Employment Relations Amendment Bill

Government Bill

As reported from the Education and Workforce Committee

Commentary

Recommendation

The Education and Workforce Committee has examined the Employment Relations Amendment Bill and recommends by majority that it be passed. We recommend all amendments by majority.

Introduction

The Employment Relations Amendment Bill would amend the Employment Relations Act 2000. The bill aims to provide greater certainty for contracting parties and simplify the personal grievance process. The changes would give effect to several commitments in the National-ACT Coalition Agreement.

The bill intends to make four key policy changes:

- increasing certainty as to whether or not workers would be classified as employees
- strengthening the consideration of, and accountability for, employee behaviour in the personal grievance process
- introducing a wages and salary threshold above which personal grievance for unjustified dismissal cannot be pursued
- removing the "30-day rule" that requires an employer to place an employee on terms reflective of the applicable Collective Employment Agreement for the first 30 days of their employment.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Defining specified contractors

Clause 4 would amend section 6 of the Act which sets out the meaning of employee. It would change the definition of employee to exclude a worker who is a "specified contractor". Clause 4, new section 6(7) sets out the criteria that would need to be met for a person to be a "specified contractor". This proposal has been described as a "gateway test", to be used to determine whether a worker is not an employee. A worker who does not meet this gateway test would have their status assessed under the law as it currently stands. We recommend amendments to this gateway test, as set out below.

In new section 6(7) the specified contractor is referred to as "person A", and the person the specified contractor is performing work for is referred to as "person B".

Contractors may perform work facilitated by "person B"

Submitters expressed concern that the use of the wording "perform work for" in the gateway test may mean it does not apply to work which person A may provide for a third party, either on behalf of person B, or if person B facilitates this arrangement. For example, a business may perform a facilitative or agency role in services provided through a platform model. So, there is an arrangement between persons A and B, but the contract is between person A and a third party. We recommend amending proposed section 6(7) so that the gateway test could apply even if person A was performing work for a third party facilitated by person B, rather than directly for person B.

Specified contractors should not be limited to natural persons

Submitters told us that use of the term "natural person" in the gateway test could be read as excluding people who provide services through a legal entity rather than entering into contracts as a natural person.

We note that the corresponding definition of an employee in section 6 of the Act does not use the term "natural person". Generally, an employee is expected to be a natural person because the rights associated with their status as an employee are of a personal nature. However, in the case of contracting, a person might sign a "contract for services" to be provided through a company.

We consider it important that the proposed gateway test be applied (as appropriate) to arrangements between workers and those facilitating work or for whom work is performed, regardless of whether they operate through a legal entity or enter into a contract directly as an individual. Therefore, we recommend replacing the term "natural person" with "person".

Agreements could specify that a worker is "not an employee"

The test in the bill as introduced would require there to be written agreement that person A is an independent contractor. We heard from submitters that some businesses do not conceptualise or describe their relationship with workers in this way. We were told that those businesses would need to revise their current written agreements to meet this criterion.

The policy intent is for both parties to understand that the relationship is not one of employer and employee. This outcome could equally be realised by a written agreement stating that a worker is "not an employee", rather than requiring the use of the term "independent contractor". We recommend amending clause 4, new section 6(7)(a), to enable the test to be met when a written agreement specifies that person A either is an "independent contractor" or "not an employee".

Contracted hours are not a de facto restriction on other work

A further criterion states that "person A is not restricted from performing work for any other person, except while performing work for person B". Submitters expressed concern that a person working full-time hours under a contract might be limited by this wording. In particular, they considered it a risk that the Employment Relations Authority or the Employment Court might interpret full-time work as a *de facto* restriction on doing other work. It might also be unclear for workers and businesses whose arrangements meet all the other gateway criteria but whose contracts equate to full-time work.

We recommend adding new subsection (8) to clarify that person A would not be restricted from performing work for any other person by the criterion, even if the hours of work for person B, or facilitated by person B, are such that they have the effect of restricting person A's ability to perform work for any other person.

