



Wages Protection Amendment Act 2016

Public Act 2016 No 12
Date of assent 17 March 2016
Commencement see section 2

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	New Schedule inserted

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Wages Protection Amendment Act 2016.

2 Commencement

This Act comes into force on 1 April 2016.

3 Principal Act

This Act amends the Wages Protection Act 1983 (the **principal Act**).

4 Section 2 amended (Interpretation)

In section 2, replace the definition of **employer** with:

employer has the same meaning as in section 5 of the Employment Relations Act 2000

employment agreement has the same meaning as in section 5 of the Employment Relations Act 2000

5 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

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

6 Section 5 amended (Deductions with worker's consent)

(1) Replace section 5(1) with:

(1) An employer may, for a lawful purpose, make deductions from wages payable to a worker—

(a) with the written consent of the worker (including consent in a general deductions clause in the worker's employment agreement); or

(b) on the written request of the worker.

(2) After section 5(1), insert:

(1A) An employer must not make a specific deduction in accordance with a general deductions clause in a worker's employment agreement without first consulting the worker.

7 New section 5A inserted (Unreasonable deductions)

After section 5, insert:

5A Unreasonable deductions

An employer must not make a deduction under section 5 from wages payable to a worker if the deduction is unreasonable.

8 Section 11 amended (Worker may recover wages)

- (1) Replace the heading to section 11 with “**Recovery of wages**”.
- (2) In section 11(1), replace “a worker may recover” with “a worker, or a Labour Inspector on behalf of a worker, may recover”.

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

After section 11, insert:

11A 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 arrears of 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) A Labour Inspector, worker, or person concerned may recover from a person involved in non-compliance with section 12A any premium paid in breach of that section.
- (4) However, a premium may be recovered under subsection (3) only,—
 - (a) in the case of recovery by a worker or person concerned, with the prior leave of the Authority or court; and
 - (b) to the extent that the employer concerned is unable to pay the premium.
- (5) For the purposes of subsections (1) and (3), 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.

10 Section 12A amended (No premium to be charged for employment)

In section 12A(1), after “employer”, insert “or person engaged on behalf of the employer”.

11 Section 13 amended (Penalties)

- (1) In section 13,—
 - (a) after “that employer”, insert “, and every person involved in the contravention or failure,”; and
 - (b) delete “, at the suit of the worker or of a Labour Inspector designated under section 223 of the Employment Relations Act 2000,”; and
 - (c) replace “that Act” with “the Employment Relations Act 2000”.
- (2) In section 13, insert as subsections (2) and (3):
 - (2) A worker or a Labour Inspector may recover a penalty under subsection (1), but the worker may recover a penalty only in relation to the employer.
 - (3) For the purposes of subsection (1), a person is involved in the contravention or failure 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.

12 New Schedule inserted

After section 19, insert the Schedule set out in the Schedule of this Act.

Schedule
New Schedule inserted

s 12

Schedule
**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 Wages Protection Amendment Act 2016.

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

- (1) Section 5A (as inserted by section 7 of the 2016 Act) applies only to deductions made after the commencement of that Act and, in relation to deductions made under an employment agreement, applies whether the employment agreement was made before, on, or after the commencement of that Act.
- (2) 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 53–3E
10 March 2016	Third reading
17 March 2016	Royal assent

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