MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

COVERSHEET

Minister	Hon Brooke van Velden	**Portfolio**	Workplace Relations and Safety
Title of Cabinet paper	Freedom of Choice and Cutting Red Tape at the Beginning of Employment	**Date to be published**	21 May 2025

List of documents that have been proactively released		
Date	**Title**	**Author**
April 2025	Freedom of Choice and Cutting Red Tape at the Beginning of Employment	Office of the Minister for Workplace Relations and Safety
27 April 2025	Freedom of Choice and Cutting Red Tape at the Beginning of Employment ECO-25-MIN-0046 Minute	Cabinet Office
25 March 2025	Regulatory Impact Statement: Removing the 30 day rule and reducing the related information disclosure and reporting requirements for employers	MBIE
30 January 2025	BRIEFING-REQ-0008194: Initial process options for considering changes to the 30 day rule	MBIE

Information redacted **YES / NO** *(please select)*

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MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Regulatory Impact Statement: Removing the 30 day rule and reducing the related information disclosure and reporting requirements for employers

Decision sought	Final Cabinet Decisions
Agency responsible	Ministry of Business, Innovation and Employment
Proposing Minister	Minister for Workplace Relations and Safety
Date finalised	25 March 2025

Summary: Problem definition and options

Provisions in the *Employment Relations Act 2000* (the Act) (the 30 day rule, information disclosure requirements and reporting requirements) that are intended to address the information asymmetry between employers and employees at the start of an employment relationship, have the negative impact of reducing freedom of choice and imposing compliance costs on employers.

There is an opportunity to update the framework to change the balance and lower the compliance burden for employers.

Several factors need to be balanced when the Government intervenes in, and influences, individual employment agreement (IEA) negotiations through the Act:

- information asymmetry, where an employee does not know that a collective employment agreement (CEA) exists and the terms and conditions it contains; contractual agreements are more likely to maximise outcomes when both parties have equal information,
- employer and employee freedom of choice, where parties can negotiate terms and conditions of employment as they see fit, and
- employee protection at the start of an employment relationship, due to unequal bargaining power of employees relative to employers.

The Minister for Workplace Relations and Safety seeks to reduce the compliance burden for employers at the start of employment and promote freedom of choice (employers and employees can negotiate the terms and conditions of employment at the start of employment), while ensuring that information asymmetry is addressed and employees still have sufficient information to make an informed personal choice on whether to enter a CEA or an IEA at the start of their employment.

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What policy options have been considered, including any alternatives to regulation?

The status quo (Option 1) places the employee on the terms and conditions of the CEA, if the employer is party to one, for the first 30 days of employment. Parties can agree to additional terms that are no less favourable to the employee. An employer must provide information about any relevant CEA to the new employee and report the employee's decision regarding union membership to the relevant union through the active choice form (unless the employee specifically requests the employer not to).

Two options were considered alongside the status quo. Option 2, the Minister's preferred option in the Cabinet paper, is to remove the 30 day rule and revert the disclosure and reporting requirements to the 2015 obligations.

Option 3 goes further than Option 2 and removes the 30 day rule and all disclosure and reporting obligations. The employer would not have to provide any information regarding unions or the CEA to the employee, or report the employee's decision to the union.

Tight timeframes limited our ability to assess the feasibility of a broader range of options, including non-regulatory options.

The options were evaluated against the following criteria, relative to the status quo:

- the compliance burden on employers,
- the degree of employer and employee freedom of choice,
- impact on information asymmetry, and
- employee protection at the start of employment.

What consultation has been undertaken?

The Minister for Workplace Relations and Safety is seeking Cabinet decisions to return the 30 day rule framework to that of 2015-2019 as part of the Employment Relations Amendment Bill (the Bill). The Ministry of Business, Innovation and Employment (MBIE) did not have the opportunity to undertake consultation in the time available to meet the Cabinet timeframe required to include the Minister's proposed amendments in the Bill.