Allow vetting of subcontractors for non-statutory requirements

New section 6(7)(c) would allow person A to sub-contract work to another person. Person B could require the subcontractor be vetted by person B to ensure compliance with any relevant statutory requirements and still comply with the sub-contracting criteria—thereby staying within the specified contractor definition. Submitters expressed concern that limiting the ability to vet subcontractors to "relevant statutory requirements" may be overly narrow.

Submitters told us that businesses often choose to vet subcontractors for non-statutory reasons, such as on safety, reputational, or quality-assurance grounds. We consider that there are some justifiable non-statutory reasons for undertaking vetting checks that could be allowed without impacting the effectiveness of the sub-contracting criterion. Specifically, we consider that the sub-contracting criterion should allow subcontractors to be vetted to ensure that the person holds certain relevant qualifications, or to check that they have a clean criminal record where it is justified by the nature of the work.

We recommend amending proposed section 6(7)(c)(ii) to specify that, in addition to vetting to ensure compliance with any relevant statutory requirements, the business can also require a vet of a subcontractor to check for a relevant qualification or a criminal record (or both), where it is justified by the nature of the work.

Clarifying when arrangements may be terminated

New section 6(7)(d) specifies, as part of the gateway test, that the arrangement between person A and person B:

> does not terminate if person A declines any work offered to them by person B that is additional to the work that person A agreed to perform under the arrangement.

We consider that this could be interpreted as meaning that the arrangement could not be terminated for other legitimate reasons in cases when person A has declined additional work. This is inconsistent with what we understand the intent of the criterion to be. We recommend amending this paragraph to be clear that "the arrangement may not be terminated for the reason that person A declines" additional work. This would ensure that an arrangement could be terminated, but declining additional work could not be the reason for doing so.

Threshold for personal grievance claims for unjustified dismissal

Clauses 9 to 11 of the bill would introduce a wages and salary threshold ($180,000 per year), above which a person cannot pursue a personal grievance for unjustified dismissal. The threshold would also apply to personal grievances for unjustified disadvantage where it relates to dismissal, but not to other existing grounds for personal grievance.

Clause 10, new section 67J would allow employers and employees to agree to opt out of new sections 67I and 113A, which relate to the threshold. We support this provision but recommend that new section 67J be amended to require agreement to be given in writing.

Threshold based on total remuneration

Submitters pointed out that the proposed threshold, as introduced, would only take into account an employee's base salary and wages. Employees may receive other forms of remuneration such as bonuses, commissions, or employee share schemes. We consider that the definition of wages and salary should be expanded to capture all high-income earners irrespective of remuneration structure.

We recommend replacing references to "wages and salary" with "remuneration" and defining remuneration as including PAYE (pay as you earn) income payments, other than accident compensation earnings-related payments, and any other benefit arising from a relevant employee share scheme. We recommend inserting this definition in clause 10, new section 67I(5).

As a result of the above recommendation, we consider that the definition of annual wages and salary (proposed as "annual remuneration") also requires amendment. The bill, as introduced, defined annual wages and salary as:

> the total amount of wages and salary payable to the employee each year by the employers as specified in, or calculated in accordance with, the employee's employment agreement.

This would not work for other forms of remuneration captured by the definition we propose, which may include one-off or irregular payments.

To address this, we recommend replacing proposed new section 67I(4) with a formula. Annual remuneration could then be calculated by dividing an employee's total remuneration that they received from the employer in the pay periods that occurred in the 364 days (52 weeks) immediately preceding the pay period in which the notice of the employee's dismissal was given by the number of part or full days worked for the employer in that year, and then multiplying that figure by 364. This would take account of all applicable income sources, and enable a *pro rata* amount to be calculated based on the number of weeks a person has been in their role if this is less than 52 weeks.

Raise the remuneration threshold to $200,000

The threshold for when the new provisions would first apply is set out in clause 11, proposed new section 113B(1). The threshold is intended to provide more flexibility and certainty in the dismissal process for employees who have a significant impact on organisation performance. These individuals are likely to have high bargaining power. Based on Inland Revenue data from 2025, approximately 3.7 percent of the workforce earns over $180,000. We recommend raising the initial threshold to $200,000. This would cover approximately 2.6 percent of wage and salary earners and better reflect the policy intent.

