

Minimum Wage Amendment Bill

(Divided from the Employment Standards Legislation Bill)

Government Bill

As reported from the committee of the whole House

This Bill was formerly part of the Employment Standards Legislation Bill as reported from the Transport and Industrial Relations Committee. The committee of the whole House has further amended the Bill and divided it into the following Bills:

- Parental Leave and Employment Protection Amendment Bill comprising clauses 1 and 2, Part 1, and Schedules 1 and 2
- Employment Relations Amendment Bill (No 3) comprising Part 2 and Schedule 3
- Holidays Amendment Bill comprising Part 3 and Schedule 4
- this Bill comprising Part 4 and Schedule 5
- Wages Protection Amendment Bill comprising Part 5 and Schedule 6.

Minimum Wage Amendment Bill

Key to symbols used in reprinted bill

As reported from the committee of the whole House

text inserted

~~text deleted~~

Hon Michael Woodhouse

Minimum Wage Amendment Bill

Government Bill

Contents

		Page
1	Title	2
2	Commencement	2
	
122	Principal Act	2
123	New section 2A inserted (Provisions affecting application of amendments to this Act)	2
	2A Provisions affecting application of amendments to this Act	2
124	Section 8A repealed (Wage and time records)	2
125	Section 10 replaced (Penalties and jurisdiction)	2
	10 Penalties	2
125A	Section 11 replaced (Recovery of wages)	2
	11 Recovery of wages	3
126	New section 11AA inserted (Proceedings by Labour Inspector or worker to recover arrears of wages from person involved in failure to comply)	3
	11AA Proceedings by Labour Inspector or worker to recover arrears of wages from person involved in failure to comply	3
127	New Schedule 1AA inserted	4
	
	Schedule 5	5
	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 .
		5
122	Principal Act	
		This Act amends the Minimum Wage Act 1983 (the principal Act).
123	New section 2A inserted (Provisions affecting application of amendments to this Act)	
		After section 2, insert:
		10
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 .
124	Section 8A repealed (Wage and time records)	
		Repeal section 8A.
		15
125	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.	20
(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.	25
(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 142V of the Employment Relations Act 2000.	30
125A	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. 5
- (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. 10
- (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. 15

126 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: 20

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 25
 - (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 30
 - (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 142V** of the Employment Relations Act 2000. 35

127 New Schedule 1AA inserted

After section 14, insert the **Schedule 1AA** set out in the **Schedule 5** of this Act.

.

Schedule 5
New Schedule 1AA inserted

s 127

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, **2015 Act** means **Part 4 of the Employment Standards Legislation Act 2015**.

2 Application, savings, and transitional provisions arising from 2015 Act
The amendments made by the **2015 Act** do not apply to ~~breaches of this Act~~ conduct that occurred before the commencement of that Act.

5

10

Legislative history

8 March 2016

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