



# Regulatory Systems (Workforce) Amendment Act 2019

Public Act 2019 No 63  
Date of assent 13 November 2019  
Commencement see section 2

## Contents

	Page
1 Title	2
2 Commencement	2
<b>Part 1</b>	
<b>Amendments to Employment Relations Act 2000 and consequential amendment</b>	
Subpart 1—Amendments to Employment Relations Act 2000	
3 Amendments to Employment Relations Act 2000	2
4 Section 171 amended (Salaries and allowances)	2
5 New section 229A inserted (Investigating question of employment)	2
229A Investigating question of employment	3
6 Section 230 amended (Entry of dwellinghouses)	3
7 Section 231 amended (Entry warrant)	3
8 Section 233 amended (Obligations of Labour Inspectors)	4
9 Section 233A amended (Obligation of Labour Inspector and department not to disclose information)	4
Subpart 2—Consequential amendment	
<i>Amendment to Remuneration Authority Act 1977</i>	
10 Amendment to Remuneration Authority Act 1977	4
<b>Part 2</b>	
<b>Amendment to Holidays Act 2003</b>	
11 Amendment to Holidays Act 2003	4

**Part 3**  
**Amendments to Parental Leave and Employment Protection**  
**Act 1987**

12	Amendments to Parental Leave and Employment Protection Act 1987	4
13	Section 1B amended (Outline)	4
14	Section 7 amended (Meaning of primary carer)	5
15	Section 8 amended (Entitlement to primary carer leave)	5
16	Section 10 amended (Date of commencement of primary carer leave)	5
17	Section 30B amended (Employee may make request)	5
18	Section 31 amended (Obligation to notify employer)	5
19	Section 36 amended (Obligation to notify employee)	5
20	Section 71D amended (Entitlement to parental leave payments)	6
21	Section 71I amended (Applications for payment)	6
22	Section 71K amended (Start of parental leave payment)	6

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Regulatory Systems (Workforce) Amendment Act 2019.

**2 Commencement**

This Act comes into force on the day that is 2 months after the date on which it receives the Royal assent.

**Part 1**

**Amendments to Employment Relations Act 2000 and consequential amendment**

Subpart 1—Amendments to Employment Relations Act 2000

**3 Amendments to Employment Relations Act 2000**

This subpart amends the Employment Relations Act 2000.

**4 Section 171 amended (Salaries and allowances)**

In section 171(3), after “Chief of the Authority”, insert “or of a member of the Authority to whom a delegation has been made under section 166B”.

**5 New section 229A inserted (Investigating question of employment)**

After section 229, insert:

**229A Investigating question of employment**

- (1) For the purpose of performing the Labour Inspector's functions and duties under any Act specified in section 223(1), a Labour Inspector may, subject to sections 229(5), (5A), and (6) and 230 to 233, also exercise any of the powers under section 229 to investigate whether—
  - (a) any place is a workplace; or
  - (b) any person performing work is an employee (as distinct, for example, from an independent contractor or a volunteer); or
  - (c) any person for whom work is being performed is an employer.
- (2) In relation to the exercise of those powers in such an investigation, section 229 is to be read with any appropriate modifications, including that—
  - (a) the power of entry under section 229(1)(a) applies with respect to any premises where the Labour Inspector has reasonable grounds to believe work is being performed; and
  - (b) the power to interview under section 229(1)(b) applies with respect to any person present in such premises; and
  - (c) **employee**, except in the reference in section 229(1)(a) to any other employee of the department, includes any person who performs work; and
  - (d) **employer** includes any person for whom work is performed; and
  - (e) the powers under section 229(1)(c) and (d) apply with respect to any record or document that the Labour Inspector reasonably believes may assist in determining a matter referred to in subsection (1)(a) to (c).
- (3) Every person for whom work is performed and who, without reasonable cause, fails to comply with any requirement made of that person under section 229(1)(c) or (d) as modified by subsection (2)(e) is liable, in an action brought by a Labour Inspector, to a penalty under this Act imposed by the Authority.

**6 Section 230 amended (Entry of dwellinghouses)**

In section 230(1), replace “section 229” with “section 229 or 229A”.

**7 Section 231 amended (Entry warrant)**

Replace section 231(a) and (b) with:

- (a) is a place in which any person is employed or is the only practicable means through which such a place may be entered; or
- (b) in any case to which section 229A applies, is a place in which any person performs work or is the only practicable means through which such a place may be entered,—

**8 Section 233 amended (Obligations of Labour Inspectors)**

In section 233(1), (2), and (3), replace “section 229(1)(a)” with “section 229(1)(a) or 229A”.

**9 Section 233A amended (Obligation of Labour Inspector and department not to disclose information)**

In section 233A, replace “section 229” with “section 229 or 229A”.

