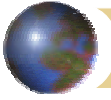


Chp. 6: ERA 2000

- ⊕ The gestation of the ER Bill & ERA
- ⊕ Overview of the Employment Relations Act
 - ▣ What are the main differences, comp. to ECA?
 - ▣ Parts of ERA & key notions
 - What do they mean in reality?
- ⊕ ERA: processes & outcomes
 - ▣ Not covered in book, where do you get info?

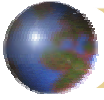
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Theoretical shift

- ECA & employment contracts versus employment relationships & ERA
 - NZ: clash of assumptions & lack of consensus
 - See pp 68-72; 1990s re-balance discussion
 - Frames of reference, management styles & unions
 - Labour market models, economic performance & flexibility (re: work organisation, see also chp. 9)
 - Role of state, interventions & institutions
 - Interpretation of history: evaluating trends

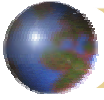
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Employment Relations Bill

- ⊕ New legislation alters power balances
- ⊕ Basic positions were announced post 1993
 - ▣ Did people understand impacts? (~ EC Bill)
 - Employer reaction must be seen in context
 - Philosophical divide
 - Bill formulations & employer criticism
- ⊕ Employer criticism had an impact
 - ▣ Clarity, workability & buttressing emp. position

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ERA – the fundamentals

- ⊕ More comprehensive & prescriptive
- ⊕ Mix of ECA legacy & collectivism
 - ▣ Legislative tradition can sometimes be detected
- ⊕ Object of the Act – see fig 6.1
 - ▣ Employment relationships & good faith
 - ▣ Inherent inequality of bargaining power
 - ▣ Integrity of individual choice
 - ▣ Observance of ILO conventions 87 & 98

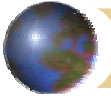
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ERA – Part 1 & 2

- ⊕ ECA differences: bargaining regulation, promotion of collectivism & unionism
- ⊕ ECA similarities: individual choice, voluntary unionism & PGs for all
 - ▣ Emphasis on less judicial intervention
- ⊕ Part 2: definitions of key terms
 - ▣ CEAs are 'owned' (concluded) by unions
 - ▣ Coverage clause: CEAs are about the type of work involved (not about particular employees)

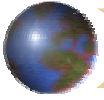
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ERA – Part 3 & 4

- ⊕ Part 3: similar to ECA
 - ⊞ Confirms voluntary unionism
 - But in a totally different legislative context
 - Key terms have been scrutinised by courts in 1990s
- ⊕ Part 4: union recognition & operation
 - ⊞ Unions: prescribed & promoted by Act
 - ⊞ Union registration re-introduced
 - ⊞ Comprehensive bargaining & access rights

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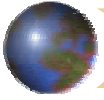


ERA – Part 5

🌐 Collective bargaining

- 📌 Good faith bargaining (see also pp 185-190)
 - Prescribes an approach but not conclusion of CEA
 - Behaviour & exchange of information are crucial
 - Good Faith Codes (see DOL publication)
 - ‘Joker’ – outcomes & impacts are unclear
- 📌 Allow earlier start & advantage unions
- 📌 Multi-employer CEAs are feasible
- 📌 Form & content are prescribed

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ERA – Part 6

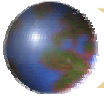
🌐 Employees covered by IEAs

📌 Link between CEAs & IEAs is important

- Fixed-term & probationary agreements

📌 Protection of employees with IEAs

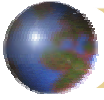
- Can seek advice & info prior to signing an IEA
- If CEA covers, then IEA must not be inconsistent
- If CEA exists but doesn't cover, then 30 day rule
- Prescribed content of IEAs – see p. 131



ERA – Part 7 & 8

- ☉ Employment Relations Education Leave
 - ▣ Union controlled & benefits union members
 - ▣ Costs & benefits to employers
 - See calculation of entitlements, table 6.1
 - Depends on types of education leave schemes
- ☉ Part 8: strikes & lockouts
 - ▣ Key question: when is a strike/lockout lawful?
 - Depends on: CEA, negotiations, industry type, OSH

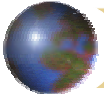
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ERA – Part 8

- ⊕ Strikes/lockouts are lawful, if:
 - ▣ In support of CEA & no CEA exist
 - ▣ Negotiations have taken place (40 days at least)
 - ▣ If essential services, notice requirement is met
 - ▣ Note: strikes allowed with multi-employer CEA
- ⊕ Strikes/lockouts are unlawful, if:
 - ▣ In breach of above conditions for being lawful
 - ▣ If tort proceedings or injunctions are pursued
 - ▣ Concerns Personal Grievances or 'disputes of rights'

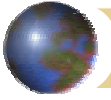
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ERA – Part 9

- ⊕ Personal Grievances – 6 different types
 - ⊞ Racial harassment is new type
 - ⊞ 13 types of discrimination from HRA 1993
 - ⊞ Focus on determining rights & obligations
 - solving ER problems efficiently, not empl. terms
 - ⊞ Reinstatement as the primary remedy
 - ⊞ 90-day rule: PG has to be raised
 - Employee can demand written justification within 60 days, if she/he has been dismissed

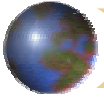
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ERA – Part 10

- ⊕ Keeps traditional institutional back-up
- ⊕ But: changes to institutional set-up & encouragement of mediation & information
 - ▣ Low-level, flexible interventions
 - Procedures are vague, focus on pro-active approach
- ⊕ While mediation service is emphasised, the ER Authority & Court still have wide-ranging jurisdictions – see p. 136

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ERA – minimum conditions

- ☉ ERA keeps & extend minima
 - ▣ Importance of supporting legislation
 - Leave entitlements & minimum wages
 - Anti-discrimination legislation (see also Part 9)
 - What about working time restrictions?
 - ▣ Will collective bargaining make minima less important under the ERA over time?
 - Link between collective barg. & levels of minima?
 - What will happen in areas without collective barg.?

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