Based on previous reforms in 2015 and 2019, we expect employers would support the Minister's proposed option, as it reduces compliance burden and increases employer and employee freedom of choice. Unions and employees are likely to prefer the status quo over the Minister's preferred option, as they believe this best addresses information asymmetry and provides greater employee protection at the start of employment.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

MBIE's recommended option is Option 2, which is the same as the Minister's proposal in the Cabinet paper 'Freedom of choice and cutting red tape at the beginning of employment'.

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Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

Outline the key monetised and non-monetised costs, where those costs fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

Approximately 1% of employers in New Zealand have a CEA in place and approximately 15% of employees are covered by a CEA. The IEA offered by the employer will not be required to reflect the CEA at the start of employment (for the first 30 days), so new employees who are not members of a union may have to negotiate the terms of their IEA with their employer in order to achieve terms of equivalent benefit. This imposes higher transaction costs on those employees to digest and act on the information themselves, and some will not know how to do this. Employees may receive less favourable terms and conditions under an IEA, than an IEA that mirrors a CEA.

Benefits (Core information)

Outline the key monetised and non-monetised benefits, where those benefits fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

Approximately 1% of employers in New Zealand have a CEA in place. These employers could have a marginal decrease on the overall compliance cost for their business.

We expect an increase in freedom of choice for employees and employers where the employer is party to a CEA, as they would be able to negotiate different terms and conditions from the start of employment, rather than after 30 days.

Balance of benefits and costs (Core information)

Does the RIS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?

Given the relatively small number of businesses the proposal applies to, it was difficult to estimate the full costs and benefits. There will be a small reduction in compliance costs for a small number of businesses. MBIE does not think this proposal will lead to any change in economic activity or employment.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

The legislative proposal needs be implemented through amendments to the Act. These amendments would be part of the Employment Relations Amendment Bill which the Minister for Workplace Relations and Safety intends to introduce in 2025.

MBIE is responsible for administering the Act and providing information and guidance for businesses, unions and employees through its website, contact centre and other customer services on an ongoing basis. Information provision and updates to website content would be undertaken within MBIE's existing baseline funding.

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Limitations and Constraints on Analysis

Outline all significant limitations and constraints e.g. lack of data, other forms of evidence, constraint on the range of options considered, lack of time or freedom to consult

There is limited data to inform our analysis. MBIE is not aware of any data that could inform our understanding of the effect of the 30 day rule and associated provisions on an employee's decision to remain on an IEA or move to a CEA. In the time available, MBIE has not been able to commission and obtain data showing the effect of remaining on an IEA or moving to a CEA, on employee outcomes. Similarly, we are not aware of data that shows the level of a compliance burden on employers, in hours or monetary cost. This means we have not been able to establish whether the costs of the current system outweigh the benefits, that is, whether the problem exists. We have used available data to attempt to estimate the scale of the compliance cost for employers, but acknowledge this is a constraint.

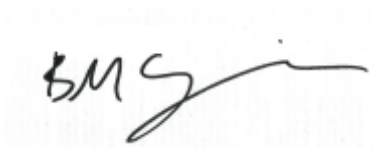
MBIE did not have the opportunity to undertake consultation in order to inform our understanding of the problem. This limits the strength of our understanding of the problem; both the scope and scale, and the extent to which there is in fact a substantive problem. MBIE's understanding of stakeholders' views of the problem and options to address it is based on information from previous parliamentary processes, and so we do not know whether views have changed in the meantime.

The Minister for Workplace Relations and Safety is seeking Cabinet decisions to return to the 2015-2019 framework. In the time available, only the Minister's preferred option and an option that would further reduce the compliance burden on employers (Option 3), were considered against the status quo. In the time available we did not identify any feasible non-legislative options.