Threshold to increase on 1 July 2027 at the earliest

New section 113B would enable the threshold to be increased by a calculated percentage each year. It would be calculated based on the increase in average ordinary weekly earnings during the first quarter of that year. New subsection (5)(a) specifies that the increase to the threshold would take effect "on 1 July of the given year".

We consider that it would be appropriate to preclude the threshold from increasing in 2026, which is the first year it could potentially apply based on the bill's wording at introduction. We recommend inserting new clause 28A into new Part 8 of Schedule 1AA to specify that the remuneration threshold must not increase before 1 July 2027.

New Zealand Labour Party differing view

The New Zealand Labour Party strongly opposes the Employment Relations Amendment Bill. While proponents of the bill argue that it restores "balance" and "certainty" to employment relations, Labour maintains that these changes represent a direct attack on the rights and dignity of working people. We believe the bill undermines the

foundational principles of the Employment Relations Act 2000 and shifts power unfairly towards employers, eroding the protections and stability that have benefited both workers and businesses for a generation.

Undermining the principles of employment relations

The Employment Relations Act was designed to foster productive employment relationships by promoting good faith in all aspects of the employment environment. It acknowledges the inherent inequality of power between employers and employees and seeks to address this imbalance. The proposed amendment bill, however, disrupts this equilibrium. By favouring the party already in a position of strength—the employer—the bill risks undoing years of progress towards fair and equitable workplace relations.

For 25 years, the Act has enjoyed broad cross-party support and has provided a stable framework upon which both employers and employees have come to rely. The justification for change, grounded in vague claims of restoring "balance" and "certainty", lacks substantive evidence and fails to demonstrate any genuine need for reform.

Personal grievance system: erosion of fairness

One troubling aspect of the bill is its assault on New Zealand's personal grievance system. The current system is fair and effective: fewer than a quarter of a percent of workers take personal grievances to court, reflecting a process that encourages resolution and only resorts to legal action as a last measure. Historically, governments across the political spectrum have agreed that the system is balanced and just.

The amendment bill seeks to change this by permitting employers to dismiss employees for minor mistakes without proper investigation, effectively removing the requirement for fairness and good faith. This could result in a "fire at will" culture, where workers are dismissed for any indiscretion, regardless of the circumstances. The Labour Party strongly opposes this approach, as it removes essential protections and exposes workers to arbitrary and unjust treatment.

Furthermore, the bill proposes to exclude employees earning over $200,000 from the personal grievance system, unless the employer agrees otherwise. This "mutual agreement" is, in reality, employer-driven; without employer consent, no genuine mutuality exists. High-income employees, therefore, lose access to basic protections, including mediation and redress, regardless of the fairness of their treatment. The Labour Party asserts that every worker, regardless of salary, deserves the right to challenge unjust treatment and seek redress.

Contractor status: entrenching vulnerability

The bill introduces a "gateway" test for determining employment status, replacing the established "real nature" test. Under the current Act, courts consider all relevant factors to determine whether a worker is truly an employee or an independent contractor. This is crucial for protecting vulnerable workers who may be misclassified as contractors to deny them employment rights.

The proposed "gateway" test acts as a barrier for vulnerable workers, making it harder for them to be recognised as employees and access their legal rights. Instead of addressing the genuine need for contractor law reform, the bill entrenches the problem, facilitating further misclassification and exploitation. Labour believes that reform should empower workers, not make it easier for employers to deny them rightful protections.

30-Day rule: weakening collective power

The bill also targets collective bargaining by undermining the 30-day rule. Currently, new employees covered by a collective agreement are protected by its terms for their first 30 days of employment, after which they can choose to join the union or enter an individual agreement. This provides workers with time to experience collective coverage and make informed decisions about union membership.

Under the amendments, employers are only required to inform new employees of the existence of a collective agreement and provide a copy. Employees are explicitly told they are not covered by the agreement unless they join the union. This allows employers to bypass unions and impose individual contracts before workers have a chance to experience collective benefits. The changes diminish union visibility and restrict worker access to information, undermining the ability of workers to engage in meaningful collective processes.

