



# Workplace relations in New Zealand's screen industry

The Government has introduced the Screen Industry Workers Bill to Parliament. The Bill proposes a new model, developed by industry and supported by Government, to allow screen industry contractors to bargain collectively.

These are the key aspects of the proposed model:

- › Whether a screen production worker is a contractor or an employee will continue to be 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 new duty of good faith will require parties to a contract not to mislead or deceive one another.
- › Contractors doing screen production work will also be able to bargain collectively in their occupational groups and at the production/company level.
- › A tiered dispute resolution system will support parties to resolve issues that may arise, including access to mediation and facilitation.

The Bill was reported back to the House of Representatives in August 2020 by the Education and Workforce Select Committee. The Bill will need to be reinstated for second reading when the next Parliament is formed, and will then go through the remaining steps in the legislative process.

# Occupation-level collective bargaining under the Screen Industry Workers Bill

## 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 four weeks.



The Employment Relations Authority decides whether bargaining should 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 Bill?

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

Productions covered by the Bill are films, programmes, commercials and games. Programmes not covered include news, sports, music, live event shows, and those for training and instructional purposes.

A variety of people directly involved in the creation of these productions will be covered by the Bill.

However, the Bill 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 Bill will 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 Bill, then standard employment or contract law will apply, as relevant.

## How will the Bill's multi-level bargaining model work?

The Screen Industry Workers Bill 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 occupation 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 Bill.

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

There are also some differences in the process for negotiating enterprise-level collective 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-level collective 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-level collective contract doesn't need to be checked by the Employment Relations Authority before ratification.





## ■ Why is this change 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") means all screen production workers are independent contractors, unless they have a written employment agreement. They also cannot challenge their employment status, effectively denying them access to employment rights like collective bargaining.

The Screen Industry Workers Bill 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 now proposes to implement those recommendations through the Screen Industry Workers Bill.

## ■ Does the industry support these changes?

Yes. The Screen Industry Workers Bill 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.

The Screen Industry Workers Bill will need to be reinstated for second reading when the next Parliament is formed. The Bill will then go through the remaining steps in the legislative process before being passed into law. Any productions underway or in a sufficiently advanced stage of planning are not expected to be affected. Once an occupation-level collective contract has been negotiated, existing individual contracts will have a year 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](http://www.mbie.govt.nz/screenworkers) or email [screenenquiries@mbie.govt.nz](mailto:screenenquiries@mbie.govt.nz).