Constraints on data and consultation with stakeholders mean that our understanding of the problem and the impact of options on stakeholders is weaker than it would have been if this information was available to us. Despite these constraints, MBIE is confident that Cabinet can rely on our recommendation that Option 2 achieves the Minister's objectives better than the status quo.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:



Beth Goodwin
Manager, Employment Relations Policy

25/03/2025

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Quality Assurance Statement	
Reviewing Agency:	**QA rating:** Partially meets

Panel Comment:

An independent Quality Assurance panel has reviewed the Regulatory Impact Statement for proposal to remove the 30 day rule and reduce the related information disclosure and reporting requirements for employers in the Employment Relations Act 2000. The panel has determined that it **partially meets** the quality assurance criteria and expectations for regulatory impact analysis.

The proposal implements the Government policy, and subsequently imposes serious constraints on the Regulatory Impact Assessment, which have been well documented. There are limitations and deficiencies in the problem definition, the identification of feasible options (including non-regulatory options), and no consultation about the proposal with stakeholders. It will therefore be important that the on-going monitoring and evaluation reports on the impacts of the change.

Section 1: Diagnosing the policy problem

The Employment Relations Act 2000 sets out an employer's obligations at the start of the employment relationship

1. New Zealand employers and employees are subject to the *Employment Relations Act 2000* (the Act) when negotiating a new employment agreement at the start of employment. Part 6 of the Act sets out the rules for determining the terms and conditions of an individual employment agreement.[1]

2. An employee's terms of conditions of employment can be contained in either a Collective Employment Agreement (CEA) or an Individual Employment Agreement (IEA). A CEA is an agreement between an employer and a registered union, reached through collective bargaining, that covers employees of the employer who are members of the union and whose work falls in scope of the CEA.[2] An IEA is agreed between an employer and an employee and applies only to that specific employee.

3. Approximately 1% of New Zealand employers are a party to a CEA.[3] The latest available figures show that in 2022, there were approximately 359,000 employees covered by CEAs,[4] which is approximately 15% of all employees.[5] Approximately 124,000 of these employees were employed in the private sector.

[1] Part 6, *Employment Relations Act 2000.*
[2] Section 5, *Employment Relations Act 2000*.
[3] Employment Agreements: Bargaining Trends and Employment Law Update, Centre for Labour, Employment and Work, Victoria University of Wellington, 2022 data shows 1851 collective agreements and approximately 167,000 employers.
[4] Employment Agreements: Bargaining Trends and Employment Law Update, Centre for Labour, Employment and Work, Victoria University of Wellington, 2022 data shows 235,000 employees in the public sector and 124,000 employees in the private sector covered by CEAs.
[5] StatsNZ, New Zealand business demography statistics: At February 2024 there were approximately 2.4 million employees.

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4. When an employer is party to a CEA, the law imposes additional obligations on that employer in relation to new employees, if their work falls in coverage of the CEA.

The 30 day Rule

5. If an employer has a CEA in place that covers the work of the new employee, for the first 30 days of their employment the new employee's IEA must reflect the terms of the CEA.[6] This is known as the '30 day rule'.

6. An employee and employer can agree to additional terms that are no less favourable than the terms in the CEA (either new terms, or more generous than the terms and conditions in the CEA).[7] Once the 30 day period expires, the employer and employee may vary the terms and conditions by mutual agreement.[8]

Information disclosure requirements

7. Employers are also required to disclose information about any relevant CEA to the new employee (information disclosure requirements). An employer must inform the prospective employee of the following:

    a. that a CEA exists,
    b. that the employee may join the union,
    c. that if they do so they would be bound by the CEA, and
    d. how to contact the union.

8. The employer must give the prospective employee a copy of the CEA, and any information that the union requests the employer to pass on about the union's role and functions.[9]

Reporting requirements: the Active Choice Form

9. The employer must report the employee's decision regarding union membership to the relevant union (reporting requirements). The employer must give the employee an active choice form (the Form) within 10 days after the employee commences employment. The Form invites the employee to indicate whether they intend to join a union. It must be accompanied by a notice that specifies the 30 day period during which the employee may complete and return the Form, and explains that, unless the employee objects, the employer will provide the employee's name and decision regarding union membership to each union which has a CEA that covers the employee's work, allowing the employee to more easily indicate their intention to join a union.