Conclusion

The New Zealand Labour Party stands firm in its opposition to the Employment Relations Amendment Bill. We believe the bill undermines the principles of fairness, good faith, and equality that have guided employment relations in New Zealand for decades. The proposed changes threaten to erode workers' rights, diminish collective power, and entrench vulnerability for the most precarious.

Green Party of Aotearoa New Zealand differing view

The Green Party opposes the Employment Relations Amendment Bill. This bill further undermines workers' rights consistent with this Government's anti-worker agenda, and does nothing to improve the protections for casual, fixed-term, and piece rate working people, including contractors and migrant workers.

The bill will allow employers to dismiss employees without cause of fair process and undermines principles of good faith and equitable treatment. The bill also will lock some workers into contracting roles when under the previous law they would have been allowed to be recognised, correctly, as employees, allowing gig economy companies like Uber to trample over the rights of workers. This flies in the face of the recent Supreme Court ruling that the operational control held by Uber meets the threshold for employment under the existing Employment Relations Act.

The removal of automatic collective agreement coverage for new employees will not result in collectively higher wages for workers, and increasing barriers to raising per-

sonal grievances will further entrench the imbalance towards employers in our workplace.

The amendments in this bill will enable companies to claim extra profits at the expense of vulnerable workers and our communities.

Appendix

Committee process

The Employment Relations Amendment Bill was referred to this committee on 15 July 2025. The House instructed us to report the bill back no later than 17 November 2025. The Business Committee granted an extension to 24 December 2025. We invited the Minister for Workplace Relations and Safety to provide an oral submission on the bill. She did so on 13 August 2025.

We called for submissions on the bill with a closing date of 13 August 2025. We received and considered submissions from 3,587 interested groups and individuals. We heard oral evidence from 61 submitters. We wish to acknowledge the efforts of all submitters and thank them for their engagement.

Advice on the bill was provided by the Ministry of Business, Innovation and Employment. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Katie Nimon (Chairperson)

Carl Bates (Deputy Chairperson)

Shanan Halbert

Francisco Hernandez

Grant McCallum

Dr Parmjeet Parmar

Hon Willow-Jean Prime

Hon Phil Twyford

Dr Vanessa Weenink (Acting Chairperson from 16 July to 8 August 2025)

Mike Butterick and Hon Jan Tinetti also participated in our consideration of this bill.

Related resources

The documents we received as advice and evidence are available on the Parliament website.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Brooke van Velden

Employment Relations Amendment Bill

Government Bill

Contents

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Employment Relations Amendment Act **2025**.

2 Commencement

This Act comes into force on the day after Royal assent.

3 Principal Act

This Act amends the Employment Relations Act 2000.

Part 1
Main amendments

Subpart 1—Amendments relating to specified contractors

4 Section 6 amended (Meaning of employee)

(1) After section 6(1)(c), insert:

(d) excludes a specified contractor.

(2) After section 6(6), insert:

(7) In this section, **specified contractor** means a ~~natural~~ person (**person A**) who has entered into an arrangement ~~to perform~~ with another person (**person B**) under which person A either performs work for ~~another person (**person B**)~~ person B or performs work for a third party that is facilitated by person B, and—

(a) that arrangement includes a written agreement that specifies that person A ~~is an independent contractor; and~~—

(i) is an independent contractor; or

(ii) is not an employee; and

(b) person A is not restricted from performing work for any other person, except while performing work for person B or facilitated by person B; and

(c) either—

(i) person A is not required to perform, or be available to perform, work for person B or facilitated by person B at a specified time or on a specified day or for a minimum period; or

(ii) person A is allowed to sub-contract the work for person B or facilitated by person B to another person ~~(who may be required to undergo vetting by person B to ensure compliance with any relevant statutory requirements before being sub-contracted by person A); and~~ (**person C**) and person B—

(A) does not require person C to undergo vetting before being sub-contracted by person A; or

(B) requires person C to undergo vetting before being sub-contracted by person A, but only to ensure compliance with any relevant statutory requirements, or, if justified by the

nature of the work, to check for a relevant qualification or criminal record, or both (as the case may be); and

(d) ~~the arrangement does not terminate if~~ the arrangement may not be terminated for the reason that person A declines any work offered to them by person B (whether for or facilitated by person B) that is additional to the work that person A agreed to perform under the arrangement; and

(e) person A had a reasonable opportunity to seek independent advice before entering into the arrangement.

