



Water Services Entities Bill – Transitional Employment Provisions

The Water Services Entities Bill (the **Bill**) provides for transitional arrangements for the new Water Service Entities over the establishment period. That period begins when the Bill is enacted and runs until 1 July 2024 at the latest, after which point the water services entities will take over delivery of three waters services.

Schedule 1 of the Bill contains transitional provisions, including employment provisions relating to the employment of local government water services workforce by the entities. The transitional provisions guarantee employment security for certain employees by transferring existing employment positions to the relevant entities on terms that are no less favourable than existing terms.

The Bill provides only for minimum requirements and the roles of the respective Chief Executives (Department of Internal Affairs and Water Services Entities). The National Transition Unit Staff Transition Guidelines will include further employment related measures aimed at retaining and transferring staff whose circumstances are not prescribed in the Bill, including senior managers. The change management plan will also set out the detail of how terms in the legislation will be applied. The NTU will engage with staff, unions, professional associations, and local government employers on this plan before it is finalised.

The key transition employment provisions in the Bill set out:

- A requirement on the Chief Executive of the Department of Internal Affairs (DIA) to review whether an employee primarily undertake functions that will be transferred from councils to the new entities
- A “legislated job guarantee” for the transfer of employees who primarily undertake transferring functions, except for senior managers (discussed further below)
- A requirement on the Chief Executive of the entities to notify each employee who is being offered a position within the entity, including terms and conditions, before the establishment date
- Collective bargaining can be completed before the establishment date for new collective agreements that come into force on that date (discussed further below)

Legislated job guarantee

Employees who are covered by the legislated job guarantee must receive an offer of employment from the entity that:

- Involves the same or similar duties and responsibilities
- Includes core terms and conditions that are no less favourable than prior to transition - core terms include the employee’s salary, leave entitlements, and any entitlement to redundancy compensation
- Is in the same general location or within a reasonable commuting distance
- Involves the same or similar hours and days of work
- Recognises their employment as continuous



The Chief Executive of DIA is responsible for reviewing and determining whether current employees are covered by the legislated job guarantee.

An employee of an existing local government employer who receives an offer under the legislated job guarantee or accepts a different position with the water services entity will not be entitled to redundancy or other compensation from their current employer.

Collective Agreements and bargaining

The Bill enables collective bargaining to be completed before the establishment date for new collective agreement/s to come into force on that date.

For the purposes of bargaining for a collective agreement, a union member is to be treated as an employee of a water services entity if their employment is subject to the above review by the Chief Executive of DIA

For the purposes of ratifying a collective agreement, a union member is to be treated as an employee of an entity if they are covered by the legislated job guarantee and have not declined an offer of employment with the entity, or they have accepted any offer of employment with the entity; and their work comes under the coverage of the proposed agreement.

If no new Collective Agreement has been ratified, and the employees are bound by a collective agreement in relation to their existing local government employer that expires after the establishment date, the collective agreement continues to apply to the entity and employees transferring under the legislated job guarantee. In this case the union that is party to the collective agreement may notify an earlier date on which the agreement is to expire.

Individual Employment Agreements

For employees who are not, or will not be, covered by a collective agreement, terms and conditions will be contained in an individual employment agreement which must be provided with the offer of employment by the entity. This includes union members whose collective agreement has expired before the establishment date and has not been replaced by a new collective agreement. For employees covered by the legislated job guarantee the offer requirements and entitlements are as set out above.

Timing

The Bill has passed its first reading and has been referred to select committee. The select committee is expected to report the Bill back to the House in the latter half of 2022, with the intention of completing the remaining legislative stages shortly after. This timing is necessary to ensure the establishment of, and transition to, the new entities is complete by 1 July 2024, in line with local government planning cycles.

Public submissions

The progression of this legislation will include a full select committee process. Members of the public, Māori/iwi, industry and local government are encouraged to read the Bill and have their say



when the select committee calls for submissions. For more information on the submissions process please visit the Parliament website: <https://www.parliament.nz/en/pb/sc/how-to-make-a-submission/>

Further information

For further information about the Three Waters Reform Programme, [visit dia.govt.nz – Three Waters Reform Programme](https://dia.govt.nz).

Glossary

Establishment date: means the earlier of a date appointed by the Governor-General by Order in Council or 1 July 2024.

Legislated job guarantee: means the transfer of employees primarily undertaking transferring functions, with the exception of senior managers.

Collective Agreement: means an agreement between one or more unions, and one or more employers, setting out terms and conditions for union members whose roles are covered by it.

Individual Employment Agreement: means the employment agreement, setting out terms and conditions for those not covered by a collective agreement.

Core Terms and Conditions: includes the employee's salary, leave entitlements, and any entitlement to redundancy compensation.

National Transition Unit: a business unit based in the Department of Internal Affairs for the transition period, which supports the Chief Executive of the Department in the exercise of statutory oversight powers of the transition and establishment arrangements.