10. The employer must, within 10 working days after the 30 day period, provide the employee's name and the completed Form (if the employee completes and returns a form), or a notice that the employee did not complete and return the Form, to the union(s).

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[6] Section 62, *Employment Relations Act 2000*.
[7] Section 62, *Employment Relations Act 2000*.
[8] Section 63, *Employment Relations Act 2000*.
[9] Section 63B, *Employment Relations Act 2000*.

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Aspects of the framework have been changed by successive Governments

11. Different Governments have taken contrasting approaches to regulating situations where a relevant CEA exists, and a new employee has a choice to be covered by it or an IEA. The 30 day rule was removed in 2015 to promote freedom of choice and allow employers and employees to negotiate the terms and conditions of employment at the start of employment. The related information disclosure requirements were amended to reflect the removal of the 30 day rule, while the reporting requirements did not change.

12. In 2019, the 30 day rule was reintroduced, and information disclosure and reporting requirements were strengthened. In addition to the requirements that existed between 2015 and 2019, employers must now pass on any information provided by unions about their role and functions to the employee; and the Form was introduced, with the requirement that employers must provide unions a copy of the completed Form, unless the employee specifically objects.

This part of the Act seeks to address several policy problems

Information asymmetry exists at the point of IEA negotiation

13. Information asymmetry exists in IEA negotiations where an employee does not know that a CEA exists and the terms and conditions it contains. The CEA can provide an alternative to a proposed IEA, a starting point for negotiations, or ‘fallback option’ for an employee that negotiates an IEA. Information asymmetry varies across employees. Younger employees or employees with less experience in the workforce may be less likely to know about the existence of a CEA.

14. The Act seeks to address potential information asymmetry through the 30 day rule, and information disclosure requirements placed on the employer. This allows the employee to experience the terms and conditions of the CEA for 30 days, access a copy of the CEA, and details about the union. This can put the employee in a better position to decide whether to negotiate an IEA and on which terms there might be room to negotiate. If information disclosure requirements were not present in the Act, many employees would not know how to seek out the CEA and would enter into IEA negotiations in a weaker position.

15. However, in requiring the business to address this information asymmetry a marginal compliance cost is created.

The Act reduces employer and employee freedom of choice by protecting employees at the start of an employment relationship

16. There is a tension between freedom of choice in negotiating terms and conditions, and protecting employees at the point of negotiation. As the IEA must reflect the CEA for the first 30 days, employer and employee freedom of choice is restricted during this period. Only terms and conditions that are no less favourable to the employee may be mutually agreed.

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17. The 30 day rule protects employees from agreeing to unfavourable terms and conditions, providing, at a minimum, the same terms and conditions as the applicable CEA for the first 30 days. Employers and employees can negotiate terms and conditions that are more favourable than the CEA, but cannot go below the floor set by the CEA for the first 30 days of employment.[10]

18. The information disclosure and Form requirements further protect employees by ensuring employees are fully informed about their rights and options regarding union membership and collective agreements.

19. Unions and employee stakeholders supported the disclosure and reporting requirements being reinstated in 2019.[11] They believed employers should not be able to offer lesser terms and conditions than the CEA which, in their view, sets a fair basis for new employees' terms and conditions. They view employees as particularly vulnerable when commencing employment and unlikely to bargain with their employer over terms and conditions. Employees new to the labour market are also unlikely to know industry norms nor realise they are being offered lower terms. This position is consistent with the Act's objective to build productive employment relationships by acknowledging and addressing the inherent inequality of power in employment relationships.[12]

20. In contrast, employers raised concerns in response to the 2019 changes, asserting that employees and employers would not then be able to negotiate terms and conditions as they see fit. They considered the 30 day rule limits how an employer may negotiate with new employees and that as a result an employee may receive worse conditions because an employer cannot provide flexibility in the terms and conditions that they offer. Employers also argued the employee should choose whether they want to be employed on the terms and conditions of the CEA for the first 30 days rather than it being automatic.[13]

21. We know anecdotally that some employers offer IEAs with terms which mirror the CEA anyway, to reduce payroll complexities. It is not clear how widespread this practice is, nor whether the 30 day rule influences this practice. Employers will be able to continue to offer IEAs that mirror the CEA. This practice might reduce any risk of an employee being offered lower terms and conditions on an IEA, but also might limit their ability to negotiate bespoke terms.