(8) Person A is not restricted from performing work for any other person under **subsection (7)(b)** if the hours of work for person B or facilitated by person B are such that they have the effect of restricting person A's ability to perform work for any other person.

Subpart 2—Amendments relating to remedies for personal grievance if contributing behaviour by employee

5 Section 123 amended (Remedies)

After section 123(2), insert:

(3) This section is subject to **sections 123B and 123C**.

6 Section 123A amended (Remedies where controlling third party caused or contributed to personal grievance)

After section 123A(4), insert:

(4A) The Authority or the court must not make an order under subsection (2) awarding—

(a) the remedy in section 123(1)(b) against the controlling third party if the Authority or the court determines that—

(i) an action of the employee contributed to the situation that gave rise to the personal grievance; and

(ii) that action amounts to serious misconduct (*see* **section 123B**):

(b) the remedy in section 123(1)(c) against the controlling third party if the Authority or the court determines that an action of the employee contributed to the situation that gave rise to the personal grievance (*see* **sections 123B and 123C**).

7 New sections 123B and 123C inserted

After section 123A, insert:

123B Remedies not available if contributing behaviour by employee amounts to serious misconduct

Despite section 123, the Authority or the court must not provide for any remedy if the Authority or the court determines that—

(a) an action of the employee contributed to the situation that gave rise to the personal grievance; and

(b) that action amounts to serious misconduct.

123C Reinstatement and compensation not available if contributing behaviour by employee

Despite section 123, the Authority or the court must not provide for any of the following remedies if the Authority or the court determines that an action of the employee contributed to the situation that gave rise to the personal grievance:

(a) the remedy in section 123(1)(a):

(b) the remedy in section 123(1)(c).

8 Section 124 amended (Remedy reduced if contributing behaviour by employee)

(1) In the heading to section 124, replace "**Remedy**" with "**Available remedies**".

(2) In section 124, insert as subsection (2):

(2) Remedies may be reduced in accordance with **subsection (1)** by up to 100%.

Subpart 3—Amendments relating to specified ~~wages and salary~~ remuneration threshold

9 Section 5 amended (Interpretation)

In section 5, insert in ~~its~~ their appropriate alphabetical order:

annual remuneration, in relation to an employee, has the meaning given to it by **section 67I(4)**

specified ~~wages and salary~~ remuneration threshold has the meaning given to it by **section 113B**

10 New sections 67I and 67J inserted

After section 67H, insert:

67I Termination of employment of employee whose annual ~~wages or salary~~ remuneration meets or exceeds specified threshold

(1) This section applies to an employee if the employee's annual ~~wages or salary~~ remuneration meets or exceeds the specified ~~wages and salary~~ remuneration threshold.

(2) The employer, in making a decision whether to terminate the employee's employment agreement, is not required to comply with section 4(1A)(c) in observing the obligation in section 4 to deal in good faith with the employee.

(3) If the employer terminates the employee's employment agreement, the employer is not required to comply with a request under section 120 that relates to the employee.

~~(4) In this section,—~~

~~**annual wages or salary**, in relation to an employee, means the total amount of wages or salary payable to the employee each year by the employer as specified in, or calculated in accordance with, the employee's employment agreement~~

~~**wages or salary** does not include any other form of remuneration or a variable payment, such as—~~

~~(a) an allowance:~~

~~(b) a productivity-based, bonus, or incentive payment (including commission):~~

~~(c) a payment for overtime:~~

~~(d) a penal rate:~~

~~(e) an employer contribution to a superannuation scheme for the benefit of the employee:~~

~~(f) a payment or other benefit received by the employee as an owner of the business.~~

(4) An employee's **annual remuneration** is calculated as follows:

$$ar = (r \div d) \times 364$$

where—

ar is the employee's annual remuneration

r is the total remuneration that the employer has paid to the employee in the period that consists of the pay periods that start and end within the 364 days immediately before the first day of the pay period within which the employer notifies the employee of the dismissal

d is the number of part or full days for which the employee has held the position with the employer in the 364 days immediately before the first day of the pay period within which the employer notifies the employee of the dismissal.

