Status of Redundancy Payments Bill

Member's Bill

Explanatory note

This bill amends the Companies Act 1955 and 1993, to make redundancy payments a preferential claim when a company goes into liquidation (or receivership). The initial idea for such a bill arose in the wake of the collapse of the Weddel meatworks. The workers found that they had to line up with other unsecured creditors for their redundancy payments. It seems unlikely that any of Weddel's unsecured creditors will ever see what is owed to them.

Those workers believed, quite rightly, that should their employment with the company cease, they would be in some measure compensated for the loss of their employment through redundancy agreements negotiated as part of their collective employment contracts.

This bill is an attempt to ensure that no other workers will find themselves in such a situation again, particularly as the Minister of Agriculture is predicting that other meatworks will go into receivership in the future.

The bill amends the schedules for the preferential claims in the Companies Act 1993 and the Companies Act 1955 to include redundancy payments as a preferential claim with the same status as, for example, wages and holiday pay, when a company goes into receivership or liquidation. The bill also removes the $6,000 limit on all amounts due to employees.

This Schedule is also transposed to the Receiverships Act 1993 under section 30(2)(b) of that Act.

The Insolvency Act 1967 is amended to ensure that employees or individuals rather than companies also have an entitlement to any redundancy pay owed to them from the division of their employer's assets in the event of bankruptcy. The current $1,500 limit on the

amount that the employee can recover for wages or salaries owed and holiday pay, is also removed.

Mark Peck

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Contents

The Parliament of New Zealand enacts as follows:

1   Title
This Act is the Status of Redundancy Payments Act **2002**.

2   Commencement
This Act comes into force on the day after the date on which it   5
receives the Royal assent.

3   Purpose
The purpose of this Act is to protect the status of redundancy
of all workers by amending the schedules of preferential
claims in both the Companies Act 1993 and the Companies   10
Act 1955 to include redundancy payments as negotiated in, or
documented within or in addition to, the relevant employment
agreements   when   companies   go   into   liquidation   or
receivership.

Companies Act 1955   15

4   Sections to be read with Companies Act 1955
This section and the **next succeding section** are part of the Com-
panies Act 1955 (in **that section** referred to as "the principal
Act").

5 Redundancy payments

Clause 2 of Schedule 8C of the principal Act is amended by inserting, after paragraph (b), the following paragraph:

"(ba) amounts due to any employee in respect of any redundancy agreements or clauses that were either: 5

  "(i) negotiated or documented as part of any relevant employment agreements; or

  "(ii) negotiated or documented as separate agreements:".

Companies Act 1993   10

6 Sections to be read with Companies Act 1993

This section and the **next succeeding section** are part of the Companies Act 1993 (in **that section** referred to as "the principal Act").

7 Redundancy payments   15

(1) The Seventh Schedule of the principal Act is amended by inserting in clause 2, after paragraph (b), the following paragraph:

"(ba) amounts due to any employee in respect of any redundancy agreements or clauses that were either: 20

  "(i) negotiated or documented as part of any relevant employment agreements; or

  "(ii) negotiated or documented as separate agreements:".

(2) The Seventh Schedule of the principal Act is amended by 25 repealing clause 6.