



**THE WAGE ADJUSTMENT REGULATIONS 1974,  
AMENDMENT NO. 20**

DAVID BEATTIE, Governor-General

By his Deputy,  
RONALD DAVISON

**ORDER IN COUNCIL**

At the Government House at Wellington this 5th day of July 1982

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL BY HIS DEPUTY IN COUNCIL  
PURSUANT to the Economic Stabilisation Act 1948, His Excellency the  
Governor-General, acting by and with the advice and consent of the  
Executive Council, hereby makes the following regulations.

**ANALYSIS**

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- 2. Interpretation
- 3. New Part IIIA substituted

**PART IIIA**

**REDUNDANCY**

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## REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Wage Adjustment Regulations 1974, Amendment No. 20, and shall be read together with and deemed part of the Wage Adjustment Regulations 1974\* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 6th day of July 1982.

**2. Interpretation**—Regulation 2 (1) of the principal regulations is hereby amended by adding to the definition of the term “remuneration” (as substituted by regulation 2 (2) of the Wage Adjustment Regulations 1974, Amendment No. 10), after the word “incurred”, the words “or any ‘compensation for redundancy’ as defined in regulation 45A (1) of these regulations”.

**3. New Part IIIA substituted**—The principal regulations are hereby amended by revoking Part IIIA (as inserted by regulation 3 of the Wage Adjustment Regulations 1974, Amendment No. 8), and substituting the following Part:

## “PART IIIA

## “REDUNDANCY

“45A. **Interpretation**—(1) In this Part of these regulations, unless the context otherwise requires,—

“‘Compensation for redundancy’ means, subject to subclause (2) of this regulation, all payments that a redundant employee is entitled to receive from his employer by reason of the termination of the redundant employee’s employment, other than payments that the redundant employee would have been entitled to receive from his employer by reason of the termination of the employee’s employment if—

“(a) The employment had been terminated by the employer for reasons other than redundancy; or

“(b) The employee had resigned:

“‘Employer’ includes an employing authority:

“‘Employing authority’—

“(a) In relation to any person whose rate of remuneration is determined by an employing authority or tribunal under the State Services Conditions of Employment Act 1977, means the employing authority for the purposes of that Act:

“(b) In relation to any person whose rate of remuneration is determined under section 52 of the Hospitals Act 1957, means the Minister of Health:

“(c) In relation to any person whose rate of remuneration is determined under section 6 (3) or section 219 of the Post Office Act 1959, means the Director-General of the Post Office:

“(d) In relation to any person whose rate of remuneration is determined under any of the provisions of sections 66A to 66G of the Police Act 1958, means the Commissioner of Police:

\*S.R. 1974/143 (Reprinted with Amendments Nos. 1 to 16: S.R. 1978/226)  
Amendment No. 17: S.R. 1978/296  
Amendment No. 18: S.R. 1980/192  
Amendment No. 19: S.R. 1980/216