The policy problem: the current settings in the Act are creating costs that may outweigh the benefits

22. Employers have voiced concerns about the compliance burden associated with meeting current 30 day rule obligations. The current obligations for employers which

[10] Employment Relations Amendment Bill, Departmental Report to the Education and Workforce Committee, 25 July 2018, page 45
[11] Employment Relations Amendment Bill, Departmental Report to the Education and Workforce Committee, 25 July 2018, page 34
[12] Section 3, *Employment Relations Act 2000*.
[13] Employment Relations Amendment Bill, Departmental Report to the Education and Workforce Committee, 25 July 2018, page 42.

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are party to a CEA, when a new employee begins employment, are the most extensive since the Act was enacted.

23. We estimate the size of the compliance burden on employers to be small, relative to the other compliance activities employers must undertake, and the burden is experienced by only a small number of employers.

24. Approximately 1% of employers are party to a CEA and face these obligations. It is a reasonable assumption that this compliance burden is more likely to fall on medium to large employers (50 employees or more), which make up approximately 4.1% of all employers in New Zealand,[14] as employers with fewer employees are less likely to be party to a CEA.

25. The benefit of the current requirements is that it ensures employees receive fuller information than they might otherwise, and receive the benefit of the collective agreement terms.

26. The hypothesis is that the cost of the compliance burden on employers is greater than the benefit received by employees. As noted in the Limitations section, MBIE is not aware of any data that could quantify the effect of the 30 day rule and associated provisions, on either employees or employers, meaning we do not have evidence to judge whether the hypothesis is accurate. For the purposes of this RIS, we assume the hypothesis is correct, but we acknowledge this limitation.

What objectives are sought in relation to the policy problem?

27. The Minister for Workplace Relations and Safety has identified objectives in relation to the policy problem. The Minister seeks to reduce the compliance burden for employers at the start of employment and promote freedom of choice (to enable employers and employees to negotiate the terms and conditions of employment at the start of employment), while ensuring that the information asymmetry is addressed and employees still have sufficient information to make an informed personal choice on whether to enter a CEA or an IEA at the start of their employment.

28. Promoting freedom of choice is the ability of employers and employees to negotiate the terms and conditions of employment at the start of employment. For example, if a CEA included five weeks annual leave, and four weeks' notice to terminate the agreement, an employer and employee could not agree to trade off four weeks annual leave in return for ten weeks' notice to terminate the agreement, as four weeks annual leave is less favourable than the CEA. That change to their terms could only be made following the 30 days.

29. Regulatory change in this area should balance these objectives by reducing compliance costs for employers and maximising employer and employee freedom of choice in negotiating an IEA, while ensuring that the information asymmetry continues to be, as far as practical, reduced.

[14] Infometrics, Regional Economic Profile, Size of businesses, 2025.

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What consultation has been undertaken?

30. The Minister for Workplace Relations and Safety is seeking Cabinet decisions to return the 30 day rule framework to those of 2015-2019 as part of the Employment Relations Amendment Bill. We did not have the opportunity to undertake consultation. Our understanding of employer, employee and union stakeholders' views on the problem, and options to address the problem, are based on submissions to Select Committee on the 2015 and 2019 changes to the 30 day rule and associated provisions.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

31. We assessed the options against the following decision criteria:

- the compliance burden on employers,
- the degree of employer and employee freedom of choice (to enable an employer and employee to negotiate the terms and conditions of employment at the start of employment),
- impact on information asymmetry, and
- employee protection at the start of employment.[15]

What scope will options be considered within?

32. The options were considered within the scope directed by the Minister. On 3 February 2025, the Minister decided to remove the 30 day rule and revert to the related information disclosure and reporting requirements to those that existed from 2015-2019. This aligns with the Government's commitment to cut the red tape and regulations that may prevent businesses and employees from realising their full potential, and to build a stronger, more productive economy that lifts real incomes and increases opportunities for all New Zealanders.