(5) For the purposes of the definition of annual remuneration (*see* **subsection (4)**), **remuneration** includes—

(a) a PAYE income payment (as that term is defined in section RD 3(1) of the Income Tax Act 2007) that is made by the employer, other than an accident compensation earnings-related payment:

(b) any other benefit arising from an employee share scheme under section CE 2 of the Income Tax Act 2007.

67J Employer and employee may agree that sections 67I and 113A do not apply

Despite section 238, an employer and employee may agree in writing, as a term of the employee's employment, that both **sections 67I and 113A** do not apply.

11 New sections 113A and 113B inserted

After section 113, insert:

113A Employee whose annual ~~wages or salary~~ remuneration meets or exceeds specified threshold may not pursue personal grievance for unjustified dismissal or unjustified disadvantage

(1) This section applies to an employee if—

(a) the employee is dismissed by their employer; and

~~(b) at the time of the dismissal, the employee's annual wages or salary meets or exceeds the specified wages and salary threshold.~~

(b) the employee's annual remuneration meets or exceeds the specified remuneration threshold.

(2) The employee may not bring a personal grievance or legal proceedings in respect of the dismissal, including—

(a) a personal grievance on the ground specified in section 103(1)(a):

(b) a personal grievance on the ground specified in section 103(1)(b) if the ground relates to the dismissal.

(3) This section does not prevent the employee from bringing a personal grievance or legal proceedings—

(a) on the ground specified in section 103(1)(b) if the ground does not relate to the dismissal:

(b) on any of the grounds specified in section 103(1)(c) to (k).

~~(4) In this section,~~

~~**annual wages or salary**, in relation to an employee, means the total amount of wages or salary payable to the employee each year by the employer as specified in, or calculated in accordance with, the employee's employment agreement~~

~~**wages or salary** does not include any other form of remuneration or a variable payment, such as~~

~~(a) an allowance:~~

~~(b) a productivity-based, bonus, or incentive payment (including commission):~~

~~(c) a payment for overtime:~~

~~(d) a penal rate:~~

~~(c) an employer contribution to a superannuation scheme for the benefit of the employee:~~

~~(f) a payment or other benefit received by the employee as an owner of the business.~~

113B Specified ~~wages and salary~~ remuneration threshold

(1) The **specified ~~wages and salary~~ remuneration threshold** is—

(a) ~~$180,000~~$200,000; or

(b) if an increase has occurred under this section, the amount that resulted from the last increase.

Increases to specified ~~wages and salary~~ remuneration threshold

(2) The specified ~~wages and salary~~ remuneration threshold must increase in a given year if the amount of average ordinary weekly earnings for the first quarter of that year, as specified in the relevant Quarterly Employment Survey, is more than the amount of average ordinary weekly earnings for the first quarter of the year in which the specified ~~wages and salary~~ remuneration threshold last increased (the **year of last increase**), as specified in the relevant Quarterly Employment Survey.

(3) The specified ~~wages and salary~~ remuneration threshold must be increased by the percentage that results from the following formula:

$$a = ((b - c) \div c) \times 100$$

where—

a is the percentage by which the specified ~~wages and salary~~ remuneration threshold must increase

b is the amount of average ordinary weekly earnings for the first quarter of the given year, as specified in the relevant Quarterly Employment Survey

c is the average ordinary weekly earnings for the year of last increase, as specified in the relevant Quarterly Employment Survey.

(4) If the amount that results from the percentage increase is not a whole number, it must be rounded to the nearest whole number.

(5) The amount that results from the application of **subsection (3)** and, if applicable, **subsection (4)**—

(a) takes effect as the specified ~~wages and salary~~ remuneration threshold on 1 July of the given year; and

(b) continues to have effect until the threshold is next increased under this section.

