

Update: Bermuda Employment Act Amendments

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Date / [January 2021](#)

As we detailed in our [November 2020](#) briefing, sweeping amendments to the Employment Act 2000 (EA 2000) are anticipated. The Senate has now passed the legislation that will bring these amendments into force on 1 June 2021. In this briefing we set out some of the main changes that have been made to the legislation since our last update:

- **Wages will NOT include tips and bonuses** – The proposed amendment to expand the definition of wages has been removed. Employers are likely to welcome this change as the impact of including bonuses in the definition of “wages” under the EA 2000 would have resulted in significantly higher redundancy and compensation payments at a time when most businesses can least afford them.
- **Probation legislation will apply to promotions** – EA 2000 rules on probation periods now expressly apply where employees are placed on probation following a promotion. A promoted employee who is placed on probation will be entitled to a mid-probation review. However employers will not be able to dismiss promoted employees without notice during a probationary period (unless the employee is subject to a separate written warning) and likewise a promoted employee will not be able to resign without notice for any reason simply by virtue of being on a probationary period.
- **Statements of employment will be necessary for ALL workers** – Employers will now need to provide statements of employment “with necessary modifications” to students, casual workers, part-time workers, temporary employees, voluntary workers and any other persons as may be prescribed by regulations. It is left to employers to determine what modifications are necessary but given that an employer that contravenes this section will be liable to a civil penalty, it is not something that employers can choose to ignore. This change will not, however, affect the entitlements available to these individuals who do not fall within the definition of “Employee” under the EA 2000.
- **Civil penalties have increased** – The proposed maximum civil penalties of \$1,000 (if imposed by the Manager of Labour Relations) and \$5,000 (if imposed by the Employment and Labour Relations Tribunal) have been increased to \$5,000 and \$10,000 respectively.
- **Inadequate bullying and sexual harassment policies will lead to civil penalties** – An employer that does not provide employees with a clear policy on bullying and sexual harassment in the prescribed form will be liable to receive a civil penalty.

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