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# The Employment Relations Amendment Act 2026

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What actually changed.

What it means for you.

Royal Assent: 20 February 2026

In force: 21 February 2026

**lane neave.**

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# The biggest shake-up in NZ employment law in years.

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- High earners above \$200k lose personal grievance rights for dismissal
- Employers no longer need good faith process to dismiss high earners
- Serious employee misconduct can now eliminate all remedies
- Procedural errors won't invalidate a fair dismissal
- New statutory gateway test for contractor status
- Trial period protections strengthened
- 30-day collective agreement rule scrapped

## KEY CHANGE #1

# \$200,000 Threshold

Employees earning \$200k+ in total remuneration can no longer challenge their dismissal by personal grievance.

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### What counts:

- All PAYE income: salary, wages, bonuses, commissions
- Employee share scheme benefits
- Annualised over the preceding 364 days

### The real kicker:

**Employers don't need good faith process or a reason to dismiss a high earner. Just the contractual notice period.**

### What they keep:

- PG rights for disadvantage, discrimination, harassment
- Parties can contractually opt back in to protections

# The transitional window matters.

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## **New agreements (from 21 Feb 2026)**

The exclusion applies immediately.

No PG rights. No good faith on dismissal.

## **Existing agreements**

12-month grace period until 21 Feb 2027.

Both parties can agree to opt in early.

Use the window to negotiate protections.

**If you earn above \$200k on an existing agreement, you have until February 2027 to lock in contractual protections — notice periods, severance, or an opt-in to PG rights.**

# Your conduct now determines your remedies.

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**Serious misconduct + contributed to the situation giving rise to the grievance?**

**Zero remedies. (s 123B)**

Both limbs must be met — but if they are, no payout.

**Misconduct (as opposed to serious misconduct) that contributed?**

**No reinstatement.**

**No compensation for humiliation/dignity.**

Remedies can be reduced up to 100%. (ss 123C, 124)

**The old game — bad process by the employer = payout regardless — is over. Employee conduct now sits at the centre of the remedies analysis.**

# Process matters less. Substance matters more.

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## The old test:

Only 'minor' procedural defects could be overlooked. Most errors — even harmless ones — could invalidate a dismissal.

## The new test (s 103A(5)):

**Any procedural defect won't make a dismissal unjustified if it didn't result in the employee being treated unfairly.**

The word 'minor' is gone. The question is no longer 'was your process perfect?' It's 'was the employee treated fairly in substance?'

## New factor:

The Authority can now consider whether the employee obstructed the employer's process. (s 103A(3)(e))

*This doesn't mean you can abandon process. But it means a good-faith attempt at fairness won't be torpedoed by a technical misstep.*

## KEY CHANGE #4

# Trial periods: stronger than before.

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90-day trials were already restored to all employers in December 2023. The 2026 Act didn't do that — but it did make them more robust.

### What changed:

Employees dismissed during a valid trial period now can't bring a grievance for unjustified disadvantage either — not just unjustified dismissal.

### Brief history:

- 2009: Introduced (small employers only)
- 2011: Extended to all employers
- 2019: Restricted back to <20 employees
- Dec 2023: Restored to all employers
- Feb 2026: Protections strengthened

*The clause must still be in writing, signed before day one, and properly drafted. Get it wrong and it's void.*

# A statutory path to contractor status.

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The new 'specified contractor' gateway test (s 6(7)). Meet all five criteria and the worker can't bring an employment status claim.

- 1 Written agreement stating the worker is an independent contractor
- 2 Worker is not restricted from working for others (except while performing work)
- 3 Not required to perform, or be available for, work at specified times or for a minimum period. Or the worker can subcontract.
- 4 Arrangement doesn't end because worker declines additional work
- 5 Worker had reasonable opportunity to seek independent advice

*If any criterion fails, the traditional 'real nature of the relationship' test applies.  
This isn't a shortcut for sham arrangements.*

# Other changes.

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## 30-day rule scrapped

New non-union employees no longer have to start on collective agreement terms. Employers can negotiate individual terms from day one.

## Union information obligations reduced

Active choice forms repealed. Employers must still inform new employees about the collective, but only notify the union with the employee's consent.

## What didn't change

- PG rights for disadvantage, discrimination, harassment
- Human Rights Act, Health & Safety, Holidays Act
- Minimum employment standards
- Good faith (generally — except for high-earner dismissals)

## WHAT NOW

# Whether you're an employer or a high earner, the time to act is now.

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The transitional window for existing high earners closes in February 2027. If you haven't negotiated contractual protections by then, the default position applies — no PG rights, no good faith on dismissal, no obligation to give a reason.

### Key dates:

**21 Feb 2026**

Most provisions now in force

**21 Feb 2027**

Transitional period ends (\$200k threshold)

**1 Jul 2027**

Annual threshold adjustments begin