33. As we did not have the opportunity to consult, options were not tested with stakeholders. Submissions on previous amendments to the Act have provided us an understanding of the likely responses from employers, employees, and unions.

What options are being considered?

34. This section sets out a description of each of the options. These options are also assessed in the options table below. All options only apply to employers who are party to a CEA. Employers which are not would continue to have no obligations in this area. The options also only apply to employees who are not union members when they join the employer – employees who already belong to the union would continue to be covered by the relevant CEA from the start of employment.

[15] Section 3, *Employment Relations Act 2000:* "one objective of the Act is to build productive employment relationships through the promotion of good faith in all aspects of the employment environment and of the employment relationship… by acknowledging and addressing the inherent inequality of power in employment relationships."

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35. The legislative provisions in the Act are the source of the described problem, and therefore the options considered are changes to legislation. In the time available we have not identified any non-legislative options that could address the problem.

Option 1 – Status Quo

36. The current position is that when a new employee who is not a union member is hired and enters into an IEA to do work that is covered by a CEA, then they automatically have the terms of that CEA reflected in their IEA for the first 30 days of their employment. Parties can agree to additional terms that are no less favourable to the employee than the terms in the CEA. During this 30-day period, the employee can decide whether to join the union and remain covered by the CEA, or remain on an IEA. If they wish, the employee and employer can negotiate different or additional terms in their IEA at the end of 30 days.

37. The employee's choice is facilitated by the Form. An employer must provide information about relevant unions and any relevant CEA to the new employee and report the employee's decision regarding union membership to the relevant union through the Form (unless the employee specifically requests the employer not to).

Option 2 – Remove the 30 day rule and revert the disclosure and reporting requirements to the 2015 obligations (Minister's preferred option)

38. Option 2 returns the framework to that of 2015-2019. An employee would be employed on an IEA, the terms of which the parties would be free to negotiate, and would apply from the first day of employment. An employer would no longer have to:

    - place a new employee on the terms of a CEA (or no less favourable terms) for the first 30 days; nor
    - provide the Form, along with a list of unions with CEAs that cover their work, to the employee, then pass the Form on to the relevant union.

39. Unions could no longer specify the information that is provided to the employee and the form in which it is provided.

40. Minimum disclosure and reporting requirements would still exist, and the employer would need to inform an employee:

    - that a CEA exists and covers the work to be done by the employee,
    - that the employee may join a union that is a party to the CEA,
    - about how to contact the union; and
    - that, if the employee joins the union, the CEA will bind the employee.

41. The employer must also continue to give the employee a copy of the CEA and if the employee agrees, inform the union as soon as practicable that the employee has entered into the IEA with the employer.

Option 3 – Remove the 30 day rule and all specific disclosure and reporting requirements

42. Option 3 removes the 30 day rule and all associated disclosure and reporting obligations. The employer would not have to provide any information regarding unions

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or the CEA to the employee. This option goes further (in terms of removing disclosure and reporting requirements) than in the 2015-2019 framework.

43. There is a chance that, despite the repeal, the Employment Relations Authority or the Employment Court could read the general obligation of good faith as requiring an employer to provide a CEA as an alternative option to the IEA, to facilitate an informed decision by the employee. Thus, this option would require a further amendment to the Act to put beyond doubt that the employer is still acting in good faith if they do not provide the CEA to the employee.

44. Unions could no longer specify the information that is provided to the employee and the form in which it is provided.

Comparison of the 30 day rule, information disclosure and reporting requirements

45. The table below shows the existence of 30 day rule and the nature of information disclosure and reporting requirements across the three options.

