



Minimum Wage Amendment Act 2016

Public Act 2016 No 11
Date of assent 17 March 2016
Commencement see section 2

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New Schedule 1AA inserted	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Minimum Wage Amendment Act 2016.

2 Commencement

This Act comes into force on 1 April 2016.

3 Principal Act

This Act amends the Minimum Wage Act 1983 (the **principal Act**).

4 New section 2A inserted (Provisions affecting application of amendments to this Act)

After section 2, insert:

2A Provisions affecting application of amendments to this Act

Schedule 1AA contains application, savings, and transitional provisions relating to amendments made to this Act on or after 1 April 2016.

5 Section 8A repealed (Wage and time records)

Repeal section 8A.

6 Section 10 replaced (Penalties and jurisdiction)

Replace section 10 with:

10 Penalties

- (1) The persons specified in subsection (2) are liable to a penalty imposed by the Employment Relations Authority under the Employment Relations Act 2000.
- (2) The persons are—
 - (a) every person who makes default in the full payment of any wages payable by that person under this Act;
 - (b) every person who is involved in that default;
 - (c) every person who fails otherwise to comply with the requirements of this Act.
- (3) A worker or a Labour Inspector may recover a penalty under subsection (1), but the worker may recover a penalty only in relation to his or her employer.
- (4) For the purposes of subsection (2), a person is **involved in a default** if the person would be treated as a person involved in a breach within the meaning of section 142W of the Employment Relations Act 2000.

7 Section 11 replaced (Recovery of wages)

Replace section 11 with:

11 Recovery of wages

- (1) This section applies where, in relation to wages or other money payable by an employer to a worker whose wages are prescribed under this Act,—
 - (a) there has been a default in payment; or
 - (b) payment has been made at a lower rate than that prescribed under this Act or otherwise legally payable to the worker.
- (2) The whole or any part of wages or other money referred to in subsection (1)(a) or (b) may be recovered by the worker or by a Labour Inspector on behalf of the worker by action commenced in the Employment Relations Authority in the same manner as an action under section 131 of the Employment Relations Act 2000, and subsection (2) of that section applies accordingly.
- (3) Subsection (2) applies despite—
 - (a) acceptance by the worker of payment at the lower rate; or
 - (b) any express or implied agreement to the contrary.
- (4) This section does not affect 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.

8 New section 11AA inserted (Proceedings by Labour Inspector or worker to recover arrears of wages from person involved in failure to comply)

After section 11, insert:

11AA Proceedings by Labour Inspector or worker to recover arrears of wages from person involved in failure to comply

- (1) A Labour Inspector or a worker may recover from a person who is not the worker's employer any unpaid wages that the worker is entitled to if—
 - (a) the worker is entitled to the wages under this Act; and
 - (b) the wages are unpaid due to non-compliance with this Act; and
 - (c) the person from whom the wages are sought to be recovered is a person involved in the non-compliance.
- (2) However, unpaid wages may be recovered under subsection (1) only,—
 - (a) in the case of recovery by a worker, with the prior leave of the Authority or court; and
 - (b) to the extent that the worker's employer is unable to pay the wages.
- (3) For the purposes of subsection (1), a person is **involved in the non-compliance** if the person would be treated as a person involved in a breach within the meaning of section 142W of the Employment Relations Act 2000.

9 New Schedule 1AA inserted

After section 14, insert the Schedule 1AA set out in the Schedule of this Act.

Schedule
New Schedule 1AA inserted

s 9

Schedule 1AA
Application, savings, and transitional provisions relating to
amendments made to this Act on or after 1 April 2016

s 2A

1 Interpretation

In this schedule, 2016 Act means the Minimum Wage Amendment Act 2016.

2 Application, savings, and transitional provisions arising from 2016 Act

The amendments made by the 2016 Act do not apply to conduct that occurred before the commencement of that Act.

Legislative history

8 March 2016

Divided from Employment Standards Legislation Bill (Bill 53–2) as Bill 53–3D

10 March 2016

Third reading

17 March 2016

Royal assent

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