



Employment Relations (Prescribed Matters) Amendment Regulations 2015

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 2nd day of February 2015

Present:

His Excellency the Governor-General in Council

Pursuant to section 237 of the Employment Relations Act 2000, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

- 1 Title**
These regulations are the Employment Relations (Prescribed Matters) Amendment Regulations 2015.
- 2 Commencement**
These regulations come into force on 12 March 2015.
- 3 Principal regulations**
These regulations amend the Employment Relations (Prescribed Matters) Regulations 2000 (the **principal regulations**).
- 4 Form 3 of Schedule replaced**
In the Schedule, replace form 3 with the form 3 set out in the Schedule of these regulations.

Schedule

r 4

Form 3 replaced

Form 3

r 6

Record of strike or lockout

Section 98(a), Employment Relations Act 2000

Instructions for completing this form

- 1 Complete 1 form for each full strike, partial strike, or lockout.
- 2 If the full strike, partial strike, or lockout was in more than 1 location, complete 1 form for each location.
- 3 When you have completed this form, return it within 1 month after the end of each strike or lockout to:
strike.notices@mbie.govt.nz
or
Work Stoppages
Ministry of Business, Innovation, and Employment
PO Box 1473
Wellington

Form 3—*continued***Information to be provided**

- 1 Name of your business:
- 2 Main industry of your business:
- 3 What type of industrial action was involved? (tick the type that applies and use a separate form for each type)
 - a full strike (*see notes below*)
 - a partial strike (*see notes below*)
 - lockout (*see notes below*)
- 4 If the industrial action was a partial strike, what type or types of action was involved? (tick as appropriate)
 - a partial discontinuance of work through a refusal or failure to accept engagement for work that forms part of the employees' normal duties, eg, a ban on particular types of work, an overtime ban, or similar
 - a reduction in the employees' normal performance of work, normal output, or normal rate of work, eg, a "go slow", a "work to rule", or similar
 - employees breaking their employment agreement, whether or not that act involves any reduction in the employees' normal performance of work, normal output, or normal rate of work
- 5 Where did the strike or lockout take place? [*state nearest city or town*]
- 6 How many employees were involved in the strike or lockout? [*state number, including non-striking employees suspended because of the unavailability of normal work during a strike or lockout*]
- 7 Describe the group of employees involved according to their membership of a union, an occupation, or other relevant characteristic:
- 8 Do the employees involved include any of the following? (tick as appropriate)
 - part-time employees
 - shift workers
 - employees whose normal span of hours includes week-ends

Form 3—*continued*

- 9 When did the strike or lockout begin? [*state date and time*]
- 10 When did the strike or lockout end? [*state date and time*]
- 11 On how many days was work affected by the strike or lockout?
[*state number of days*]
Answer questions 12 to 14 if the strike or lockout included—
- (a) a total withdrawal of labour by some or all of the employees; or
 - (b) a lockout; or
 - (c) wages or salaries deducted by you for the duration of the strike or lockout.
- Otherwise, go to question 15.
- 12 What was the duration of the strike or lockout? [*state duration in hours*]
- 13 How many hours were lost by all employees during the strike or lockout (including all hours normally worked at all times and regular overtime that would have been worked)? [*For example, total lost time = duration of strike or lockout (hours) × number of employees involved. Include all hours normally worked at all times and regular overtime and penal rates that would have been worked*]
- 14 What was the total amount of wages and salaries lost by all employees during the total time of the strike or lockout? [*state amount, including all wages and salary normally earned at all times and regular overtime and penal rates that would have been paid*]
- 15 What were the main reasons for the strike or lockout? (tick all that apply)
- dispute over whether the parties acted in good faith
 - dispute arising from negotiation of coverage of employment agreement
 - dispute over wage provisions of an employment agreement
 - dispute over a safety or health issue
 - dispute over the way the employment agreement is interpreted or applied
 - dispute over alleged breach of agreement