	Option 1 –Status Quo	**Option 2 – Remove the 30 day rule and revert to the 2015 obligations (Minister's preferred option)**	**Option 3 – Remove the 30 day rule and all specific disclosure and reporting requirements**
30 day rule	Included.	Removed.	Removed.
Information disclosure to employee	The employer must inform the employee about unions and the CEA and provide a copy of the CEA to the employee. Unions can also pass on information to the employer that must be provided to the employee.	The employer must inform the employee about unions and the CEA and provide a copy of the CEA to the employee.	The employer would not have to provide any information regarding unions or the CEA to the employee.
Reporting employee's decision on union membership to union(s)	Within 10 days after the 30 day period ends, the employer must inform the union of all information specified in the Form, unless the employee specifically objects.	The employer must inform union "as soon as practicable" of the employee's decision if the employee agrees.	No obligation to report the employee's decision.

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How do the options compare to the status quo/counterfactual?

	Option 1 – Status Quo	*Option 2 – Remove the 30 day rule and revert the disclosure and reporting requirements to the 2015 obligations (Minister's preferred option)*	*Option 3 - Remove the 30 day rule and all specific disclosure and reporting requirements*
Reduced compliance costs for business	0	Could have marginal decrease on overall compliance cost for business. **+**	Could have marginal difference on overall compliance cost for business, as this option removes all information disclosure and reporting requirements. **++**
Employer and employee freedom of choice	0	Employees and employers can negotiate full terms and conditions from the start of employment. **++**	Employers gain more freedom of choice, but employees have less freedom due to a lack of information to make informed choice on IEA vs CEA. **+**
Addressing information asymmetry	0	Employee is informed about the union and how to contact it, and receives a copy of CEA. No 30 day rule means employee does not receive experience of the CEA, and may face a higher transaction cost to seek out and act on information. **0 to -**	Completely removed, responsibility is solely on employee to find information on CEA. Employee is not made aware of CEA. **- -**
Employee protection	0	Employees receive information on CEA and can make a choice. IEA does not reflect CEA at the start of employment (for the first 30 days), so some employees may have to negotiate the terms of their IEA with their employer. Form no longer exists to enable employee to more easily indicate intention to join union. Some employees may receive less favourable terms, compared to those under a CEA, or IEA that reflects a CEA. **-**	Employees not made aware of the existence of CEA, bargaining power of employees is significantly reduced at the start of employment, as the onus is on the employee to understand the CEA's existence and contents. This is likely to impact employees who are new to the workforce or have had limited exposure or contact with a union or the idea of a CEA. Employees likely to receive less favourable terms compared to those under a CEA, or IEA that reflects a CEA. **- -**
Overall assessment	0	**+**	**-**

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What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

46. Option 2 best addresses the assumed problem and meets the policy objectives of reducing compliance burden for employers at the start of employment and promoting freedom of choice (employers and employees can negotiate full terms and conditions of employment at the start of employment), while ensuring that employees still have sufficient information to make an informed personal choice on whether to enter a CEA or an IEA at the start of their employment.

47. Compared to Option 3, Option 2 does not remove all the information disclosure and reporting requirements. Minimum disclosure and reporting requirements would still exist, which aid the employee in making an informed decision regarding union membership.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

48. The Minister's preferred option in the Cabinet paper is the same as MBIE's preferred option.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups *(identify)*	**Comment** *nature of cost or benefit (e.g., ongoing, one-off), evidence and assumption (e.g., compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Regulated groups: New non-union member employees Employers who have a CEA in place (1% of all NZ employers)	IEA does not reflect CEA at the start of employment (for first 30 days), so some employees will have to negotiate the terms of their IEA with their employer with less experience of the terms of the CEA. Employees receive CEA and union information. Some employees may receive less favourable terms. No marginal costs for employers.	Low for employees who have experience in the labour market. Medium for employees who are new to the workforce or have had limited exposure to unions.	Low – Only information is data from Centre for Labour, Employment and Work[16] to estimate the scale of employers affected. No consultation has occurred.
Regulators (Crown)	Negligible.	Negligible.	High – based on Departmental consultation.
Others (e.g., wider govt, consumers, etc.) Unions	Unions will no longer receive information on employees' decision on union membership in a standardised form, nor be able to provide information about the union in the form they would like.	Low.	Low – we have been unable to consult unions, to understand the impact.
Total monetised costs	N/A.	N/A.	N/A.
Non-monetised costs	Marginal ongoing cost for negotiating an IEA at start of employment for employees. Employees new to workforce may receive less favourable terms than	Low for employers. Low for employees who have experience in the labour market. Medium for employees who are	Low – data provides some understanding of who is affected by changes, but level of impact and our certainty is limited by lack of consultation.