(6) Before the amount that results from the application of **subsection (3)** and, if applicable, **subsection (4)** takes effect as the specified ~~wages and salary~~

remuneration threshold, the chief executive must publish that amount on an Internet site maintained by or on behalf of the department.

(7) Any correction that is made to the amount of average ordinary weekly earnings for the first quarter of the given year must be disregarded until the next increase to the specified ~~wages and salary~~ remuneration threshold, which must reflect the corrected amount in the calculation of that increase and must otherwise be made in accordance with **subsections (2) and (3)**.

(8) In this section,—

average ordinary weekly earnings, in relation to the Quarterly Employment Survey, means the average ordinary weekly earnings per full-time equivalent employee (seasonally adjusted, total industries) or any measure that is equivalent to that measure

first quarter means the period beginning on 1 January ~~to~~ and ending on the close of 31 March

Quarterly Employment Survey means the Quarterly Employment Survey published by Statistics New Zealand or, if that survey ceases to be published, any measure certified by the Government Statistician as being equivalent to that survey.

Subpart 4—Amendments relating to collective agreements and new or prospective employees

12 Section 30A and cross-heading repealed

Repeal section 30A and the cross-heading above section 30A.

13 Section 62 amended (Terms and conditions for first 30 days of employment of new employee who is not member of union)

(1) Replace section 62(3) to (5) with:

(3) At the time when the employee enters into an individual employment agreement with an employer, the employer must—

(a) inform the employee—

(i) that the collective agreement exists and covers work to be done by the employee; and

(ii) that the employee may join the union that is a party to the collective agreement; and

(iii) about how to contact the union; and

(iv) that, if the employee joins the union, the employee will be bound by the collective agreement; and

(b) give the employee a copy of the collective agreement; and

(c) if the employee agrees, inform the union as soon as practicable that the employee has entered into an individual employment agreement with the employer.

(4) If the work to be done by the employee is covered by more than 1 collective agreement, the employer must—

(a) comply with **subsection (3)** in relation to the collective agreement that binds more of the employer's employees in relation to the work that the new employee will be performing than any of the other collective agreements; and

(b) inform the employee of the existence of the other agreement or agreements.

(5) An employer who fails to comply with this section is liable to a penalty imposed by the Authority.

(2) Repeal section 62(6).

14 Section 62A repealed (Employer must share new employee information with union unless employee objects)

Repeal section 62A.

15 Section 63 repealed (Terms and conditions of employment of employee who is not member of union after expiry of 30-day period)

Repeal section 63.

16 Section 63A amended (Bargaining for individual employment agreement or individual terms and conditions in employment agreement)

Repeal section 63A(1)(c) and (d).

17 Section 63B repealed (Additional employer obligations when bargaining for terms and conditions of employment under section 62)

Repeal section 63B.

Subpart 5—Other amendments

18 Section 67B amended (Effect of trial provision under section 67A)

(1) Replace section 67B(2) with:

(2) An employee whose employment agreement is terminated in accordance with subsection (1) may not bring a personal grievance or legal proceedings in respect of the dismissal, including—

(a) a personal grievance on the ground specified in section 103(1)(a):

(b) a personal grievance on the ground specified in section 103(1)(b) if the ground relates to the dismissal.

(2) Replace section 67B(3) with:

(3) Neither this section nor a trial provision prevents an employee from bringing a personal grievance or legal proceedings—

(a) on the ground specified in section 103(1)(b) if the ground does not relate to the dismissal:

(b) on any of the grounds specified in section 103(1)(c) to (k).

19 Section 103A amended (Test of justification)

(1) After section 103A(3)(d), insert:

(e) whether the employer was obstructed by the employee from taking—

(i) an action specified in any of paragraphs (a) to (d):

(ii) an action that relates to any other factor that the Authority or the court considers in accordance with subsection (4).

(2) Replace section 103A(5) with:

(5) The Authority or the court must not determine a dismissal or an action to be unjustifiable under this section solely because of defects in the process followed by the employer if the defects did not result in the employee being treated unfairly.