- “(e) In relation to any person whose rate of remuneration is determined pursuant to regulations made under section 22 of the Education Act 1964 or under section 60A or section 165D of that Act, means the person having jurisdiction under those regulations to determine that rate of remuneration:
- “‘Export slaughterhouse’ has the meaning given to it by section 2 (1) of the Meat Act 1981:
- “‘Instrument’ includes a document, agreement, determination, or decision, which provides for or fixes compensation for redundancy:
- “‘Ordinary pay’ has the meaning assigned to it by the Holidays Act 1981:
- “‘Redundant employee’ means—
- “(a) A worker or State employee whose employment is terminated by his employer if that action of the employer is attributable, wholly or mainly, to the fact that the position filled by that worker or State employee has or will become superfluous to the needs of the employer:
- “(b) A person who is employed, or is usually employed, as a seasonal worker in an export slaughterhouse and whose position has or will become superfluous to the needs of the employer;— and ‘redundant’ and ‘redundancy’ have corresponding meanings:
- “‘State employee’ means—
- “(a) Every person whose rate of remuneration is determined by an employing authority or a tribunal under the State Services Conditions of Employment Act 1977:
- “(b) Every person whose rate of remuneration is determined under section 52 of the Hospitals Act 1957:
- “(c) Every person whose rate of remuneration is determined under section 6 (3) or section 219 of the Post Office Act 1959:
- “(d) Every person whose rate of remuneration is determined under any of the provisions of sections 66A to 66G of the Police Act 1958:
- “(e) Every person whose rate of remuneration is fixed pursuant to regulations made under section 22 or section 60A or section 165D of the Education Act 1964.
- “(2) For the purposes of this Part of these regulations, but without limiting the generality of the term ‘compensation for redundancy’,—
- “(a) Any sum which is paid by an employer to a redundant employee in lieu of notice terminating the employment of that employee and which exceeds the amount of the wages payable in respect of the ordinary period of notice required under his contract of employment shall, to the extent that it so exceeds that amount, be deemed to be a payment by way of compensation for redundancy:
- “(b) Any sum that is paid to a redundant employee on account of sick leave which is credited to him, but which has not been taken by him, at the termination of his employment, shall be deemed to be a payment by way of compensation for redundancy.
- “45B. **Continuity of employment**—For the purposes of this Part of these regulations, the continuity of any period of employment is not broken by—

- “(a) The transfer from one person to another of the trade, business, or undertaking of the employer; or
- “(b) The substitution, by or under any Act, of one body corporate for another as the employer; or
- “(c) The death of the employer, if the employee is taken into the employment of the personal representatives or trustees of the deceased; or
- “(d) Any change in the partners, personal representatives, or trustees who employ any person; or
- “(e) The taking of any person employed by a company into the employment of another company which is at that time a subsidiary or the holding company or a subsidiary of the holding company of the first-mentioned company. In this paragraph the terms ‘subsidiary’ and ‘holding company’ have the same meanings as in section 158 of the Companies Act 1955.

“45c. **Redundancy pay**—(1) No employer shall pay any sum to any redundant employee by way of compensation for redundancy unless—

- “(a) The payment of that sum is in accordance with the express provisions of an instrument, being provisions that—

- “(i) Were in force immediately before the 13th day of April 1976 and are still in force in the same terms at the time when the payment becomes due; or

- “(ii) Apply to an employer as a party to the Severance Payments Agreement made between the New Zealand Master Builders’ Federation Incorporated and the New Zealand Federation of Labour and dated the 24th day of March 1976, irrespective of whether the notice or agreement which makes the said Severance Payments Agreement applicable to the employer was signed or entered into before or after the commencement of this Part of these regulations; or

- “(iii) Have been specifically approved in accordance with regulation 45c of these regulations (as enacted by regulation 3 of the Wage Adjustment Regulations 1974, Amendment No. 8) and are in force when the payment becomes due; or

- “(iv) Provide for payment of a sum not greater than that permissible under paragraph (b) of this subclause and are not otherwise more favourable to the employee than those applying under that paragraph or under subclause (2) of this regulation; or

- “(b) The sum so paid to the redundant employee does not exceed, in relation to the total of all ordinary pay derived by him under his contract of employment with the employer during the 12 months immediately preceding the date of the termination of the employee’s employment, the aggregate of—

- “(i) Eight percent of that total; and

- “(ii) Four percent of that total multiplied by either 19 or by the number that is one less than the number of years immediately preceding that date (including, as proportionate parts of years, whole months) during which he has been in the continuous employment of the employer, whichever number is the less.

“(2) No redundant employee shall qualify for a payment in terms of paragraph (b) of subclause (1) of this regulation if he has had less than 12 months continuous employment with the employer immediately before the date of the termination of the employee’s employment.

“45D. **Redundancy pay for seasonal workers in export slaughterhouses**—(1) In relation to any seasonal worker in an export slaughterhouse, regulation 45C of these regulations shall have effect as if, for paragraph (b) of subclause (1) and for subclause (2), there were substituted the following paragraph and subclause:

“(b) Where the redundant employee is a seasonal worker in an export slaughterhouse, the sum so paid to the redundant employee does not exceed, in relation to the total of all ordinary pay derived by him under his contract of employment with the employer during the last full season that immediately precedes the date of the termination of the employee’s employment, the aggregate of—

“(i) Eight percent of that total; and

“(ii) Four percent of that total multiplied by either 19 or by the number that is one less than the number of consecutive full seasons immediately preceding that date (including, as proportionate parts of seasons, whole months) during which he has been continuously in the employment of the employer, whichever number is the less.

