

Companies Amendment Act 2004

Public Act 2004 No 10
Date of assent 30 March 2004

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Companies Amendment Act 2004.
- (2) In this Act, the Companies Act 1993 is called “the principal Act”.

2 Commencement

This Act comes into force on the 60th day after the date on which it receives the Royal assent.

3 Meaning of director

- (1) Section 126(1)(b) of the principal Act is amended by omitting the words “and 385”, and substituting the words “385, and clause 12(ab) of Schedule 7”.

- (2) Section 126(1)(c) of the principal Act is amended by omitting the words “and 385”, and substituting the words “385, and clause 12(ab) of Schedule 7”.
- (3) Section 126(1)(d) of the principal Act is amended by inserting, after the expression “149”, the words “, and clause 12(ab) of Schedule 7”.

4 Schedule 7 amended

- (1) Clause 2 of Schedule 7 of the principal Act is amended by inserting, after paragraph (b), the following paragraphs:
 - “(ba) subject to clause 6, any compensation for redundancy owed to an employee that accrues before or by reason of the commencement of the liquidation:
 - “(bb) subject to clause 6, any reimbursement or payment provided for, or ordered by, the Employment Relations Authority, the Employment Court, or the Court of Appeal under section 123(b) or section 128 of the Employment Relations Act 2000, to the extent that the reimbursement or payment does not relate to any matter set out in section 123(c) of the Employment Relations Act 2000, in respect of wages or other money or remuneration lost during the 4 months before the commencement of the liquidation:”.
- (2) Clause 2(i) of Schedule 7 of the principal Act is repealed.
- (3) Clause 6 of Schedule 7 of the principal Act is amended by—
 - (a) omitting the words “clause 2(a), (b), (d), or (e) of this Schedule”, and substituting the words “any, or all, of paragraphs (a), (b), (ba), (bb), (d), and (e) of clause 2” ; and
 - (b) omitting the expression “\$6,000”, and substituting the expression “\$15,000” ; and
 - (c) inserting, after the word “prescribed”, the words “under clause 6A”.
- (4) Schedule 7 of the principal Act is amended by inserting, after clause 6, the following clause:
 - “ 6A The sum stated in clause 6 must be adjusted as follows:
 - “(a) subject to paragraph (d), an adjustment must be made, by the Governor-General by Order in Council, after the 3-year period starting on 1 July 2003 and ending on 30 June 2006 and after every 3-year period following that (an **adjustment period**):

- “(b) subject to paragraph (d), the Order in Council must be made within 3 months of the end of an adjustment period:
 - “(c) each adjustment must reflect any overall percentage increase, over the relevant adjustment period, in average weekly earnings (total, private sector), calculated by reference to the last Quarterly Employment Survey published by Statistics New Zealand (or, if that survey ceases to be published, a survey certified by the Government Statistician as an equivalent to that survey) within the relevant adjustment period:
 - “(d) if, in an adjustment period, there is no change, or an overall decrease, in the percentage movement in average weekly earnings (total, private sector), as so calculated, no adjustment may be made for that adjustment period:
 - “(e) if, in accordance with paragraph (d), no adjustment is made, the next adjustment made for any succeeding adjustment period must reflect any overall percentage increase in average weekly earnings (total, private sector) between the date of the last adjustment and the end of the relevant adjustment period for which the adjustment is to be made:
 - “(f) all adjustments are cumulative and must be rounded to the nearest \$20:
 - “(g) any correction to a Quarterly Employment Survey upon which an adjustment is based must be disregarded until the adjustment that takes effect in the following adjustment period which must reflect the corrected information in the calculation of that adjustment and must otherwise be made in accordance with this clause.”
- (5) Clause 8 of Schedule 7 of the principal Act is repealed.
- (6) Clause 9(a) of Schedule 7 of the principal Act is amended by inserting, after the words “themselves and”, the words “, subject to any maximum payment level specified in any Act or regulations,”.
- (7) Clause 12 of Schedule 7 of the principal Act is amended by inserting, after paragraph (a), the following paragraph:
- “(ab) **employee** means any person of any age employed by an employer to do any work for hire or reward under a contract of service (including a homemaker as defined in section 5 of the Employment Relations Act 2000); but does not include a person who is, or was at any time during the 12 months before the

commencement of the liquidation, a director of the company in liquidation, or a nominee or relative of, or a trustee for, a director of the company.”.

(8) Schedule 7 of the principal Act is amended by adding the following clause:

“ 13 This schedule, as in force on the date of commencement of a liquidation, continues to apply to that liquidation regardless of any amendment to this schedule that comes into force after the date of commencement of the liquidation.”

Legislative history

3 March 2004

Divided from Status of Redundancy Payments Bill
(Bill 13–2) as Bill 13–3A

24 March 2004

Third reading