Part 2
Transitional amendment

20 Schedule 1AA amended

In Schedule 1AA,—

(a) insert the Part set out in the **Schedule** of this Act as the last Part; and

(b) make all necessary consequential amendments.

Schedule
New Part 8 inserted into Schedule 1AA

s 20

Part 8
Provisions relating to Employment Relations Amendment Act 2025

25 Interpretation

In this Part,—

2025 amendment Act means the Employment Relations Amendment Act **2025**

~~**annual wages or salary**, in relation to an employee, means the total amount of wages or salary payable to the employee each year by the employer as specified in, or calculated in accordance with, the employee's employment agreement~~

commencement date means the date on which the **2025** amendment Act comes into force

different position, in relation to an employee, means a position that is different from the position that the employee held immediately before the commencement date

same position, in relation to an employee, means the position that the employee held immediately before the commencement date.

~~**wages or salary** does not include any other form of remuneration or a variable payment, such as—~~

~~(a) an allowance:~~

~~(b) a productivity-based, bonus, or incentive payment (including commission):~~

~~(c) a payment for overtime:~~

~~(d) a penal rate:~~

~~(e) an employer contribution to a superannuation scheme for the benefit of the employee:~~

~~(f) a payment or other benefit received by the employee as an owner of the business.~~

26 Section 67I does not apply to certain employees for period of up to 12 months

(1) **Section 67I** does not apply in respect of an employee whose annual ~~wages or salary~~ remuneration meets or exceeds the specified ~~wages and salary~~ remuneration threshold if the employee—

(a) holds the same position with the employer by whom they were employed immediately before the commencement date; or

(b) as a result of a restructuring, holds a different position with the employer by whom they were employed immediately before the commencement date; or

(c) as a result of a restructuring, holds a different position with an employer other than the employer by whom they were employed immediately before the commencement date.

(2) **Subclause (1)** applies in respect of the employee for as long as **subclause (1)(a), (b), or (c)** applies to the employee or for a period of 12 months from the commencement date, whichever ends first.

(3) Despite **subclauses (1) and (2)**, the employee and their employer may agree in writing, as a term of the employee's employment, that **section 67I** applies in respect of the employee.

27 Section 113A does not apply to certain employees dismissed within 12 months of commencement

(1) **Section 113A** does not apply in respect of an employee whose annual ~~wages or salary~~ remuneration meets or exceeds the specified ~~wages and salary~~ remuneration threshold if—

(a) the employee is dismissed by their employer within 12 months of the commencement date; and

(b) at the time of the dismissal, the employee—

(i) holds the same position with the employer by whom they were employed immediately before the commencement date; or

(ii) as a result of a restructuring, holds a different position with the employer by whom they were employed immediately before the commencement date; or

(iii) as a result of a restructuring, holds a different position with an employer other than the employer by whom they were employed immediately before the commencement date.

(2) Despite **subclause (1)**, the employee and their employer may agree in writing, as a term of the employee's employment, that **section 113A** applies in respect of the employee.

28 Application of dispute resolution procedures that enable employees to bring personal grievance or legal proceedings

(1) This clause applies in respect of a dispute resolution procedure—

(a) that is contained in an employment agreement that was entered into before the commencement date; and

(b) that has the effect of enabling an employee, who may not bring a personal grievance or legal proceedings in respect of a dismissal under this Act as amended by the **2025** amendment Act, to bring a personal grievance or legal proceedings in respect of a dismissal.

(2) The dispute resolution procedure applies on and from the commencement date as if the procedure did not have the effect of enabling the employee to bring a personal grievance or legal proceedings in respect of a dismissal.

28A Specified remuneration threshold must not increase before 1 July 2027

Despite **section 113B(2)**, the specified remuneration threshold must not increase before 1 July 2027.

29 Application of section 113B to first increase of specified ~~wages and salary~~ remuneration threshold

Section 113B applies in respect of the first increase of the specified ~~wages and salary~~ remuneration threshold as if a reference to the year of last increase were a reference to the year in which the **2025** amendment Act commenced.

Legislative history

17 June 2025 Introduction (Bill 175–1)
15 July 2025 First reading and referral to Education and Workforce Committee

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