



Employment Relations (Extending Part 6A Protections to Security Officers) Order 2021

Patsy Reddy, Governor-General

Order in Council

At Wellington this 29th day of March 2021

Present:

Her Excellency the Governor-General in Council

This order is made under section 237A of the Employment Relations Act 2000—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister made in accordance with sections 237A(2) and (5) of that Act.

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Order

1 Title

This order is the Employment Relations (Extending Part 6A Protections to Security Officers) Order 2021.

2 Commencement

This order comes into force on 1 July 2021.

3 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in the Schedule have effect according to their terms.

4 Schedule 1A of Employment Relations Act 2000 amended

In the Employment Relations Act 2000, Schedule 1A, after paragraph (f), insert:

- (g) services in the security sector,—
 - (i) including any 1 or more of the following in any workplace:
 - (A) guarding real or personal property belonging to another person:
 - (B) monitoring in real time, from any part of a premises, images from a camera or similar device on the same premises:
 - (C) services provided by a crowd controller employee (as defined in section 19 of the Private Security Personnel and Private Investigators Act 2010):
 - (D) escort duty and courtroom custodial duty as those terms are defined in section 3 of the Corrections Act 2004:
 - (E) mobile security patrols:
 - (F) collecting cash from any premises; but
 - (ii) excluding services of the type described in the following sections of the Private Security Personnel and Private Investigators Act 2010:
 - (A) section 13 (meaning of private investigator employee):
 - (B) section 14 (meaning of security technician employee):
 - (C) section 15 (meaning of security consultant employee):
 - (D) section 16 (meaning of confidential document destruction agent employee):
 - (E) section 16A (meaning of repossession employee):
 - (F) section 18 (meaning of personal guard employee); and
 - (iii) excluding services carried out by any of the following persons:
 - (A) an appointed court security officer (as defined in section 2 of the Courts Security Act 1999):
 - (B) an officer (as defined in section 3(1) of the Corrections Act 2004) other than a person appointed or engaged under sec-

tion 17(2) of that Act to undertake escort duties or court-room custodial duties:

- (C) a Police employee (as defined in section 4 of the Policing Act 2008).

Schedule

Transitional, savings, and related provisions

cl 3

Part 1

Provisions relating to this order as made

1 Definitions

In this Part,—

Act means the Employment Relations Act 2000

agreement has the same meaning as in section 69B of the Act

commencement date means the date on which this order comes into force

restructuring has the same meaning as in section 69B of the Act.

2 Effect of amendment to Schedule 1A of Act on restructuring in progress on commencement date

- (1) Part 6A of the Act continues to apply to a restructuring in the following situations as if Schedule 1A had not been amended by this order:
- (a) in the case of a contracting in, if an agreement of the kind referred to in section 69C(1)(a) of the Act expires or is terminated before 23 August 2021:
 - (b) in the case of a contracting out or subsequent contracting, if an agreement of the kind referred to in section 69C(2)(a) or (4)(d) of the Act was entered into before the commencement date:
 - (c) in the case of a sale or transfer of a business (or part of a business), if the sale or transfer takes effect as a result of an agreement entered before the commencement date.
- (2) Subclause (1) applies even if the restructuring takes effect after the commencement date.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 1 July 2021, amends Schedule 1A of the Employment Relations Act 2000 (the **Act**). The amendment adds employees who provide certain types of security services to the employees protected by Part 6A of the Act (continuity of employment if employees' work affected by restructuring).

The protections in Part 6A of the Act will apply to an employee providing the specified types of security services if, as a result of a proposed restructuring,—

- the employee will no longer be required by the employee's employer to perform the work performed by the employee; and
- the work performed by the employee (or work that is substantially similar) is to be performed by or on behalf of another person.

The order includes transitional provisions that provide that the protections in Part 6A of the Act will not apply to a restructuring in the following situations even if the restructuring takes effect after the commencement date:

- if the restructuring involves a contracting in (as defined in section 69C of the Act) that takes effect as a result of the termination or expiry of an agreement before 23 August 2021; or
- if the restructuring involves a contracting out or subsequent contracting (as defined in section 69C of the Act) that takes effect as a result of an agreement that was entered before the commencement date; or
- if the restructuring involves a sale or transfer of a business (or part of a business) that takes effect as a result of an agreement that was entered before the commencement date.

Regulatory impact assessment

The Ministry of Business, Innovation, and Employment, produced a regulatory impact assessment on 10 November 2020 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact assessment can be found at—

- <https://www.mbie.govt.nz/business-and-employment/employment-and-skills/employment-legislation-reviews/security-officers-application-to-amend-schedule-1a/>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

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to Security Officers) Order 2021**

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Wellington, New Zealand:

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