“(2) No redundant employee who is a seasonal worker in an export slaughterhouse shall qualify for a payment in terms of paragraph (b) of subclause (1) of this regulation if he is not in the continuous employment of the employer throughout the season that immediately precedes the date of the termination of the employee’s employment.

“45E. **Instruments relating to redundancy pay**—No instrument made at any time after the 5th day of July 1982 shall require any employer to pay any sum by way of compensation for redundancy if the payment of that sum by that employer would contravene regulation 45C (1) of these regulations or regulation 45C (1) of these regulations as modified by regulation 45D of these regulations.

“45F. **Prohibition on payment of redundancy pay**—(1) No employer shall pay compensation for redundancy to any employee at any time while the contract of employment between them is in force.

“(2) Any compensation for redundancy (whether in money or not) paid by an employer to an employee in contravention of subclause (1) of this regulation shall, for all purposes, be deemed to be remuneration paid by the employer to the employee.

“(3) Nothing in subclause (1) of this regulation applies in respect of any payment made pursuant to—

“(a) Any provision of an instrument to which regulation 45H (a) of these regulations applies; or

“(b) Any provision of an instrument or Order in Council, if the inclusion of that provision in that instrument or Order in Council has been approved, before or after the commencement of this regulation, under regulation 45C of these regulations (as enacted by regulation 3 of the Wage Adjustment Regulations 1974, Amendment No. 8).

**“45G. Employer to give to Registrar of Arbitration Court notice of making of instrument—**(1) No instrument which is made after the 5th day of July 1982 and which provides for the payment of compensation for redundancy to any worker shall come into force, and no compensation for redundancy provided for in any such instrument shall be paid to any worker, until an employer who is bound by that instrument has given to the Registrar of the Arbitration Court—

“(a) Four copies of a written estimate of the number of workers to whom that instrument is intended to apply; and

“(b) Four copies of written particulars of the compensation for redundancy provided for in that instrument; and

“(c) In the case of an instrument that is in writing, 4 copies of that instrument (certified as correct copies by or on behalf of that employer); and

“(d) In the case of an instrument that is not in writing, 4 copies of written particulars of that instrument (certified as correct by or on behalf of that employer).

“(2) The Registrar of the Arbitration Court shall issue a written receipt in respect of all documents given to him under subclause (1) of this regulation.

“(3) The employer to whom any such receipt is issued shall retain it with his wage records.

“(4) A copy of each document given to the Registrar of the Arbitration Court pursuant to subclause (1) of this regulation shall be forwarded by the Registrar to each of the central organisations (as defined in section 2 (1) of the Industrial Relations Act 1973) and to the Secretary of Labour.

“(5) An Inspector of Awards and Agreements under the Industrial Relations Act 1973 may at any time during ordinary working hours require the employer to produce for inspection by the Inspector any receipt issued to the employer under subclause (2) of this regulation.

**“45H. Exceptions—**Nothing in this Part of these regulations prevents—

“(a) The creation, in relation to a major project specified in the Second Schedule to the Wage Freeze Regulations 1982\*, of the first instrument, made after the 5th day of July 1982, which fixes the compensation for redundancy payable to workers employed on that major project; or

“(b) The payment of any compensation for redundancy payable under an instrument to which paragraph (a) of this regulation applies.