**Subpart 2—Consequential amendment***Amendment to Remuneration Authority Act 1977***10 Amendment to Remuneration Authority Act 1977**

- (1) This section amends the Remuneration Authority Act 1977.
- (2) In Schedule 4, replace the item relating to the Chief and other members of the Employment Relations Authority with:  
The Chief of the Employment Relations Authority, members of the Employment Relations Authority to whom a delegation has been made under section 166B of the Employment Relations Act 2000, and other members of the Employment Relations Authority

**Part 2****Amendment to Holidays Act 2003****11 Amendment to Holidays Act 2003**

- (1) This section amends the Holidays Act 2003.
- (2) In section 75(1)(a) and (b), after “employer”, insert “or the person who is involved in the failure to comply”.

**Part 3****Amendments to Parental Leave and Employment Protection Act 1987****12 Amendments to Parental Leave and Employment Protection Act 1987**

This Part amends the Parental Leave and Employment Protection Act 1987.

**13 Section 1B amended (Outline)**

In section 1B(5),—

- (a) replace “or for” with “, for”; and
- (b) after “(see section 72B)”, insert “, or for the spouse or partner of a primary carer to become the primary carer of a child (see section 7(1)(b)(iii))”.

**14 Section 7 amended (Meaning of primary carer)**

After section 7(1)(b)(ii), insert:

- (iii) neither subparagraph (i) nor (ii) applies and all of the following are true:
  - (A) the child is under 1 year of age; and
  - (B) the spouse or partner, because of the death of the biological mother or for any other reason, has taken permanent primary responsibility for the care, development, and upbringing of the child to the exclusion of the biological mother; and
  - (C) at the time the spouse or partner took that permanent primary responsibility, the biological mother either had not applied for, or did not qualify to apply for, a parental leave payment:

**15 Section 8 amended (Entitlement to primary carer leave)**

After section 8(2), insert:

- (3) Subsection (2) does not apply to an employee who is a primary carer under section 7(1)(b)(iii).

**16 Section 10 amended (Date of commencement of primary carer leave)**

After section 10(a), insert:

- (aa) in the case of an employee who is a primary carer under section 7(1)(b)(iii), on the date, within a reasonable period after the date on which the employee becomes the primary carer in respect of the child, that the employee and the employer agree upon; or

**17 Section 30B amended (Employee may make request)**

After section 30B(3)(a), insert:

- (aa) in the case of an employee who is a primary carer under section 7(1)(b)(iii), within a reasonable period after the employee becomes the primary carer in respect of the child; or

**18 Section 31 amended (Obligation to notify employer)**

After section 31(3), insert:

- (4) Despite subsection (3), in the case of an employee who is a primary carer under section 7(1)(b)(iii), the notice under subsection (1) must be given within a reasonable period after the employee becomes the primary carer in respect of the child.

**19 Section 36 amended (Obligation to notify employee)**

After section 36(2), insert:

(2A) In the case of an employee who is a primary carer under section 7(1)(b)(iii), the employer must give notice under subsections (1) and (2) within a reasonable period, but not later than within the period provided for in those subsections.

**20 Section 71D amended (Entitlement to parental leave payments)**

After section 71D(2), insert:

(2A) Subsection (2) does not apply to a person who is a primary carer under section 7(1)(b)(iii).

**21 Section 71I amended (Applications for payment)**

After section 71I(2), insert:

(2A) In the case of an employee or a self-employed person who is a primary carer under section 7(1)(b)(iii), subsection (2)(a) does not apply, and the application must be made before, or within a reasonable period after, the earliest of the following:

- (a) the date on which the person returns to work; or
- (b) the date that is the first anniversary of the date on which the person became the primary carer in respect of the child.

**22 Section 71K amended (Start of parental leave payment)**

After section 71K(3), insert:

(4) Despite subsections (1) to (3), in the case of a person who is a primary carer under section 7(1)(b)(iii), the parental leave payment period begins,—

- (a) if the person is an employee who takes a period of paid leave at the start of his or her parental leave period, on the day after the date on which that period of paid leave ends, if the person so elects; and
- (b) otherwise, on the date that the person designates, which must be on, or within a reasonable period after, the date on which the person becomes the primary carer in respect of the child.

**Legislative history**

12 December 2018	Introduction (Bill 101–1)
21 February 2019	First reading and referral to Education and Workforce Committee
31 May 2019	Reported from Education and Workforce Committee (Bill 101–2)
17 October 2019	Second reading
22 October 2019	Committee of the whole House
7 November 2019	Third reading
13 November 2019	Royal assent

This Act is administered by the Ministry of Business, Innovation, and Employment.