

EMPLOYMENT RELATIONS ACT 2004

EXPLANATORY NOTES

COMMENTARY

Part One: Union Recognition

Information about union membership and employment in bargaining unit

122. *Section 19* inserts a paragraph 170A into the Schedule. The new paragraph provides a power for the CAC to require the employer, the union(s) and applicant workers to give to a CAC case manager specified information to help inform its decisions under the Schedule. It also specifies the CAC's processes in handling and making use of such information.
123. Paragraph 170A(1) provides that the CAC may exercise the powers if it considers it necessary to do so to enable or assist it to exercise any of its functions under the Schedule.
124. Paragraphs 170A(2) and (3) provide that the CAC may require an employer, a union or an applicant worker to give the CAC case manager specified information about:
- the workers in a specified bargaining unit;
 - union membership among those workers;
 - the likelihood of a majority of those workers being in favour of recognition of a union(s) on their behalf; or,
 - the likelihood of a majority of those workers being in favour of having bargaining arrangements ended.
125. Paragraph 170A(5) provides that the recipient of a requirement from the CAC must provide, within the specified period, as much of the specified information as is in his possession.
126. Paragraph 170A(6) provides that the CAC case manager must prepare a report from the information supplied to him and submit this to the CAC. Under new paragraph 170A(8) he must also give a copy of this report to the employer, the union(s) and, if appropriate, the applicant worker(s).
127. Paragraph 170A(7) provides that if an employer, union or worker fails to comply with a requirement the case manager's report must mention this failure and the CAC may draw an inference against the party concerned. Paragraph 170A(9) defines the terms "applicant worker", "CAC case manager" and "specified" for the purposes of paragraph 170A.