



ANALYSIS

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1991, No. 27

An Act to amend the Minimum Wage Act 1983

[7 May 1991]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Minimum Wage Amendment Act 1991, and shall be read together with and deemed part of the Minimum Wage Act 1983 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 15th day of May 1991.

2. Interpretation—(1) Section 2 of the principal Act (as substituted by section 2 of the Minimum Wage Amendment Act 1987) is hereby amended by inserting, after the definition of the term “employer”, the following definition:

“‘Employment Tribunal’ means the Employment Tribunal established under the Employment Contracts Act 1991.”.

(2) Section 2 of the principal Act (as so substituted) is hereby amended by repealing the definition of the term “Inspector” (as substituted by section 2 of the Minimum Wage Amendment Act 1990), and substituting the following definition:

“‘Labour Inspector’ means a Labour Inspector designated under section 143 of the Employment Contracts Act 1991.”.

3. Deductions for board or lodging or time lost—Section 7 of the principal Act is hereby amended by omitting the words “award, collective agreement.”.

4. Under-rate workers’ permits—(1) Section 8 (1) of the principal Act is hereby amended—

(a) By omitting the words “an Inspector”, and substituting the words “a Labour Inspector”;

(b) By omitting the words “the Inspector”, and substituting the words “the Labour Inspector”.

(2) Section 8 (3) of the principal Act is hereby repealed.

5. Wages and time records—(1) Section 8A (1) of the principal Act (as enacted by section 5 of the Minimum Wage Amendment Act 1987) is hereby amended by repealing paragraphs (e) and (f), and substituting the following paragraphs:

“(e) The contract of service under which the worker is employed:

“(f) The classification or designation of the worker according to which the worker is paid:”.

(2) Section 8A (2) of the principal Act (as enacted by section 5 of the Minimum Wage Amendment Act 1987) is hereby amended—

(a) By omitting the words “an Inspector”, and substituting the words “a Labour Inspector”;

(b) By omitting the words “that Inspector”, and substituting the words “that Labour Inspector”.

6. Repeals—Sections 8B and 8D of the principal Act (as inserted by section 5 of the Minimum Wage Amendment Act 1987) are hereby repealed.

7. Penalties and jurisdiction—(1) The principal Act is hereby amended by repealing section 10 (as substituted by section 6 of the Minimum Wage Amendment Act 1987), and substituting the following section:

“10. (1) Every person who makes default in the full payment of any wages payable by that person under this Act and every person who fails to otherwise comply with the requirements of this Act shall be liable to a penalty recoverable by a Labour Inspector in accordance with the provisions of the Employment Contracts Act 1991.

“(2) All proceedings under this Act shall be commenced in the Employment Tribunal.”

(2) Section 6 of the Minimum Wage Amendment Act 1987 is hereby consequentially repealed.

8. Recovery of wages—(1) The principal Act is hereby amended by repealing section 11 (as substituted by section 7 of the Minimum Wage Amendment Act 1987), and substituting the following section:

“11. Without affecting any other remedies for the recovery of wages or other money payable by an employer to any worker whose wages are prescribed under this Act, where there has been any default in payment of any such wages or other money or where any payment of any such wages or other money has been made at a rate lower than that prescribed under this Act or otherwise legally payable to the worker, the whole or any part, as the case may require, of any such wages or other money may be recovered by the worker or by a Labour Inspector to the use of the worker by action commenced in the Employment Tribunal in the same manner as an action under section 48 of the Employment Contracts Act 1991, notwithstanding the acceptance by the worker of any payment at a lower rate or any express or implied agreement to the contrary, and subsection (2) of that section shall apply accordingly.”

(2) Section 7 of the Minimum Wage Amendment Act 1987 is hereby consequentially repealed.

9. Compliance order—The principal Act is hereby amended by repealing section 11A (as inserted by section 8 of the Minimum Wage Amendment Act 1987), and substituting the following section:

“11A. Section 55 of the Employment Contracts Act 1991 shall apply to non-observance or non-compliance with any provision of, or requirement given under, this Act as if it was a provision of, or requirement given under, Parts II to IV of the Employment Contracts Act 1991, and proceedings under that Act may be commenced by any worker or employer prejudicially affected by the non-observance or non-compliance.”

10. Forty-hour five-day week—The principal Act is hereby amended by inserting, after section 11A (as substituted by section 9 of this Act), the following section:

“11B. (1) Subject to subsections (2) and (3) of this section, every employment contract under the Employment Contracts Act 1991 shall fix at not more than 40 the maximum number

of hours (exclusive of overtime) to be worked in any week by any worker bound by that employment contract.

“(2) The maximum number of hours (exclusive of overtime) fixed by an employment contract to be worked by any worker in any week may be fixed at a number greater than 40 if the parties to the contract agree.

“(3) Where the maximum number of hours (exclusive of overtime) fixed by an employment contract to be worked by any worker in any week is not more than 40, the parties to the contract shall endeavour to fix the daily working hours so that those hours are worked on not more than 5 days of the week.

“(4) Nothing in this section shall apply in respect of any individual employment contract within the meaning of the Employment Contracts Act 1991 which is in force immediately before the commencement of this section.”

11. Repeal—The Minimum Wage Amendment Act 1990 is hereby repealed.

This Act is administered in the Department of Labour.
