



Employment Relations (Secret Ballot for Strikes) Amendment Act 2012

Public Act 2012 No 37
Date of assent 14 May 2012
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Employment Relations (Secret Ballot for Strikes) Amendment Act 2012.

2 Commencement

- (1) Sections 5 and 9 come into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force 1 year after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Employment Relations Act 2000.

4 Purpose

The purpose of this Act is to require unions to hold a secret ballot vote of their members to approve a strike before undertaking any strike action.

5 When society entitled to be registered as union

Section 14(1) is amended by inserting the following paragraph after paragraph (c):

“(ca) the society’s rules contain a provision relating to the process for holding a secret ballot for the purposes of this Act; and”.

6 Meaning of strike

Section 81(1)(b) is amended by inserting “, as the case requires,” after “express or”.

7 New sections 82A to 82C inserted

The following sections are inserted before section 83:

“82A Requirement for union to hold secret ballot before strike

“(1) This section applies to—

“(a) a union that—

“(i) is bound by a current collective agreement; or

“(ii) will be bound by a proposed collective agreement; and

“(b) members of that union who are employees who are or have been in the employment of the same employer or of different employers and who—

- “(i) are or were bound (as the case may be) by the current collective agreement referred to in paragraph (a)(i); or
 - “(ii) will be bound (as the case may be) by the proposed collective agreement referred to in paragraph (a)(ii).
- “(2) Before a strike may proceed under this Part,—
- “(a) the union must hold, in accordance with its rules, a secret ballot of its members who are employed by the same or different employers (as the case may be) and who would become a party to the strike; and
 - “(b) the result of the secret ballot must be in favour of the strike.
- “(3) For the purposes of subsection (2)(b), the result of a secret ballot is determined by a simple majority of the members of the union who are entitled to vote and who do vote.
- “(4) As soon as is reasonably practicable after the conclusion of the secret ballot under subsection (2), the union must notify the result of the ballot to the members of the union who were entitled to vote.

“82B Terms of question for secret ballot

The question to be voted on in a secret ballot for the purposes of section 82A is whether the member of the union is in favour of the strike.

“82C When requirement for secret ballot does not apply

Sections 82A and 82B do not apply if the proposed strike is lawful under section 84 (which relates to lawful strikes on the grounds of safety or health).”

8 Unlawful strike or lockouts

Section 86(1) is amended by inserting the following paragraph before paragraph (a):

- “(aa) in the case of a strike, takes place in contravention of section 82A; or”.

9 Transitional provision

- (1) This section applies to a society whose rules do not comply with section 14(1)(ca) of the principal Act (as inserted by section 5 of this Act).
- (2) The society must amend its rules so that the rules comply with section 14(1)(ca) of the principal Act.
- (3) The society must amend its rules for the purposes of subsection (2)—
 - (a) as soon as is reasonably practicable after the commencement of section 5 of this Act; but
 - (b) no later than 2 years after the commencement of section 5 of this Act.

Legislative history

23 February 2010	Introduction (Bill 121–1)
21 April 2010	First reading and referral to Transport and Industrial Relations Committee
27 September 2010	Reported from Transport and Industrial Relations Committee
10 November 2010	Second reading
7, 28 September 2011, 29 February 2012	Committee of the whole House
21 March 2012	Reported from committee of the whole House
9 May 2012	Third reading
14 May 2012	Royal assent

This Act is administered by the Department of Labour.
