment Relations Act 2000 provides a problem resolution regime for resolving employment relationship problems. The first stage in that regime is mediation. Any problem that is not resolved by mediation may progress to the Employment Relations Authority and/or the Employment Court.

Every employment agreement must contain a plain language explanation of the services available for resolving employment relationship problems. The explanation may set out your organisation's preferred process for dispute resolution but must include a reference to the 90-day period within which an employee must raise a personal grievance after the action claimed to give rise to the grievance has occurred and refer to the employee's right to seek the assistance of the Mediation Services provided by the Ministry of Business, Innovation and Employment. Employees can raise a personal grievance for sexual harassment with the Company within 12 months of the grievance arising or coming to your notice.

Employment relationship problems other than personal grievances and applications for penalties may be raised up to 6 years after the date on which the cause of action arose.

Refer to the **A-Z Guide on Samples of Plain Language Employment Relationship Problem Resolution Clauses** for examples of clauses that comply with the Act.

Refer to the **A-Z Guides on Disputes, Personal Grievances, Mediation, and the Employment Relations Authority** for more information on each of those subjects.

Remember

- Always call AdviceLine to check you have the latest guide.
- Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your situation.
- Use our AdviceLine employer advisors as a sounding board to test your views.
- Get one of our lawyers or consultants to assist.
- Attend our member briefings to keep up to date with all changes.

This guide is not comprehensive and should not be used as a substitute for professional advice.

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