**“45I. Saving in respect of approval of redundancy provisions—**(1) Notwithstanding the revocation of regulation 45C of the principal regulations (as it stood immediately before the commencement of the Wage Adjustment Regulations 1974, Amendment No. 20), an application may be made under that regulation on or after the 6th day of July 1982, for the purpose of giving effect to—

“(a) Any agreement reached before the 6th day of July 1982; and

“(b) Any agreement reached on or after the 6th day of July 1982 (in this paragraph called the tied agreement) if—

“(i) The tied agreement is related to an agreement reached before the 6th day of July 1982 (in this paragraph called the base agreement); and

“(ii) Provisions of the base agreement relating to the making of payments to redundant employees by way of compensation for redundancy have, on an application made before or after the commencement of this regulation under that regulation 45c, been approved, with or without amendment, and either conditionally or unconditionally, for inclusion in an instrument or Order in Council; and

“(iii) The employer of the redundant employees to which the base agreement applies and the employer of the redundant employees to whom the tied agreement applies are the same person; and

“(iv) The circumstances in which the redundant employees to whom the base agreement applies have become redundant and the circumstances in which the redundant employees to whom the tied agreement applies have become redundant are the same; and

“(v) The provisions of the tied agreement which relate to the making of payments to redundant employees by way of compensation for redundancy are not more favourable to the redundant employees to whom the tied agreement applies than the provisions approved for inclusion in an instrument or Order in Council on the application under that regulation 45c in respect of the base agreement.

“(2) Subject to subclause (3) of this regulation, any application made pursuant to subclause (1) of this regulation under that regulation 45c and any application made, before the 6th day of July 1982, under that regulation 45c may be dealt with as if that regulation 45c had not been revoked.

“(3) The definition of the term ‘remuneration’ (as amended by regulation 2 of the Wage Adjustment Regulations 1974, Amendment No. 20) and the definition of the term ‘compensation for redundancy’ as defined in regulation 45A of the principal regulations (as enacted by regulation 3 of the Wage Adjustment Regulations 1974, Amendment No. 20) shall apply in relation to regulation 45c of the principal regulations (as it stood immediately before the commencement of the Wage Adjustment Regulations 1974, Amendment No. 20) and in relation to any application dealt with under that regulation on or after the 6th day of July 1982.

“45J. **Wage Freeze Regulations 1982 excluded**—Nothing in the Wage Freeze Regulations 1982\* shall apply in respect of compensation for redundancy.”

**4. Revocations**—The following regulations are hereby revoked, namely—

- (a) The Wage Adjustment Regulations 1974, Amendment No. 8 (S.R. 1976/96):
- (b) Regulation 10 (2) of the Wage Adjustment Regulations 1974, Amendment No. 9 (S.R. 1976/124):
- (c) Regulation 16 of the Wage Adjustment Regulations 1974, Amendment No. 10 (S.R. 1976/157):
- (d) So much of Part I of the Schedule to the Wage Adjustment Regulations 1974, Amendment No. 13 (S.R. 1977/204) as relates to regulation 45c of the principal regulations:

- (e) So much of the Schedule to the Wage Adjustment Regulations 1974, Amendment No. 14 (S.R. 1977/323) as relates to regulation 45c (4) of the principal regulations:
- (f) The Wage Adjustment Regulations 1974, Amendment No. 15 (S.R. 1978/167):
- (g) Regulation 4 of the Wage Adjustment Regulations 1974, Amendment No. 16 (S.R. 1978/210):
- (h) The Wage Adjustment Regulations 1974, Amendment No. 17 (S.R. 1978/296).

P. G. MILLEN,  
Clerk of the Executive Council.

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#### EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 6 July 1982, substitute a new Part IIIA (relating to redundancy) in the Wage Adjustment Regulations 1974.

The major changes are as follows:

- (a) The amounts that may be paid to redundant employees by way of compensation for redundancy are increased:
- (b) Special provision is made in respect of seasonal workers in export slaughterhouses:
- (c) The power to approve instruments that—
  - (i) Provide for payments that exceed the prescribed limits; or
  - (ii) Are otherwise more favourable to the redundant employee,—is revoked:
- (d) Notwithstanding the revocation of the power to approve instruments, that power may continue to be exercised in respect of agreements reached before the commencement of these regulations:
- (e) The payment of compensation for redundancy to an employee during the continuation of his contract of employment is prohibited.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 6 July 1982.

These regulations are administered in the Department of Labour.