

Wages Protection Amendment Bill

(Divided from the Employment Standards Legislation Bill)

Government Bill

As reported from the committee of the whole House

This Bill was formerly part of the Employment Standards Legislation Bill as reported from the Transport and Industrial Relations Committee. The committee of the whole House has further amended the Bill and divided it into the following Bills:

- Parental Leave and Employment Protection Amendment Bill comprising clauses 1 and 2, Part 1, and Schedules 1 and 2
- Employment Relations Amendment Bill (No 3) comprising Part 2 and Schedule 3
- Holidays Amendment Bill comprising Part 3 and Schedule 4
- Minimum Wage Amendment Bill comprising Part 4 and Schedule 5
- this Bill comprising Part 5 and Schedule 6.

Wages Protection Amendment Bill

Key to symbols used in reprinted bill

As reported from the committee of the whole House

text inserted

~~text deleted~~

Hon Michael Woodhouse

Wages Protection Amendment Bill

Government Bill

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Schedule 6
New Schedule 1 inserted

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Wages Protection Amendment Act **2016**.

2 Commencement

This Act comes into force on **1 April 2016**.

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128 Principal Act

This **Act** amends the Wages Protection Act 1983 (the **principal Act**).

129 Section 2 amended (Interpretation)

In section 2, replace the definition of **employer** with:

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employer has the same meaning as in section 5 of the Employment Relations Act 2000

employment agreement has the same meaning as in section 5 of the Employment Relations Act 2000

130 New section 2A inserted (Provisions affecting application of amendments to this Act)

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After section 2, insert:

2A Provisions affecting application of amendments to this Act

The **Schedule** contains application, savings, and transitional provisions relating to amendments made to this Act on or after **1 April 2016**.

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130A Section 5 amended (Deductions with worker's consent)

(1) Replace section 5(1) with:

(1) An employer may, for a lawful purpose, make deductions from wages payable to a worker—

(a) with the written consent of the worker (including consent in a general deductions clause in the worker's employment agreement); or

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(b) on the written request of the worker.

(2) After section 5(1), insert:

(1A) An employer must not make a specific deduction in accordance with a general deductions clause in a worker's employment agreement without first consulting the worker.

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131 New section 5A inserted (Unreasonable deductions)

After section 5, insert:

5A Unreasonable deductions

An employer must not make a deduction under section 5 from wages payable to a worker if the deduction is unreasonable.

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132 Section 11 amended (Worker may recover wages)

- (1) Replace the heading to section 11 with “**Recovery of wages**”.
- (2) In section 11(1), replace “a worker may recover” with “a worker, or a Labour Inspector on behalf of a worker, may recover”.

133 New section 11A inserted (Proceedings by Labour Inspector or worker to recover arrears of wages from person involved in failure to comply)

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After section 11, insert:

11A Proceedings by Labour Inspector or worker to recover arrears of wages from person involved in failure to comply

- (1) A Labour Inspector or a worker may recover from a person who is not the worker’s employer any arrears of wages that the worker is entitled to if—
 - (a) the worker is entitled to the wages under this Act; and
 - (b) the wages are unpaid due to non-compliance with this Act; and
 - (c) the person from whom the wages are sought to be recovered is a person involved in the non-compliance.
- (2) However, unpaid wages may be recovered under **subsection (1)** only,—
 - (a) in the case of recovery by a worker, with the prior leave of the Authority or court; and
 - (b) to the extent that the worker’s employer is unable to pay the wages.
- (3) A Labour Inspector, worker, or person concerned may recover from a person involved in non-compliance with section 12A any premium paid in breach of that section.
- (4) However, a premium may be recovered under **subsection (3)** only,—
 - (a) in the case of recovery by a worker or person concerned, with the prior leave of the Authority or court; and
 - (b) to the extent that the employer concerned is unable to pay the premium.
- (5) For the purposes of **subsections (1) and (3)**, a person is **involved in the non-compliance** if the person would be treated as a person involved in a breach within the meaning of **section 142V** of the Employment Relations Act 2000.

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134 Section 12A amended (No premium to be charged for employment)

In section 12A(1), after “employer”, insert “or person engaged on behalf of the employer”.

135 Section 13 amended (Penalties)

- (1) In section 13,— 5
- (a) after “that employer”, insert “, and every person involved in the contravention or failure,”; and
- (b) delete “, at the suit of the worker or of a Labour Inspector designated under section 223 of the Employment Relations Act 2000,”; and
- (c) replace “that Act” with “the Employment Relations Act 2000”. 10
- (2) In section 13, insert as subsections (2) and (3):
- (2) A worker or a Labour Inspector may recover a penalty under subsection (1), but the worker may recover a penalty only in relation to the employer.
- (3) For the purposes of subsection (1), a person is involved in the contravention or failure if the person would be treated as a person involved in a breach within 15
the meaning of **section 142V** of the Employment Relations Act 2000.

136 New Schedule inserted

After section 19, insert the **Schedule** set out in **Schedule 6** of this Act.

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Schedule 6
New Schedule 1 inserted

s 136

Schedule 1

Application, savings, and transitional provisions relating to amendments made to this Act on or after 1 April 2016

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s 2A

1 Interpretation

In this schedule, **2015 Act** means **Part 5 of the Employment Standards Legislation Act 2015**.

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2 Application, savings, and transitional provisions arising from 2015 Act

- (1) **Section 5A** (as inserted by **section 131 of the 2015 Act**) applies only to deductions made after the commencement of that Act and, in relation to deductions made under an employment agreement, applies whether the employment agreement was made before, on, or after the commencement of that Act.

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- (2) The amendments made by the **2015 Act** do not apply to ~~breaches of this Act~~ conduct that occurred before the commencement of that Act.

Legislative history

8 March 2016

Divided from Employment Standards Legislation Bill (Bill 53–2) as Bill 53–3E