Form 3—*continued*

- dispute over hours of work provisions of employment agreement
 - dispute over redundancy provisions of employment agreement
 - dispute over leave provisions of employment agreement
 - dispute over overtime or shift provisions of employment agreement
 - other [*describe*]
- 16 How was this underlying dispute finally resolved? (tick 1 only)
- not resolved
 - negotiations between employer and employees or their representatives
 - mediation services provided by the Ministry of Business, Innovation, and Employment
 - mediation services provided by a private provider
 - a determination or an order of the Employment Relations Authority
 - a decision of the Employment Court or other third party
 - other [*describe*]
- 17 How was the strike or lockout ended? (tick 1 only)
- without negotiations or other action
 - negotiations between employer and employees or their representatives
 - mediation services provided by the Ministry of Business, Innovation, and Employment
 - mediation provided by a private provider
 - a determination or an order of the Employment Relations Authority
 - a decision of the Employment Court or other third party
 - other [*describe*]
- 18 Details of person completing this form:
- Name:
- Position:
- Business address:
- Telephone number:

Form 3—*continued*

Fax number:

Email address:

Date:

Signature:

Notes

- 1 A strike or lockout is an industrial action, whether it is lawful or not, that results in a total or partial reduction of labour for a continuous period of time. The meanings of strike, lockout, and partial strike in the Employment Relations Act 2000 are set out at the end of this form.
- 2 Under the Employment Relations Act 2000, you are obliged to keep a record of all this information whenever there is a strike or lockout.

Meanings of strike, lockout, and partial strike in
Employment Relations Act 2000

81 Meaning of strike

- (1) In this Act, **strike** means an act that—
- (a) is the act of a number of employees who are or have been in the employment of the same employer or of different employers—
 - (i) in discontinuing that employment, whether wholly or partially, or in reducing the normal performance of it; or
 - (ii) in refusing or failing after any such discontinuance to resume or return to their employment; or
 - (iii) in breaking their employment agreements; or
 - (iv) in refusing or failing to accept engagement for work in which they are usually employed; or
 - (v) in reducing their normal output or their normal rate of work; and
 - (b) is due to a combination, agreement, common understanding, or concerted action, whether express or, as the

Form 3—*continued*

case requires, implied, made, or entered into by the employees.

- (2) In this Act, **strike** does not include an employees' meeting authorised—
- (a) by an employer; or
 - (b) by an employment agreement; or
 - (c) by this Act.
- (3) In this Act, **to strike** means to become a party to a strike.

82 Meaning of lockout

- (1) In this Act, **lockout** means an act that—
- (a) is the act of an employer—
 - (i) in closing the employer's place of business, or suspending or discontinuing the employer's business or any branch of that business; or
 - (ii) in discontinuing the employment of any employees; or
 - (iii) in breaking some or all of the employer's employment agreements; or
 - (iv) in refusing or failing to engage employees for any work for which the employer usually employs employees; and
 - (b) is done with a view to compelling employees, or to aid another employer in compelling employees, to—
 - (i) accept terms of employment; or
 - (ii) comply with demands made by the employer.
- (2) In this Act, **to lock out** means to become a party to a lockout.

95A Meaning of partial strike ...

In this Act,—

partial strike—

- (a) means an act of the employees who are a party to the strike in continuing to perform some work for their employer or employers during the strike instead of wholly discontinuing their employment during the strike, and includes without limitation—
 - (i) a partial discontinuance of work through a refusal or failure to accept engagement for work that forms part of the employees' normal duties:

Form 3—*continued*

- (ii) a reduction in the employees' normal performance of work, normal output, or normal rate of work:
- (b) means an act of the employees who are a party to the strike in breaking their employment agreement, whether or not the act involves any reduction in the employees' normal duties, normal performance of work, normal output, or normal rate of work

...

Michael Webster,
Clerk of the Executive Council.

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 12 March 2015, amend the Employment Relations (Prescribed Matters) Regulations 2000 to replace form 3 of the Schedule, which prescribes the form of the record of a strike or lockout, to—

- align the form with the amendments relating to partial strikes made by the Employment Relations Amendment Act 2014, including recasting some of the questions to capture information relating to the different types of partial strike; and
- provide the option of submitting the form electronically and to update the address details on the form to refer to the Ministry of Business, Innovation, and Employment; and
- generally update the layout of the form.

2015/14 **Employment Relations (Prescribed Matters)
Amendment Regulations 2015**

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 5 February 2015.

These regulations are administered by the Ministry of Business, Innovation, and
Employment.
