



Workplace relations in New Zealand's screen industry

The Screen Industry Workers Act provides a new model, developed by industry and supported by Government, to allow screen industry contractors to bargain collectively. The Act comes into force on 30 December 2022.

These are the key aspects of the new law:

- › Whether a screen production worker is a contractor or an employee is determined solely by the type of written agreement they have. A "screen production worker" is a person involved in the creation of films, programmes, commercials and games.
- › Contractors doing screen production work must have written contracts with mandatory terms about contract termination and protection from bullying, discrimination and harassment.
- › A duty of good faith requires parties to a contract not to mislead or deceive one another.
- › Contractors doing screen production work can bargain collectively in their occupational groups and at the production/company level.
- › A tiered dispute resolution system supports parties to resolve issues that may arise, including access to mediation and facilitation.

Occupational bargaining under the Screen Industry Workers Act

BEFORE BARGAINING

Organisations that represent screen production workers or businesses must register to be able to bargain collectively. This will likely include guilds, unions and industry bodies.



INITIATING BARGAINING

If a majority of their members support it, a registered union or guild can apply to initiate collective bargaining for a specific occupation. Organisations representing businesses can only initiate bargaining to replace existing collective contracts, not for new ones.



Registered organisations apply to the Employment Relations Authority for approval to initiate collective bargaining. The Authority seeks submissions from the public for at least four weeks.



The Employment Relations Authority decides whether bargaining can be initiated, who the bargaining parties will be, and a process for holding a ratification vote after bargaining is done.



BARGAINING PROCESS

Once initiated, parties must act in good faith and have a duty to conclude bargaining with a collective contract. All collective contracts must contain mandatory terms, including pay, hours of work, breaks and termination processes.



In the event of a dispute, parties can access mediation and facilitation services, and seek a determination from the Employment Relations Authority. Industrial action is not allowed.



CONCLUDING BARGAINING

Once agreed by the bargaining parties, the collective contract will be checked by the Employment Relations Authority and put to affected workers for ratification. A simple majority of votes is needed for the collective contract to be ratified.



If ratification succeeds, the collective contract is published by the government. Any relevant individual contracts entered into after this will need to meet or exceed the minimum terms in the collective contract within six months. Any existing individual contracts must comply with the collective contract within 12 months.

If ratification fails



Who's covered by the Screen Industry Workers Act?

Whether someone meets the Act's definition of a "screen production worker" depends on what productions they work on and the type of work they do.

Productions covered by the Act are films, programmes, commercials and games. Programmes not covered include news, sports, and those for training and instructional purposes.

A variety of people directly involved in the creation of these productions are covered by the Act. However, the Act will not cover staff providing

support services, such as legal, accounting, marketing or management services that make a peripheral contribution to the creation of a screen production. The Act does not cover anyone working for a company whose primary business isn't in the screen industry. Amateur and volunteer work is also excluded.

If a worker or production is not covered by the Act, then standard employment or contract law will apply, as relevant.

How will collective bargaining under the Screen Industry Workers Act work?

The Screen Industry Workers Act allows collective bargaining to take place at two levels: across entire occupational groups and within a single production/company.

It is expected most collective bargaining in the screen industry will occur at the occupational level, which is described in the diagram on the previous page. These collective contracts will cover all work by a particular occupation of workers, across all screen productions covered by the Act.

The Act categorises screen production workers into these occupations: composers, directors, game developers, performers, post-production technicians, production technicians and writers. These groupings can be modified if there are shifts in the screen industry workforce over time.

The Act also allows enterprise bargaining, which takes place within a single production or company. Enterprise contracts can't go below the minimum terms set in any applicable occupation contract.

There are also some differences in the process for negotiating enterprise contracts:

- › Unions or guilds will represent their workers and bargain directly with businesses.
- › Bargaining can only be initiated if all parties consent. There is no requirement to get approval from the Employment Relations Authority first.
- › The resulting enterprise contract will only apply to members of the union or guild that has signed the collective contract. Parties have the option of extending this coverage to non-member workers if everyone agrees (including the non-members).
- › An enterprise contract doesn't need to be checked by the Employment Relations Authority before ratification.





■ Why is the Screen Industry Workers Act needed?

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

A 2010 law change (known as the "Hobbit law") deemed all screen production workers to be independent contractors, unless they have a written employment agreement. They also cannot challenge their employment status.

The Screen Industry Workers Act provides protections to screen production workers, while also giving the industry the certainty and flexibility it needs. It supports the industry's desire to establish minimum standards, create clear expectations for production companies and workers, and prevent problems such as bullying, discrimination and harassment in the workplace.

■ Who came up with this model?

In 2018, the Government convened the Film Industry Working Group, which brought together industry, business and worker representatives. This working group was tasked with designing a model allowing collective bargaining by contractors in the screen industry. The Government agreed to the working group's recommendations in 2019, and implemented them through the Screen Industry Workers Act.

■ Does the industry support these changes?

The Screen Industry Workers Act implements a model unanimously agreed to by representatives from industry guilds, unions and production companies, as well as the New Zealand Council of Trade Unions and BusinessNZ. It provides the basis for an enduring and well-supported workplace relations framework in New Zealand's screen industry.

■ 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 terms will be determined by parties during the bargaining process.

Once an occupational contract has been negotiated, existing individual contracts will have a year before they need to comply with the minimum terms established through collective bargaining.

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.

■ Where can I find more information?

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