[16] Employment Agreements: Bargaining Trends and Employment Law Update, Centre for Labour, Employment and Work, Victoria University of Wellington, 2022 data shows 235,000 employees in the public sector and 124,000 employees in the private sector covered by CEAs.

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	if the 30 day rule was in place.	new to the workforce. Negligible for Crown.	
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Approximately 1% of employers in NZ have a CEA in place. These employers are expected to have a marginal decrease in overall compliance cost for business. Employees and employers can negotiate terms and conditions from the start of employment.	Low for employers cost reduction. Medium for employers' and employees' ability to negotiate terms from start of employment.	Low – Only information is data from Centre for Labour, Employment and Work to estimate the scale of employers affected. No consultation has occurred to test compliance cost.
Regulators	N/A.	N/A.	N/A.
Others (e.g., wider govt, consumers, etc.)	N/A.	N/A.	N/A.
Total monetised benefits	N/A.	N/A.	N/A.
Non-monetised benefits	Marginal ongoing cost reduction for employers. Employees and employers can negotiate terms and conditions from the start of employment.	Low for employers cost reduction. Medium for employers and employees ability to negotiate terms from start of employment.	Low – consultation has not occurred.

The preferred option will benefit a small number of businesses

49. Given the changes apply to a relatively small number of businesses, and the lack of data, it has been difficult to estimate full costs and benefits. There will be a small reduction in compliance costs for a small number of businesses, although they are likely to be larger businesses. Employers will have greater freedom to offer terms and conditions they choose, from the outset of employment.

50. MBIE does not think this proposal will lead to any change in economic activity, nor employment. Insofar as it is one factor that affects bargaining, we also cannot estimate what effect the proposal will have on wages and conditions.

51. Employees will have less protection, as they will not automatically receive the terms and conditions of the CEA for the first 30 days, but this is mitigated by receiving of a copy of the CEA, and union information, so we consider that in the main, employees should receive the necessary information to enable them to receive the CEA terms by joining the union, if they choose. Employee flexibility increases as employees will now be able to negotiate full terms and conditions from the start of employment.

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Section 3: Delivering an option

How will the proposal be implemented?

52. The legislative proposals need to be implemented through amendments to the Act. These amendments would be part of the Employment Relations Amendment Bill which the Minister for Workplace Relations and Safety intends introduce in 2025.

53. MBIE is responsible for administering the Act and providing information and guidance for businesses, unions and employees through its website, contact centre and other customer services on an ongoing basis. Information provision and updates to website content would be undertaken when the Bill passes and at the time the law change takes effect, within MBIE's existing baseline funding.

How will the proposal be monitored, evaluated, and reviewed?

54. As regulatory steward of the Employment Relations and Employment Standards system, MBIE has several ways to monitor changes to the Act.

55. MBIE will monitor implementation of the policy through business-as-usual media reports, research, and statistics published periodically by StatsNZ. MBIE will also monitor determinations of the Employment Relations Authority and the Employment Court in this area to gather information about whether employers and employees are testing how the new framework operates. Limitations and constraints on data noted above are likely to continue after the proposal comes into effect.

56. MBIE does not have any mechanisms under the legislation to compel employers to comply with the new framework. The existing dispute resolution mechanisms in the Act apply, where an employee can bring an action if their employer does not comply with the requirements of the Act in relation to bargaining for an individual employment agreement.[17] A proactive enforcement mechanism is not being considered as part of this proposal and would likely be very resource intensive for MBIE to enforce.

[17] Section 63A, *Employment Relations Act 2000*.

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